

# Customs Act (Tentative translation)

(Act No. 61 of April 2, 1954)

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## **Chapter I General Provisions**

### **Section 1 General Rules**

(Purpose)

Article 1 This Act provides for the matters necessary for proper management of the customs procedures for determination, payment, collection and refund of customs duty, and, for exportation and importation of goods.

(Definitions)

Article 2 (1) For the purposes of this Act and the orders based on this Act, the definitions of the terms set forth in the following items shall be as prescribed respectively in these items:

- (i) "importation" means withdrawal into Japan (with respect to goods withdrawn through a bonded area, withdrawal of such goods into Japan through a bonded area) of goods which have arrived in Japan from abroad (including marine products taken from the open sea by a foreign vessel) or goods the exportation of which has been permitted;
- (ii) "exportation" means shipping domestic goods to a foreign country;
- (iii) "foreign goods" means goods the exportation of which has been permitted and goods arrived in Japan from abroad (including marine products taken from the open sea by a foreign vessel) for which import permission has yet to be granted;
- (iv) "domestic goods" means goods, other than foreign goods, which are placed in Japan and marine products taken from the open sea by a Japanese vessel;
- (iv)-2 "accessory tax" means any of such customs duties as delinquent tax,

- additional tax for under report, additional tax for non-declaration and heavy additional tax;
- (v) "vessel engaged in foreign trade" means a vessel coming and/or going between Japan and a foreign country for the purpose of foreign trade;
  - (vi) "aircraft engaged in foreign trade" means an aircraft coming and/or going between Japan and a foreign country for the purpose of foreign trade;
  - (vii) "coasting vessel" means a vessel other than a vessel coming and/or going between Japan and a foreign country;
  - (viii) "domestic aircraft" means an aircraft other than an aircraft coming and/or going between Japan and a foreign country;
  - (ix) "vessel's stores" means fuel, beverages, foods and other consumable goods, sail-cloth, rope, utensils and other similar goods, to be used on board a vessel;
  - (x) "aircraft's stores" means goods equivalent to vessel's stores, to be used on board an aircraft;
  - (xi) "open port" means a port designated by Cabinet Order, taking into account exportation and importation of goods, entry and departure of vessels engaged in foreign trade and other circumstances;
  - (xii) "customs airport" means an airport designated by Cabinet Order, taking into account exportation and importation of goods, entry and departure of aircraft engaged in foreign trade and other circumstances;
  - (xiii) "closed port" means a sea port, airport or any other place used in lieu thereof, other than an open port and a customs airport.
- (2) Marine products taken from the open sea as provided for in items (i), (iii) and (iv) of the preceding paragraph shall include marine products taken from the waters within the exclusive economic zone of Japan and from the waters within the exclusive economic zone of a foreign country.
- (3) In cases where any foreign goods are used or consumed in Japan prior to their importation (excluding the case where foreign goods are used or consumed in a bonded area in accordance with the provisions of this Act or such other cases as may be prescribed by Cabinet Order), they are deemed to be imported at the time of such use or consumption by a person who uses or consumes such goods.

## **Section 2 Period and Time-Limit**

(Special Provisions for Computation of Period and for Time-Limit)

Article 2-2 Article 10 (Special Provision for Computation of Period and for Time-Limit) of the Act on General Rules for National Taxes (Act No. 66 of 1962) applies mutatis mutandis to calculation of period and to time-limit, as prescribed by this Act, the Customs Tariff Act (Act No. 54 of 1910) and other laws relating to customs duty.

(Extension of Time-Limit due to Disaster)

- Article 2-3 (1) In the event that an area is designated by the Minister of Finance as an area substantially damaged by a designated disaster (i.e., earthquake, wind or flood damage, fire or such other disaster as may be prescribed by Cabinet Order, designated by the Minister of Finance; hereinafter the same applies) (hereinafter such area is referred to as "designated area" in this Article and Article 102-2 (Refund of, Reduction of, or Exemption from Fees due to Disaster)), the time-limit for such application, request, notification or submission of documents, payment or collection (hereinafter in this Article referred to as "application, etc.") to be made under this Act, the Customs Tariff Act or other laws relating to customs duty as are related to the victims of the designated disaster who held their domiciles or residences in that designated area at the time of occurrence of the designated disaster shall be extended to the day following the date to be separately specified by the Minister of Finance, taking into account the extent of effects of such designated disaster on such designated area (hereinafter the date so specified is referred to as "specified date" in this paragraph and paragraph (4)), if such time-limit comes between the day of occurrence of such designated disaster and the specified date.
- (2) Necessary matters concerning application of the preceding paragraph shall be prescribed by Cabinet Order.
- (3) If there is any person who is found to be unable to make an application, etc. within the time-limit for the application, etc., as extended pursuant to the provision of paragraph (1), for any unavoidable reason caused by the designated disaster pertaining to the designated area as provided for in the paragraph, the Director General of Customs may, pursuant to the provision of Cabinet Order, further extend the extended time-limit pertaining to that person for a period not exceeding two months from the date on which such unavoidable reason ceases.
- (4) If there is any person who is found to be unable to make an application, etc. within the time-limit for the application, etc. which expires on or after the date of occurrence of the designated disaster (excluding the application, etc. which relates to the victims provided for in paragraph (1) and the time-limit for which expires before the specified date; hereinafter the same applies in this paragraph) for any unavoidable reason caused by the designated disaster in such designated area as provided for in the paragraph, the Director General of Customs may, pursuant to the provision of Cabinet Order, extend the time-limit pertaining to that person for a period not exceeding two months from the date on which such unavoidable reason ceases.

**Section 3 Service**

Article 2-4 Articles 12 (Service of Documents) and 14 (Service by Publication) of the Act on General Rules for National Taxes apply mutatis mutandis to the service of documents issued by the Director General of Customs or customs officials pursuant to the provision of this Act, the Customs Tariff Act or other laws relating to customs duty. In this case, the term "agent for tax payment" in the proviso to paragraph (1) and in paragraph (3) of Article 12 of the Act on General Rules for National Taxes shall be deemed to be replaced with "agent for managing customs matters provided for in paragraph (1) of Article 95 (Agent for Managing Customs Matters) of the Customs Act."

**Chapter II Determination, Payment, Collection and Refund of Customs  
Duty  
Section 1 General Rules**

(Goods for Duty Assessment)

Article 3 Customs duty shall be imposed on imported goods (excluding correspondence) under this Act, the Customs Tariff Act and other laws relating to customs duty; provided, however, that in cases where any convention provides special provisions for customs duty, such special provisions shall apply.

(Time of Determination of Goods for Duty Assessment)

Article 4 (1) The nature and quantity of goods to be taken as a basis for assessment of customs duty shall be determined according to the actual conditions of such goods at the time of their import declaration; provided, however, that with respect to those set forth in the following items, such determination shall be made according to their actual conditions at the time as specified therein:

(i) foreign goods stored in a customs warehouse or in an integrated bonded area (excluding foreign goods prescribed by Cabinet Order as those which are usually stored in a customs warehouse or in an integrated bonded area over a long period of time and may give rise to any loss while they are so stored, foreign goods on which any of the acts set forth in item (ii) or (iii) of paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area) has been performed in an integrated bonded area, foreign goods which have been disposed upon notification to the customs pursuant to the provision of Article 34 (Disposal of Foreign Goods) and foreign goods set forth in items (ii) to (iii-2), (vii) and (viii)): at the time when they are approved to be stored in a customs warehouse or in an integrated bonded area pursuant to the provision of paragraph (1) of Article 43-3 (Approval for Storage of Foreign

- Goods) or Article 62-10 (Approval for Storage of Foreign Goods);
- (ii) foreign goods which are products manufactured in a customs factory or in an integrated bonded area under the work using customs manufacturing procedures as provided for in paragraph (1) of Article 56 (Permission of a Customs Factory) (excluding foreign goods set forth in items (vii) and (viii) and those prescribed by Cabinet Order): at the time when foreign goods which are raw materials for such products are approved to be stored in a customs factory or in an integrated bonded area pursuant to the provision of paragraph (1) of Article 43-3, as applied mutatis mutandis pursuant to Article 61-4 or under Article 62-10, or at the time when such foreign goods are approved to be used in a customs factory for the work using customs manufacturing procedures or the acts set forth in item (ii) of paragraph (1) of Article 62-8 are approved to be performed on such foreign goods in an integrated bonded area;
  - (iii) foreign goods which are stored at a place designated pursuant to the provision of paragraph (1) of Article 61 (Work Using Customs Manufacturing Procedures Performed outside a Customs Factory) or Article 62-5 (Permission of Use outside a Customs Display Area) (including the cases where applied mutatis mutandis pursuant to Article 62-15) after expiry of the period specified under these provisions (excluding foreign goods set forth in items (ii), (iii-2), (vii) and (viii)): at the time when permission prescribed in these provisions is given;
  - (iii)-2 foreign goods brought into a customs display area or into an integrated bonded area, intended for sale or consumption in the customs display area or in the integrated bonded area, products processed to foreign goods, or manufacturing from the foreign goods in a customs display area (excluding such products as may be prescribed by Cabinet Order) and such other similar goods as may be prescribed by Cabinet Order (excluding those disposed upon notification to the customs pursuant to the provision of Article 34 and those set forth in items (ii), (vii) and (viii)): at the time when approval prescribed in paragraph (1) of Article 62-3 (Procedures Pertaining to Foreign Goods to be Brought into a Customs Display Area) is given or when a notification prescribed in Article 62-11 (Notification of Bringing Goods for Sale) is made;
  - (iii)-3 foreign goods brought into a customs display area, for which customs duty is to be collected pursuant to the provision of paragraph (1) of Article 62-6 (Collection of Customs Duty on Foreign Goods Stored in a Customs Display Area after Expiry of the Period of Permission) (excluding those set forth in items (ii), (iii-2), (vii) and (viii)): at the time when circumstances warrant collection of the customs duty;
  - (iv) foreign goods stored in a bonded area or foreign goods the permission of which has been given by the Director General of Customs pursuant to the

- provision of item (ii) of paragraph (1) of Article 30 (Restriction on Places for Storage of Foreign Goods) if such foreign goods were lost or destroyed (excluding those set forth in items (i), (ii), (iii-2), (v), (v-2) and (viii)): at the time when they are lost or destroyed;
- (v) vessel's or aircraft's stores which have been withdrawn from a bonded area with the approval of loading pursuant to the provision of paragraph (1) of Article 23 (Loading of Vessel's or Aircraft's Stores) but have not been loaded on board a vessel or aircraft within the specified period for loading, or, foreign goods which have been transported with the approval of transportation pursuant to the provision of paragraph (1) of Article 63 (Customs Transportation) or paragraph (1) of Article 64 (Transportation of Wreckage) but have not arrived at the place of destination within the specified period for transportation (excluding those set forth in items (i), (ii), (iii-2), (vii) and (viii)): at the time when loading or transportation is approved (in the case where blanket approval for loading is given pursuant to the provision of the second sentence of paragraph (1) of Article 23: at the time when foreign goods pertaining to such approval are withdrawn from a bonded area, and in the case where blanket approval for transportation is given pursuant to the provision of the second sentence of paragraph (1) of Article 63: at the time when foreign goods pertaining to such approval are shipped out);
- (v)-2 foreign goods pertaining to specific customs transportation provided for in paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation) or postal items transported upon notification pursuant to the provision of paragraph (1) of Article 63-9 (Customs Transportation of Postal Items), if they do not arrive at their destination within the period specified in paragraph (2) of Article 65 (Collection of Customs Duty upon Expiry of Transportation Period) or paragraph (1) of Article 65-2 (Collection of Customs Duty pertaining to Postal Items not Arriving at Destination) (excluding those set forth in items (i), (ii), (iii-2), (vii) and (viii)): at the time when such foreign goods or the postal items pertaining to the transportation prescribed in paragraph (1) of Article 63-9 are shipped out;
- (v)-3 goods for which import declaration has been made in accordance with item (iii) of paragraph (3) of Article 67-2 (Procedures for Export or Import Declaration) and import permission has been given (excluding those set forth in items (i), (ii), (iii-2), (v) and (v-2)): at the time of their import permission;
- (vi) postal items the presentation of which has been made under paragraph (3) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items) (excluding postal items the value of which exceeds 200,000 yen (i.e., the value of postal items to be taken as a basis for duty assessment) (other than gifts or such other goods as may be prescribed by Cabinet Order), and,

those set forth in items (i), (v-2) and (vii)): at the time of their presentation;  
(vii) goods taken into custody or retained, or articles seized or detained, if they are offered for public auction or sold under negotiated contract: at the time when they are so offered or sold;

(viii) goods which have been imported without obtaining import permission or postal items which have been imported without making presentation prescribed in paragraph (3) of Article 76 (Excluding those for which Import Declaration has been made and those set forth in the Preceding Item): at the time of their importation.

(2) Necessary matters concerning calculation of amount of customs duty in the case where goods set forth in item (ii) of the preceding paragraph are imported shall be prescribed by Cabinet Order.

#### (Applicable Laws and Regulations)

Article 5 The laws and regulations to be applied when customs duty is imposed (including when security is ordered to be provided pursuant to the provision of paragraph (10) of Article 7 (Countervailing Duty) or item (ii) of paragraph (9) and paragraph (18) of Article 8 (Anti-Dumping Duty), of the Customs Tariff Act) shall be the laws and regulations applicable on the date of import declaration; provided, however, that goods set forth in the following items shall be subject to the laws and regulations applicable on the date specified in the following items:

(i) goods set forth in items (iii) and (iii-3) to (viii) of paragraph (1) of the preceding Article (in the case of goods set forth in items (iii) and (iii-3) of the paragraph, goods set forth in items (ii) and (iii-2) of the paragraph shall not be excluded, whereas in the case of goods set forth in items (iv) and (v) of the paragraph, goods set forth in items (i), (ii) and (iii-2) of the paragraph shall not be excluded): the date in which the time specified in each of these items is included;

(ii) foreign goods which have been stored in a customs warehouse or in an integrated bonded area, or, foreign goods which are products manufactured in a customs factory or in an integrated bonded area under the work using customs manufacturing procedures provided for in paragraph (1) of Article 56 (Permission of a Customs Factory), with respect to which the applicable laws and regulations are revised during the period between import declaration and import permission of such goods (or, approval instead of import permission, in the case of goods withdrawn with the approval of the Director General of Customs pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods prior to Import Permission)) (excluding goods set forth in item (iv) or (vii) of paragraph (1) of the preceding Article): the date on which such permission or approval is given.



(Person Liable to Pay Customs Duty)

Article 6 Except as otherwise provided for in this Act, the Customs Tariff Act or other laws relating to customs duty, customs duty shall be paid by a person who imports goods.

(Systems for Determining Amount of Duty)

Article 6-2 (1) The amount of customs duty shall be determined by applying the method specified in each of the following items for the category of customs duty as set forth respectively therein:

- (i) customs duty other than the customs duty set forth in the next item: the system under which the amount of customs duty payable or the fact that there is no amount of customs duty payable is, in principle, determined by a declaration made by a person liable to pay customs duty, and only in cases where a declaration is not so made or where calculation of the amount of customs duty so declared is not consistent with the provisions of the laws relating to customs duty or otherwise where the amount of customs duty so declared is different from that found as a result of inquiry conducted by the Director General of Customs, the amount of customs duty payable is determined by the disposition made by the Director General of Customs (hereinafter referred to as "the self-assessment system");
- (ii) customs duty set forth in the following: the system under which the amount of customs duty payable is determined exclusively by the disposition made by the Director General of Customs (hereinafter referred to as "the official assessment system"):
  - (a) customs duty imposed on goods which are, as accompanied goods, imported by a person upon his/her entry into Japan or which are imported, as unaccompanied goods, by that person pursuant to the provision of Cabinet Order, or on such other similar goods as may be prescribed by Cabinet Order;
  - (b) customs duty imposed on postal items (excluding postal items the value of which exceeds 200,000 yen (i.e., the value to be taken as a basis for duty assessment) (other than gifts and such other goods as may be prescribed by Cabinet Order) and those pertaining to such cases as may be prescribed by Cabinet Order, as referred to in paragraph (3) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items);
  - (c) customs duty to be imposed pursuant to the provision of paragraph (3) of Article 7 (Countervailing Duty) or paragraph (2) of Article 8 (Anti-Dumping Duty) of the Customs Tariff Act, or customs duty to be imposed pursuant to the provision of paragraph (1) of Article 8 of the Act, which is altered or maintained pursuant to the provision of paragraph (16) of the

- Article (limited to customs duty to be imposed on goods imported within the investigation period provided for in paragraph (15) of the Article; the same applies in Articles 12 and 14);
- (d) customs duty to be, pursuant to the provision of this Act, the Customs Tariff Act or any other Act relating to customs duty, immediately collected in cases where certain event occurs;
  - (e) customs duty for which the amount is to be determined under the official assessment system pursuant to the provision of any laws relating to customs duty other than this Act and the Customs Tariff Act;
  - (f) additional tax for under report, additional tax for non-declaration and heavy additional tax.
- (2) The amount of delinquent tax provided for in paragraph (1) of Article 12 (Delinquent Tax) shall, notwithstanding the provision of the preceding paragraph, be determined pursuant to the provision of the Article, without recourse to any special procedures.

(Time for Filing a Declaration Form Sent by Postal Mail)

Article 6-3 Article 22 (Time for Filing a Tax Return Sent by Postal Mail) of the Act on General Rules for National Taxes applies mutatis mutandis to the case where any document pertaining to declaration, request or application (including any document required to be attached thereto and to be submitted in connection with submission of such document), prescribed in paragraph (1) of the next Article, paragraph (1) of Article 7-14 (Amended Declaration), paragraph (1) of Article 7-15 (Request for Reassessment), paragraphs (1) to (3) of Article 9-2 (Extension of Time-Limit for Payment) or Article 67 (Permission of Exportation or Importation) or any other document prescribed by Ministry of Finance Order is submitted by postal mail or correspondence delivery (i.e., correspondence delivery provided for in paragraph (2) of Article 2 (Definitions) of the Act on Correspondence Delivery by Private Business Operators (Act No. 99 of 2002), conducted by general or specified correspondence delivery business operators provided for respectively in paragraph (6) or (9) of the Article).

## **Section 2 Determination of Customs Duty under the Self-Assessment System**

(Declaration)

- Article 7 (1) A person who imports goods to which the self-assessment system applies must file with the Director General of Customs a declaration for payment of customs duty pertaining to the goods.
- (2) The declaration referred to in the preceding paragraph shall, pursuant to the provision of Cabinet Order, be filed with the Director General of Customs, by

stating, in an import declaration form required under Article 67 (Permission of Exportation or Importation), the basis for duty assessment pertaining to the goods and other matters, required to be stated pursuant to the provision of the Article, together with the amount of duty payable and other necessary matters.

- (3) In cases where any request for information is made to the customs by a person liable to pay customs duty or any other person concerned with respect to classification for the purpose of application of the Appended Table of the Customs Tariff Act (the Tariff Schedule), the applicable rate of customs duty, the basis for duty assessment pertaining to import goods, etc. which are required for filing a declaration referred to in paragraph (1), the customs shall endeavor to provide that person with pertinent information.

(Special Provisions for Declaration)

Article 7-2 (1) A person who imports goods and has in advance been given approval of any of the Director General of Customs (hereinafter referred to as "authorized importer") or a person who has entrusted customs clearance procedures for importing such goods (i.e., customs clearance procedures provided for in item (i)(a)1. of Article 2 (Definitions) of the Customs Brokerage Act (Act No. 122 of 1967); hereinafter the same applies) to an authorized customs broker (i.e., an authorized customs broker provided for in Article 79-2 (Improvement Measures Relating to a Rule); the same applies in paragraph (1) of Article 63-2, item (iii)(a) of paragraph (1) of Article 63-7 and item (ii) of paragraph (1) of Article 67-3) (hereinafter the person who has so entrusted is referred to as "special entrusting importer") may, notwithstanding the provision of paragraph (2) of the preceding Article, make a declaration referred to in paragraph (1) of the Article with respect to goods to which the self-assessment system applies by filing with the Director General of Customs a declaration form, stating the basis for duty assessment, the amount of customs duty payable and other necessary matters, pertaining to such goods (hereinafter referred to as "special declaration form").

- (2) In cases where a special declaration (i.e., a declaration to be made by filing a special declaration form, as referred to in paragraph (1) of the preceding Article; hereinafter the same applies) is made, a special declaration form for goods which relate to a special declaration (hereinafter referred to as "goods pertaining to a special declaration") and the importation of which has been permitted shall be prepared and be filed with the Director General of Customs who has given such permission on or before the last day of the month following the month that includes the date of such import permission.

(3) A special declaration form filed pursuant to the provision of the preceding paragraph is referred to as "special declaration form before time-limit."

(4) Paragraph (1) does not apply to goods set forth in Appended Table 1-6 of the

Temporary Tariff Measures Act (Act No. 36 of 1960) or to such other goods as may be prescribed by Cabinet Order.

(5) A person who seeks approval referred to in paragraph (1) must file with the Director General of Customs an application form stating its domicile or residence, and its name and other necessary matters.

(6) Matters to be stated in a special declaration form and other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Cases in which a Special Declaration is Deemed to have been Selected)

Article 7-3 An authorized importer or a special entrusting importer who has not made a declaration prescribed in paragraph (2) of Article 7 (Declaration) at the time of import declaration is deemed to have selected to make a special declaration with respect to goods pertaining to such import declaration (excluding goods provided for in paragraph (4) of the preceding Article).

(Special Declaration after Time-Limit)

Article 7-4 (1) A person who is required to have filed a special declaration form before time-limit (i.e., an authorized importer or a special entrusting importer who fails to file a special declaration form within the time-limit for filing, including its heir or, if the person is a juridical person that has ceased to exist as a result of merger, the juridical person that survives the merger or the juridical person that has been established as a result of the merger) may, even after the time-limit for filing, file with the Director General of Customs referred to in paragraph (2) of Article 7-2 (Special Provisions for Declaration) a special declaration form, stating the matters required to be stated in a special declaration form before time-limit if it is filed before determination prescribed in paragraph (2) of Article 7-16 (Determination) is made.

(2) A special declaration form to be filed pursuant to the provision of the preceding paragraph is referred to as "special declaration form after time-limit."

(Requirements for Approval)

Article 7-5 In the case where an application form prescribed in paragraph (5) of Article 7-2 (Special Provisions for Declaration) is filed, if the situation falls under any of the following items, the Director General of Customs may select not to give approval referred to in paragraph (1) of the Article:

- (i) in cases where a person who seeks approval falls under any of the following:
  - (a) where the person was sentenced to a penalty in violation of the provision of this Act or other laws relating to national taxes or was subjected to a notified administrative disposition pursuant to the provision of this Act

- (including the case where applied mutatis mutandis pursuant to other laws relating to customs duty) or the Act on General Rules for National Taxes, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which the disposition was completed;
- (b) where the person was sentenced to imprisonment without work or heavier penalty in violation of the provision of the laws and regulations other than the Acts provided for in item (a), and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
- (c) where the person was sentenced to a fine in violation of the provision of the Act on Prevention of Unjust Acts by Organized Crime Group Members (Act No. 77 of 1991) (excluding paragraph (7) of Article 32-3 (Prefectural Center for the Elimination of Violence) and paragraph (1) of Article 32-11 (Report and On-site Investigation) of the Act; hereinafter the same applies) or for committing an offence referred to in Article 204 (Injury), Article 206 (Incitement of Injury), Article 208 (Assault), paragraph (1) of Article 208-2 (Unlawful Assembly with Weapons), Article 222 (Intimidation) or Article 247 (Breach of Trust) of the Penal Code (Act No. 45 of 1907) or an offence referred to in the Act on Punishment of Physical Violence and Other Acts (Act No. 60 of 1926), and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
- (d) where he/she is a member of an organized crime group provided for in item (vi) of Article 2 (Definitions) of the Act on Prevention of Unjust Acts by Organized Crime Group Members (hereinafter referred to as "member of organized crime group" in this item), or where he/she was a member of organized crime group and a period of five years has not elapsed from the day on which he/she ceased to be a member of organized crime group (hereinafter referred to as "member of organized crime group, etc.");
- (e) where the person is a juridical person whose officer falls under any of items (a) to (d) with respect to its business or where it uses such officer as an agent, employee or other worker;
- (f) where its business activities are controlled by a member of organized crime group, etc.;
- (g) where, during a period of three years preceding the day on which application for approval is made, the person was imposed heavy additional tax with respect to customs duty, or heavy additional tax with respect to consumption tax or local consumption tax pertaining to imported goods, as prescribed in paragraph (1) or (2) of Article 12-4 (Heavy Additional Tax) of this Act or paragraph (1) or (2) of Article 68 (Heavy Additional Tax) of the

Act on General Rules for National Taxes;

- (h) where, during a period of three years preceding the day on which application for approval is made, the person was delinquent in paying customs duty, or internal consumption tax (i.e., internal consumption tax provided for in item (i) of Article 2 (Definitions) of the Act on Collection of Internal Consumption Tax Imposed on Imported Goods (Act No. 37 of 1955); hereinafter the same applies) or local consumption tax pertaining to imported goods;
- (i) where a period of three years has not elapsed from the day on which approval given to the person under paragraph (1) of Article 7-2 was revoked pursuant to the provision of item (i)(c), (i)(d) or (i)(f) or item (ii) of paragraph (1) of Article 7-12 (Revocation of Approval);
- (ii) where a person who seeks approval does not have the ability to make a special declaration by means of electronic data processing system (i.e., electronic data processing system provided for in item (i) of Article 2 (Definitions) of the Act on Processing of Business Related to Import and Export by Means of Electronic Data Processing System (Act No. 54 of 1977); hereinafter the same applies) or otherwise to properly and surely conduct the business relating to importation of goods pertaining to a special declaration;
- (iii) where a person who seeks approval fails to establish, with respect to the business relating to importation of goods pertaining to a special declaration, a rule setting out the matters prescribed by Ministry of Finance Order, which are the matters which are to be observed by that person (in the case where the person is a juridical person, including its officers), its agent, manager or other employee in order to comply with the provisions of this Act and other laws and regulations.

(Improvement Measures Relating to a Rule)

Article 7-6 The Director General of Customs may, when it is considered necessary for ensuring the enforcement of this Act for the reason that an authorized importer fails to make a special declaration in accordance with the provisions of this Act or for other reason, request the authorized importer to take necessary measures to improve the rule provided for in item (iii) of the preceding Article or the business practices pertaining to the matters specified in that rule, or to newly establish a rule provided for in the item.

Article 7-7 Deleted.

(Provision of Security)

Article 7-8 (1) The Director General of Customs may, when it is considered necessary for the preservation of customs duty, internal consumption tax or

local consumption tax (hereinafter referred to as "customs duty, etc." in this paragraph and paragraph (2) of Article 7-11), order, pursuant to the provision of Cabinet Order, an authorized importer or a special entrusting importer to provide security for customs duty, etc., specifying its amount and period.

(2) The Director General of Customs may, if it is considered necessary, change the amount or the period referred to in the preceding paragraph.

(Maintenance of Books)

Article 7-9 (1) An authorized importer must, pursuant to the provision of Cabinet Order, maintain books stating the descriptions, quantities and prices of goods pertaining to a special declaration and other necessary matters, and preserve these books and documents prepared or received in connection with transactions of such goods and such other documents as may be prescribed by Cabinet Order (referred to as "books and documents" in paragraph (2) of Article 7-11 and item (ii) of paragraph (1) of Article 7-12).

(2) Article 4 (Preservation of Books and Documents Relating to National Taxes in Electronic or Magnetic Records), Article 5 (Preservation of Books and Documents Relating to National Taxes on Computer-output Microfilms), paragraphs (1) to (5) of Article 6 (Application for Approval of Preservation in Electronic or Magnetic Records), paragraphs (1) and (2) of Article 7 (Changes Pertaining to Approval of Preservation in Electronic or Magnetic Records), Articles 8 to 10 (Revocation of Approval of Preservation in Electronic or Magnetic Records; Application mutatis mutandis to Approval of Preservation on Computer-output Microfilms; Exclusion from Application of the Act on the Utilization of Information and Communications Technology in Administrative Procedures; Preservation of Electronic or Magnetic Records Pertaining to Information on Electronic Transactions) and Article 11 (excluding items (ii) to (iv) of paragraph (3)) (Application of provisions of other laws relating to national taxes), of the Act on Special Provisions concerning Preservation Methods for Books and Documents Related to National Tax Prepared by Means of Computers (Act No. 25 of 1998; hereinafter referred to as "the Act concerning Preservation of Electronic Books") applies mutatis mutandis to an authorized importer. In this case, the terms "all or part of the books relating to national taxes" and "the District Director of Tax Office having jurisdiction over the place of tax payment, etc. (in the case where Ministry of Finance Order so specifies, the Director General of Customs having jurisdiction over the place of tax payment, etc.; hereinafter referred to as "the competent District Director of Tax Office, etc.)" in paragraph (1) of Article 4 of the Act shall be deemed to be replaced with "the books required to be maintained and preserved pursuant to the provision of paragraph (1) of Article 7-9 (Maintenance of Books) of the Customs Act (hereinafter referred to as "books relating to customs duty")" and

"the Director General of Customs who has given approval referred to in paragraph (1) of Article 7-2 (Special Provisions for Declaration) of the Act (hereinafter referred to as "the Director General of Customs who has given approval")" respectively; the term "all of the documents relating to national taxes" in paragraph (2) of the Article shall be deemed to be replaced with "all of the documents required to be preserved pursuant to the provision of paragraph (1) of Article 7-9 of the Customs Act (hereinafter referred to as "documents relating to customs duty")"; the term "all or part of the books relating to national taxes" in paragraph (1) of Article 5 of the Act shall be deemed to be replaced with "books relating to customs duty"; the term "of books and documents relating to national taxes" in paragraph (3) of the Article shall be deemed to be replaced with "of books and documents relating to customs duty (i.e., books relating to customs duty or documents relating to customs duty; hereinafter the same applies)"; the terms "the day of commencing maintenance of the books relating to national taxes (when the days of commencing maintenance of two or more books relating to national taxes, if any, are different, then the earliest day of commencing the maintenance; the same applies in item (i) of paragraph (5))", "the kind of books relating to national taxes, such books relating to national taxes" and "all or part of the books relating to national taxes" in paragraph (1) of Article 6 of the Act shall be deemed to be replaced with "the day of commencing maintenance of the books relating to customs duty", "books relating to customs duty" and "books relating to customs duty", respectively; the terms "the day to replace (where there are two or more books relating to national taxes, if the days on which such books are replaced are different, an earlier day on which such books are replaced; the same applies in item (i) of paragraph (5))" and "the term "the paragraphs of Article 4" in paragraph (6) of the Article" and "paragraph (1) of Article 7" in Article 9 of the Act shall be deemed to be replaced with "the day to replace" and "paragraph (1) of Article 7" respectively; the term "a person responsible for preservation, pertaining to income tax (excluding withholding income tax) and corporation tax" in Article 10 of the Act shall be deemed to be replaced with "an authorized importer"; and the terms "item (i) of Article 145 (Dismissal of Application for Approval of Blue Return) of the Income Tax Act (including the case where applied mutatis mutandis pursuant to Article 166 (Report, Payment and Return) of the Act)", "books and documents)", "the paragraphs of Article 5" and "or Article 10 (Preservation of Electronic or Magnetic Records Pertaining to Information on Electronic Transactions)" in item (i) of paragraph (3) of Article 11 of the Act shall be deemed to be replaced with "item (ii) of paragraph (1) of Article 7-12 (Revocation of Approval) of the Customs Act", "pursuant to the provision of Cabinet Order", "or the paragraphs of Article 5" and "as may be prescribed by Ministry of Finance Order provided for in",



respectively, and necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Notification of Discontinuance of Application of Special Provisions for Declaration)

Article 7-10 An authorized importer, when application of paragraph (1) of Article 7-2 (Special Provisions for Declaration) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given approval referred to in the paragraph.

(Invalidation of Approval)

Article 7-11 (1) The approval referred to in paragraph (1) of Article 7-2 (Special Provisions for Declaration) ceases to be effective if any of the situations as set forth in the following occurs:

- (i) when the notification prescribed in the preceding Article is submitted;
- (ii) when, after the an authorized importer has died, an application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied *mutatis mutandis* pursuant to Article 7-13 (Application *mutatis mutandis* of the Provisions for Succession of Permission) was not made within the period specified in paragraph (2) of Article 48-2 or a disposition not to give the approval referred to in the paragraph was made;
- (iii) when an authorized importer is dissolved;
- (iv) when an authorized importer receives a ruling for commencement of bankruptcy proceedings;
- (v) when the Director General of Customs revokes the approval.

(2) In the case where the approval referred to in paragraph (1) of Article 7-2 has ceased to be effective, a person who has been given such approval or his/her heir (in the case where a juridical person that has been given the approval has ceased to exist as a result of merger, then the juridical person that survives the merger or the juridical person that has been established as a result of the merger) may not be exempted from the obligation relating to a special declaration for the goods pertaining to a special declaration for which import permission was given before the approval ceased to be effective, the obligation of payment of customs duty, etc. to be levied or to be paid for such goods, and, the obligation of maintenance of and entry in books and preservation of books and documents relating to the goods pertaining to a special declaration as prescribed in paragraph (1) of Article 7-9 (Maintenance of Books).

(Revocation of Approval)

Article 7-12 (1) The Director General of Customs may, if any of the situations as set forth in the following occurs, revoke the approval referred to in paragraph

(1) of Article 7-2 (Special Provisions for Declaration):

(i) where an authorized importer falls under any of the following:

(a) where the importer was imposed a heavy additional tax with respect to customs duty, as prescribed in paragraph (1) or (2) of Article 12-4 (Heavy Additional Tax), or a heavy additional tax with respect to consumption tax or local consumption tax pertaining to imported goods, as prescribed in paragraph (1) or (2) of Article 68 (Heavy Additional Tax) of the Act on General Rules for National Taxes;

(b) where the importer was delinquent in paying customs duty or in paying internal consumption tax or local consumption tax pertaining to imported goods;

(c) where the importer fails to file, within the time-limit for filing, a special declaration form or a special tax declaration form provided for in paragraph (2) of Article 6 (Special Provisions for Declaration, Tax Payment for Taxable Goods to be Withdrawn) of the Act On to Collection of Internal Consumption Tax Imposed on Imported Goods;

(d) where the importer fails to comply with the order prescribed in paragraph (1) of Article 7-8 (Provision of Security);

(e) where the importer falls under any of items (i)(a) to (i)(f) or item (ii) of Article 7-5 (Requirements for Approval);

(f) where the importer fails to take any measure in response to the request of the Director General of Customs as prescribed in Article 7-6 (Improvement Measures Relating to a Rule);

(ii) where maintenance of or entry in books, or preservation of books and documents, as prescribed in paragraph (1) of Article 7-9 (Maintenance of Books) is not made in the manner prescribed by Cabinet Order as provided for in the paragraph, or any false statement is entered in books or documents.

(2) Necessary matters concerning the procedures for revocation of approval prescribed in the preceding paragraph and any other necessary matters concerning application of the paragraph shall be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provisions for Succession of Permission)  
Article 7-13 Paragraphs (1) to (5) of Article 48-2 (Succession of Permission) apply mutatis mutandis to an authorized importer. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Amended Declaration)

Article 7-14 (1) If any of the situations as set forth in the following items occurs, a person who has made a declaration referred to in paragraph (1) of Article 7 (Declaration) or a person who has received a determination prescribed in paragraph (2) of Article 7-16 (Determination) may, pursuant to the provision of

Cabinet Order, make, by the time reassessment prescribed in paragraph (1) or (3) of Article 7-16 (Reassessment) (hereinafter in this paragraph and in the next Article referred to as "reassessment") is made with respect to the declaration, reassessment or determination referred to in the items, a declaration to amend the basis for duty assessment or the amount of duty payable (hereinafter referred to as "amount of duty, etc.") pertaining to such declaration, reassessment or determination (hereinafter referred to as "amended declaration"):

- (i) when any shortfall is found in the amount of duty to be paid on the basis of the declaration for duty payment previously made (i.e., a declaration referred to in paragraph (1) of Article 7 or amended declaration; hereinafter the same applies), the reassessment or the determination prescribed in paragraph (2) of Article 7-16;
  - (ii) when any amount of duty is found to be payable in the situation where it has been concluded, on the basis of the previous declaration for duty payment, reassessment or determination prescribed in paragraph (2) of Article 7-16, that no customs duty was required to be paid.
- (2) In the case referred to in the preceding paragraph, an amended declaration may, if it is made prior to import permission of goods pertaining to the declaration for duty payment, be made through adjustment of the amount of duty, etc. stated in a document pertaining to the declaration for duty payment previously made.
- (3) Article 20 (Validity of Amended Return) of the Act on General Rules for National Taxes applies *mutatis mutandis* to an amended declaration.

(Request for Reassessment)

Article 7-15 (1) In cases where the amount of duty to be paid on the basis of a declaration for duty payment (or, in cases where reassessment is made with respect to such amount of duty, the amount of duty so reassessed) is overestimated for the reason that calculation of the amount of duty, etc. pertaining to the declaration was not made in accordance with the provision of the laws relating to customs duty or due to any error in such calculation, a person who has made the declaration for duty payment may, pursuant to the provision of Cabinet Order, make to the Director General of Customs a request for reassessment to be made on the amount of duty, etc. pertaining to the declaration (or, in the case where reassessment was made with respect to the amount of duty, etc., the amount of duty, etc. so reassessed), provided that such request is made before import permission for the goods pertaining to the declaration is given or within five years from the date of import permission (with respect to goods pertaining to a special declaration, within five years from the time-limit for filing a special declaration form) (in cases where a

person who has been given the approval of the Director General of Customs pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission), by the date on which a period of five years elapses from the day following the date of such approval or by the date of import permission, whichever comes later).

- (2) In cases where any request for reassessment prescribed in the preceding paragraph (hereinafter referred to as "request for reassessment") is made, the Director General of Customs shall review the amount of duty, etc. pertaining to the request, make reassessment or notify a person who has made the request that there are no grounds for making reassessment.

(Reassessment and Determination)

Article 7-16 (1) In the case where a declaration for duty payment is made, the Director General of Customs shall, if calculation of the amount of duty, etc. pertaining to the declaration is not made in accordance with the provision of the laws relating to customs duty or otherwise if the amount of duty, etc. declared is different from that found as a result of his/her examination, reassess the amount of duty, etc. pertaining to the declaration on the basis of the result of such examination.

- (2) In cases where no declaration for duty payment is made by the time of importation of goods for which such declaration is required (with respect to goods pertaining to a special declaration, within the time-limit for filing a special declaration form), the Director General of Customs shall determine the amount of duty, etc. pertaining to such goods on the basis of the result of his/her examination.

- (3) The Director General of Customs shall, if he/she finds, after the reassessment or determination prescribed in the preceding two paragraphs or this paragraph was made, that the amount of duty, etc. so reassessed or determined is overestimated or underestimated, reassess the amount of duty, etc. so reassessed or determined, on the basis of the result of his/her examination.

- (4) Reassessment prescribed in paragraph (1) or the preceding paragraph (hereinafter referred to as "reassessment", except in Section 2 of Chapter 11 (Disposition of Criminal Cases)) or determination prescribed in paragraph (2) shall be effectuated by the Director General of Customs through delivery of a written notice of reassessment or a written notice of determination, stating the basis for duty assessment pertaining to such reassessment or determination, the amount of duty payable as a result of such reassessment or determination, and such other matters as may be prescribed by Cabinet Order; provided, however, that the reassessment made prior to import permission of the goods pertaining to the declaration for duty payment (limited to the reassessment made before payment of the customs duty pertaining to such goods in order to

reduce the amount of duty, etc. payable) may be effectuated, in lieu of the procedures specified above, by requesting a person who made such declaration to rectify the amount of duty, etc. stated in the document pertaining to the declaration for duty payment or by notifying that person of the amount of duty, etc. rectified by the Director General of Customs.

(5) Article 29 (Validity of Reassessment) of the Act on General Rules for National Taxes applies mutatis mutandis to the reassessment or the determination prescribed in paragraph (2).

(Notification of Amount of Duty Pertaining to Goods Withdrawn Prior to Import Permission)

Article 7-17 The Director General of Customs shall, if he/she finds that there is no error in a declaration for duty payment with respect to the amount of duty, etc. pertaining to goods withdrawn with his/her approval pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission), notify in writing a person who has obtained approval of withdrawal, of the amount of duty pertaining to the declaration, the requirement to pay such amount of duty (or, if no customs duty is required to be paid, that fact) and such other matters as may be prescribed by Cabinet Order.

### **Section 3 Determination of Customs Duty under the Official Assessment System**

Article 8 (1) When the Director General of Customs assesses customs duty on goods to which the official assessment system applies, he/she shall, on the basis of the result of his/her examination, determine the matters specified in each of the following items for the category of cases as set forth respectively therein:

- (i) in the case pertaining to customs duty set forth in item (ii)(a) or (ii)(e) of paragraph (1) of Article 6-2 (Systems for Determining Amount of Duty):
  - (a) when the basis for duty assessment pertaining to import declaration referred to in Article 67 (Permission of Exportation or Importation) is the same as the result of examination conducted by the Director General of Customs: the amount of duty payable;
  - (b) when import declaration referred to in Article 67 is not made by the time of importation or when, in the case where such declaration was made, the basis for duty assessment pertaining to that declaration is different from that found as a result of examination conducted by the Director General of Customs: the basis for duty assessment and the amount of duty payable;
- (ii) in the case pertaining to customs duty set forth in items (ii)(b) to (ii)(d) of

- paragraph (1) of Article 6-2: the basis for duty assessment and the amount of duty payable.
- (2) When the Director General of Customs imposes additional tax for under report, additional tax for non-declaration or heavy additional tax, as set forth in item (ii)(f) of paragraph (1) of Article 6-2, he/she shall, based on his/her examination, determine the amount of duty which is to be taken as a basis for calculation of the amount of such additional tax for under report, additional tax for non-declaration or heavy additional tax, and the amount of duty payable.
- (3) If the Director General of Customs, after having made the determination prescribed in the preceding two paragraphs or this paragraph, finds that the basis for duty assessment (in the case set forth in item (i)(a) of paragraph (1), the basis for duty assessment pertaining to the declaration referred to in the item, and in the case provided for in the preceding paragraph, the amount of duty which is to be taken as a basis for calculation prescribed in the paragraph; hereinafter the same applies in this Article) or the payable amount of duty so determined is overestimated or underestimated, he/she shall, on the basis of the result of his/her examination, determine to alter the basis for duty assessment or the amount of duty payable pertaining to his/her former determination.
- (4) The determination prescribed in the preceding three paragraphs shall be effectuated by the Director General of Customs through delivery of a written notice of determination for official assessment (in the case set forth in item (i)(a) of paragraph (1), a written notice of duty payment), stating the basis for duty assessment and the amount of duty payable pertaining to that determination and such other matters as may be prescribed by Cabinet Order; provided, however, that in cases where the determination relates to customs duty set forth in item (ii)(a) of paragraph (1) of Article 6-2 or in such other case as may be prescribed by Cabinet Order, the Director General of Customs may, instead of delivery of such written notice, have customs officials notify such determination orally.
- (5) Article 29 (Validity of Reassessment) of the Act on General Rules for National Taxes applies mutatis mutandis to the determination prescribed in paragraph (3).

#### **Section 4 Payment and Collection of Customs Duty**

(Payment of Customs Duty Under the Self-Assessment System)

Article 9 (1) A person who has made a declaration for duty payment shall, except in the case falling under the next paragraph, pay the State customs duty in an amount equivalent to the amount of duty payable as stated in a document

pertaining to the declaration or in a written notice of reassessment on or before the date of importation of the goods pertaining to such declaration.

- (2) A person who is liable to pay customs duty in an amount equivalent to the amount of duty set forth in the following items shall pay such customs duty to the State on or before the date or within the time-limit, as set forth in the following items:
  - (i) the amount of duty payable as stated in a special declaration form before time-limit: the time-limit for filing a special declaration form;
  - (ii) the amount of duty payable as stated in a special declaration form after time-limit: the date of filing a special declaration form after time-limit;
  - (iii) with respect to customs duty pertaining to goods withdrawn with the approval of the Director General of Customs pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission), the amount of duty pertaining to the declaration as stated in the document referred to in Article 7-17 (Notification of Amount of Duty Pertaining to Goods Withdrawn Prior to Import Permission) or the amount of duty payable as stated in a written notice of reassessment pertaining to the reassessment made before import permission of such goods (including the amount of duty pertaining to the declaration of duty payment previously made, if unpaid): the date on which one month elapses from the day following the date on which such document or written notice is issued;
  - (iv) the amount of duty payable as stated in a document pertaining to an amended declaration made after import permission: the date on which such amended declaration is made;
  - (v) the amount of duty payable as stated in a written notice of reassessment pertaining to reassessment made after import permission: the date on which one month elapses from the day following the date on which such written notice of reassessment is issued;
  - (vi) the amount of duty payable as stated in a written notice of determination: the date on which one month elapses from the day following the date on which such written notice of determination is issued;
  - (vii) the amount of duty payable as stated in a written notice of reassessment pertaining to reassessment made after determination prescribed in paragraph (2) of Article 7-16 (Determination) was made: the date on which one month elapses from the day following the date on which such written notice of reassessment is issued.
- (3) A person who has received a written notice of determination for official assessment, pertaining to additional tax for under report, or heavy additional tax referred to in paragraph (1) or (3) of Article 12-4 (Heavy Additional Tax) (with respect to paragraph (3), limited to the provision pertaining to heavy additional tax referred to in paragraph (1) of the Article) (hereinafter referred

to as "heavy additional tax for under report" in this paragraph) shall pay additional tax for under report or heavy additional tax for under report in an amount as stated in that written notice, on or before the day on which one month elapses from the day following the date on which such written notice is issued, or on or before the date of import permission of goods pertaining to the customs duty which has caused such additional tax for under report or heavy additional tax for under report to be paid, whichever comes later.

- (4) A person who has received a written notice of determination for official assessment pertaining to additional tax for non-declaration, or heavy additional tax referred to in paragraph (2) or (3) of Article 12-4 (with respect to paragraph (3), limited to the provision pertaining to the heavy additional tax referred to in paragraph (2) of the Article) (hereinafter referred to as "heavy additional tax for non-declaration" in this paragraph) shall pay additional tax for non-declaration or heavy additional tax for non-declaration in an amount as stated in that written notice, on or before the day on which one month elapses from the day following the date on which the written notice is issued.

(Extension of Time-Limit for Payment)

Article 9-2 (1) In the case where a person who imports goods to which the self-assessment system applies has filed an import declaration form prescribed in paragraph (2) of Article 7 (Declaration), if, with respect to the time-limit for payment of customs duty as prescribed in paragraph (1) of the preceding Article (hereinafter in this paragraph and the next paragraph referred to as "time-limit for payment"), the person has filed an application form for extension of time-limit for payment with the Director General of Customs referred to in paragraph (2) of Article 7 and has provided the same Director General of Customs with security in an amount equivalent to the whole or part of the amount of customs duty stated in the written import declaration form, the Director General of Customs may, notwithstanding the provision of paragraph (1) of the preceding Article, extend the time-limit for payment for a period not exceeding three months, provided that such amount of customs duty does not exceed the amount of the security so provided.

- (2) In cases where a person who imports goods to which the self-assessment system applies (excluding goods pertaining to a special declaration) files, with respect to the time-limit for payment of customs duty to be imposed on goods which are to be imported during a specified month (hereinafter in this paragraph referred to as "specific month"), an application form for extension of such time-limit with the Director General of Customs with whom a declaration pertaining to such goods is to be filed under paragraph (1) of Article 7 on or before the last day of the month preceding the specific month and provides the same Director General of Customs with security in an amount equivalent to



the total amount of customs duty pertaining to such goods, the Director General of Customs may, notwithstanding the provision of paragraph (1) of the preceding Article, extend the time-limit for payment of customs duty pertaining to the goods to be imported by that person during the specific month, within a period not exceeding three months from the day following the last day of the specific month, provided that the total amount of customs duty to be paid for the specific month does not exceed the amount of the security so provided.

- (3) In the case where an authorized importer or special entrusting importer files a special declaration form before time-limit, if the importer files, within the time-limit for filing a special declaration form, an application form for extension of time-limit for payment of customs duty the amount of which is equivalent to the amount of duty set forth in item (i) of paragraph (2) of the preceding Article with the Director General of Customs referred to in paragraph (2) of Article 7-2 (Special Provisions for Declaration) and provides the Director General of Customs with security in an amount equivalent to the whole or part of the amount of customs duty stated in that special declaration before time-limit, the Director General of Customs may, notwithstanding the provision of paragraph (2) of the preceding Article, extend the time-limit for payment within a period not exceeding two months, provided that such amount of customs duty does not exceed the amount of the security so provided.
- (4) Matters to be stated in an application form referred to in the preceding three paragraphs and other necessary matters concerning application of these provisions shall be prescribed by Cabinet Order.

(Notice of Duty Payment)

Article 9-3 (1) When the Director General of Customs collects customs duty to be imposed under the official assessment system other than customs duty set forth in the following, he/she shall give a notice of duty payment:

- (i) customs duty on postal items to be paid pursuant to the provision of paragraph (3) of Article 77 (Payment of Customs Duty on Postal Items);
  - (ii) customs duty to be allocated from proceeds of public auction or sale of goods pursuant to the provision of paragraph (1) of Article 85 (Allocation of Proceeds from Public Auction) (including the case where applied *mutatis mutandis* pursuant to Article 88 (Retained Goods)) or paragraph (5) of Article 134 (Allocation of Proceeds of Public Auction of Detained Articles);
  - (iii) additional tax for under report, additional tax for non-declaration and heavy additional tax.
- (2) The notice of duty payment prescribed in the preceding paragraph shall, pursuant to the provision of Cabinet Order, be effectuated by the Director General of Customs through delivery of a written notice of duty payment stating the amount of duty payable, the time-limit for and the place of

payment; provided, however, that in the case falling under the proviso to paragraph (4) of Article 8 (Oral Notification of Determination for Official Assessment), the Director General of Customs may, instead of delivery of such written notice, have customs officials deliver such notice orally.

(Procedures for Payment)

Article 9-4 A person who pays customs duty (excluding customs duty pertaining to postal items to which the official assessment system applies; hereinafter the same applies in this Article) must pay the amount equivalent to that of duty, accompanied by a written statement of payment (or, a written notice of duty payment, if received) to the Bank of Japan (including agents authorized to receive national taxes) or customs officials authorized to receive customs duty; provided, however, that payment in securities as prescribed by the Act on Payment of Revenues in Securities (Act No. 10 of 1916) or, subject to advance notice to the Director General of Customs as prescribed by Ministry of Finance Order, payment using such means as may be prescribed by the Order is not precluded.

(Priority Order of Duty Collection)

Article 9-5 (1) With respect to foreign goods on which customs duty is to be imposed, customs duty shall, notwithstanding the provisions of the National Tax Collection Act (Act No. 147 of 1959), the Local Tax Act (Act No. 226 of 1950) and other laws and regulations, be collected prior to collection of any other levies and claims due.

(2) The order of priority for collection of customs duty and expenses incurred for disposition of delinquent customs duty when they are collected using the same rule as that used for collection of national taxes, shall be the same as that for collection of national taxes and expenses incurred for disposition of delinquent taxes as provided for by the National Tax Collection Act. In this case, application of the preceding paragraph shall not be precluded.

(Security)

Article 9-6 (1) Article 50 (Types of Security) of the Act on General Rules for National Taxes applies *mutatis mutandis* to the types of security for customs duty to be provided pursuant to the provision of this Act, the Customs Tariff Act and other laws relating to customs duty.

(2) Necessary matters concerning provision of security referred to in the preceding paragraph shall be prescribed by Cabinet Order.

(Allocation or Collection where Security has been Provided)

Article 10 (1) A person liable to pay customs duty who has provided monetary

security for customs duty may, pursuant to the provision of Cabinet Order, allocate the amount of money so provided to the payment of customs duty.

- (2) In the case where security for customs duty has been provided, Article 52 (Disposal of Security) of the Act on General Rules for National Taxes applies mutatis mutandis to the case where a person liable to pay customs duty fails to pay the full amount of customs duty within the time-limit for payment of customs duty as prescribed in Article 9 (Payment of Customs Duty under the Self-Assessment System) (in the case where the time-limit for payment of customs duty has been extended pursuant to the provision of paragraphs (1) to (3) of Article 9-2 (Extension of Time-Limit for Payment), within the time-limit so extended) or within the time-limit for payment referred to in paragraph (2) of Article 9-3 (Notice of Duty Payment) (with respect to delinquent tax, within the time-limit for payment of customs duty which is to be taken as a basis for calculation of such delinquent tax; the time-limit herein is referred to as "time-limit for payment" in Article 11 (Collection of Customs Duty) and in the proviso to paragraph (1) of Article 12 (Special Provisions for Calculation of the Amount of Delinquent Tax)).
- (3) The guarantor referred to in item (vi) of Article 50 (Types of Security) of the Act on General Rules for National Taxes, as applied mutatis mutandis pursuant to paragraph (1) of the preceding Article, shall be deemed to be a taxpayer for the purpose of application of the provisions of Chapter 10 (Penal Provisions) of the National Tax Collection Act.

(Transfer of Collection of Customs Duty)

Article 10-2 (1) The Director General of Customs may, if it is considered necessary, transfer collection of customs duty to any other Director General of Customs.

- (2) When collection of customs duty has been transferred pursuant to the provision of the preceding paragraph, the Director General of Customs who has been so transferred shall notify such transfer to a person liable to pay customs duty without delay.

(Collection of Customs Duty)

Article 11 In cases where customs duty is not fully paid within the time-limit for payment (excluding the case where security is provided for such customs duty) and where it is found that customs duty for which the amount of duty payable has been determined is not likely to be fully paid within the time-limit for payment for the reason as set forth in the items of paragraph (1) of Article 38 (Request for Advance Payment) of the Act on General Rules for National Taxes, or where collection of customs duty payable on goods pertaining to a special declaration (excluding customs duty for which the amount of customs duty

payable has been determined) is found not to be ensured after its determination, collection of such customs duty is governed by the same rules as collection of national taxes.

## **Section 4-2 Accessory Taxes**

(Delinquent Tax)

- Article 12 (1) In cases where a person liable to pay customs duty fails to fully pay customs duty (excluding accessory tax; hereinafter the same applies in this Article) within the statutory time-limit for payment, or where the person is required to pay the amount of customs duty repaid in excess or over-refunded pursuant to the provision of Article 13-2 (Collection of Customs Duty in the Case of Overrefund), the person shall, besides the amount of customs duty unpaid or to be collected, pay a delinquent tax in an amount equivalent to that calculated by multiplying the amount unpaid or to be collected by an annual rate of 7.3 percent, according to the number of days from the day following the statutory time-limit (in the case of customs duty repaid in excess or over-refunded, from the day on which customs duty is so repaid or over-refunded) until the day on which the amount of customs duty is paid; provided, however, that the amount of delinquent tax to be paid after the day on which a period of two months elapses from the day following the time-limit for payment (with respect to customs duty so repaid in excess or over-refunded, from the day following the time-limit for payment pertaining to the notice of duty payment) shall be calculated by multiplying the amount of customs duty unpaid by an annual rate of 14.6 percent.
- (2) In the case referred to in the preceding paragraph, if a person liable to pay customs duty has paid part of the amount of customs duty unpaid or to be collected, the amount of customs duty to be taken as a basis for calculation of the amount of delinquent tax pertaining to the period on or after the day following the date on which customs duty has been so paid shall be the amount of customs duty obtained by deducting the amount of customs duty partly paid from that of customs duty unpaid or to be collected as referred to in the preceding paragraph.
- (3) In the case where the amount of customs duty which is to be taken as a basis for calculation of the amount of delinquent tax is less than 10,000 yen, paragraph (1) shall not apply, and where such amount of customs duty is less than 10,000 yen, the amount shall be omitted in calculation.
- (4) In the case where the amount of delinquent tax is less than 1,000 yen, such amount shall not be collected, and where the amount of delinquent tax is less than 100 yen, the amount shall be omitted.
- (5) In the case referred to in paragraph (1), until the amount of customs duty

paid by a person liable to pay customs duty reaches the amount of customs duty unpaid or to be collected as referred to in the paragraph, the amount of customs duty so paid shall be deemed to have been allocated to the amount of customs duty unpaid or to be collected.

- (6) In the case referred to in paragraph (1), if the amount of unpaid customs duty referred to in the paragraph is determined after the statutory time-limit for payment referred to therein as a result of any error in the amount of duty, etc. caused for any unavoidable reason and if the circumstances which led to such error are, pursuant to the provision of Cabinet Order, confirmed by the Director General of Customs, the amount of delinquent tax pertaining to such amount of duty, corresponding to the number of days from the day following the statutory time-limit until the day on which an amended declaration for such customs duty is made, or until the day on which a written notice of reassessment or a written notice of determination for official assessment is issued shall be exempted.
- (7) In the case referred to in paragraph (1), if the situation falls under any of the cases set forth in the following items, the amount specified in the following items shall be exempted from the delinquent tax pertaining to customs duty; provided, however, that in the case set forth in item (i), if there occurs any event which is to cause revocation prescribed in paragraph (1) of Article 49 (Revocation of Tax Payment Grace Period) of the Act on General Rules for National Taxes, as applied mutatis mutandis pursuant to paragraph (1) of Article 154 (Revocation of Discontinuance of the Disposition for Failure to Pay Taxes), or paragraph (3) or (4) of Article 152 (Installment Payment of Taxes Pertaining to Grace Period for Asset Conversion and Notice), of the National Tax Collection Act, to be applied as a rule (hereinafter referred to as "the National Tax Collection Act, applied as a rule" in this paragraph and in the next paragraph) pursuant to the provision of the preceding Article, the Director General of Customs may not exempt the amount equivalent to the amount corresponding to the period following the day on which such event occurs:
- (i) in the case where execution of disposition of delinquency has been discontinued, as prescribed in paragraph (1) of Article 153 (Requirements for Discontinuance of Disposition for Failure to Pay Taxes) of the National Tax Collection Act, applied as a rule, or in the case where conversion of asset is postponed, as prescribed in paragraph (1) of Article 151 or paragraph (1) of Article 151-2 (Requirements for Granting Grace Period for Asset Conversion) of the National Tax Collection Act, applied as a rule: the amount of delinquent tax pertaining to customs duty so discontinued or postponed, equivalent to the amount corresponding to the period of such discontinuance, or equivalent to one-half of the amount corresponding to the period of postponement of such conversion (limited to the period following the day on

- which two months elapse from the day following the date of the time-limit for payment of such customs duty);
- (ii) in the case where the time-limit for payment of customs duty is extended pursuant to the provision of paragraph (1), (3) or (4) of Article 2-3 (Extension of Time-Limit due to Disaster): the amount of delinquent tax pertaining to customs duty, equivalent to the amount corresponding to the period so extended;
  - (iii) in the case where the Minister of Finance or the Director General of Customs discontinues execution of the disposition relating to collection of customs duty pursuant to the provision of paragraph (2) or (4) of Article 25 (Discontinuance of Execution) of the Administrative Complaint Review Act (Act No. 68 of 2014) (including the case where these provisions are applied mutatis mutandis pursuant to Article 61 (Application mutatis mutandis of the Provision Concerning Application for Review) of the Act): the amount equivalent to one-half of the amount corresponding to, within the period of discontinuance, the period following the day on which two months elapse from the day following the time-limit for payment of such customs duty (in the case where the delinquent tax is exempted pursuant to the provision of items (i) and (ii) or item (i) of the next paragraph, the period pertaining to such exemption is excluded).
- (8) In the case referred to in paragraph (1), if the situation falls under any of the cases set forth in the following items, the Director General of Customs may exempt the delinquent tax pertaining to customs duty within the limit of the amount as specified respectively in the following items:
- (i) in the case where conversion of asset has been postponed, as prescribed in paragraph (1) of Article 151 or paragraph (1) of Article 151-2 of the National Tax Collection Act, applied as a rule, if a person liable to pay customs duty falls under the next item (a) or (b): the amount of delinquent tax pertaining to customs duty so postponed (excluding the amount pertaining to the exemption prescribed in item (i) or (ii) of the preceding paragraph; hereinafter the same applies in this item), corresponding to the postponed period (if the Director General of Customs finds that there is an unavoidable reason for failure to pay the customs duty within such period, including the period from the day following the time-limit for postponement until the day on which such unavoidable reason ceases), if it is found difficult for that person to pay such amount:
    - (a) in the case where the financial situation of a person liable to pay customs duty is extremely severe and it is found that the person would face extreme difficulty in continuing its business or maintaining his/her living, unless any taxes other than customs duty or any debts, the due dates of which have expired, are to be reduced or exempted, if such taxes or debts are

- reduced or exempted;
- (b) in the case where, in light of the situation of the business or living of a person liable to pay customs duty, it is found that it would be difficult for that person to pay the delinquent tax for any unavoidable reason;
- (ii) in the case where the Director General of Customs has seized property in order to collect the full amount of customs duty pertaining to delinquency in payment using the same rules as national taxes or has been provided security in an amount equivalent to the amount of duty payable: the amount equivalent to one-half of the amount of delinquent tax, the calculation of which is based on customs duty pertaining to such seizure or provision of security, corresponding to, within the period of seizure or provision of security, the period following the day on which two months elapse from the day following the time-limit for payment of such customs duty (in cases where delinquent tax is exempted pursuant to the provision of the items of the preceding paragraph or the preceding item, the period pertaining to such exemption is excluded);
- (iii) in the case falling under any of the following items: the amount specified in items (a) to (c), pertaining to the amount of delinquent tax pertaining to customs duty provided for in items (a) to (c) (excluding the amount of delinquent tax pertaining to the exemption prescribed in paragraph (6), the items of the preceding paragraph or the preceding two items):
- (a) in the case where the amount received as a result of the request for share distribution, as prescribed in the National Tax Collection Act, applied as a rule has been allocated to customs duty pertaining to such request: the amount corresponding to the period from the day following the date on which such amount was received under the compulsory liquidation procedure into money conducted by an enforcement agency which received such request (i.e., an agency provided for in item (xiii) of Article 2 (Definitions) of the National Tax Collection Act, applied as a rule) until the day of such allocation;
- (b) in the case where any situation in which customs duty cannot be paid due to earthquake, wind or flood damage, fire, or other similar disaster occurs: the amount corresponding to the period from the day on which such situation occurs until the day on which a period of seven days elapses from the day following the day on which such situation ceases;
- (c) in the case where the fact similar to that falling under item (a) or (b) occurs, if prescribed by Cabinet Order: the amount corresponding to the period to be prescribed by Cabinet Order.
- (9) The "statutory time-limit for payment" as used in paragraph (1) and item (i) of paragraph (11) shall be the date of importation of goods on which such customs duty is to be imposed (or, with respect to goods which require import

permission, the date of such permission); provided, however, that with respect to customs duty set forth in the following items, the "statutory time-limit for payment" shall be the time-limit or the date as specified respectively in the following items (in the case where the documents referred to in item (iii) or (iv), relating to customs duty set forth in the items are issued at least two times, the date on which the first document is issued):

- (i) customs duty payable for goods pertaining to a special declaration (excluding customs duty for which the time-limit for payment has been extended pursuant to the provision of paragraph (3) of Article 9-2 (Extension of Time-Limit for Payment)): the time-limit for filing a special declaration form;
  - (ii) customs duty for which the time-limit for payment has been extended pursuant to the provision of paragraphs (1) to (3) of Article 9-2: the time-limit so extended;
  - (iii) customs duty payable for goods withdrawn with the approval of the Director General of Customs pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission): the date on which the documents referred to in Article 7-17 (Notification of Amount of Duty Pertaining to Goods Withdrawn Prior to Import Permission), a written notice of reassessment, or a written notice of duty payment prescribed in Article 9-3 (Notice of Duty Payment) is issued, for such customs duty;
  - (iv) customs duty payable for postal items received with the approval of the Director General of Customs referred to in paragraph (6) of Article 77 (Payment of Customs Duty of Postal Items): the date on which a written notice of duty payment prescribed in Article 9-3 is issued for such customs duty;
  - (v) customs duty to be imposed pursuant to the provision of paragraph (3) of Article 7 (Countervailing Duty) of the Customs Tariff Act or paragraph (2) of Article 8 (Anti-Dumping Duty) of the Act, or customs duty to be imposed pursuant to the provision of paragraph (1) of Article 8, which is altered or maintained pursuant to the provision of paragraph (16) of the Article: the time-limit for payment as stated in a written notice of duty payment pertaining to such customs duty;
  - (vi) customs duty to be immediately collected, pursuant to the provision of this Act, the Customs Tariff Act or other laws relating to customs duty in the case where certain event occurs: the day on which such event occurs.
- (10) In the case where an amended declaration has been made (excluding an amended declaration which has been made by a person who, by deception or other wrongful acts, has evaded customs duty, or has received repayment or refund of customs duty, while anticipating that reassessment is likely to be made for such customs duty for the reason that examination has been



conducted with respect to such customs duty (an amended declaration herein is referred to as "specific amended declaration" in the next paragraph)), or where reassessment has been made (excluding reassessment pertaining to customs duty, the reassessment of which has been conducted against a person who, by deception or other wrongful acts, has evaded customs duty, or has received repayment or refund of customs duty (reassessment herein is referred to as "specific reassessment" in the next paragraph)), if the situation falls under any of the following items, paragraph (1) shall apply to the delinquent tax pertaining to customs duty to be paid on the basis of such amended declaration or reassessment, after deducting the number of days specified respectively in the following items from the number of days provided for in paragraph (1):

- (i) in the case where a declaration prescribed in paragraph (1) of Article 7 (Declaration) is made for customs duty pertaining to such amended declaration or the reassessment (in the case of a special declaration, where a special declaration form before time-limit is filed), if such amended declaration is made or a written notice of reassessment pertaining to such reassessment is issued, after the day on which one year elapses from the statutory time-limit for payment referred to in paragraph (1): the number of days from the day following the date on which one year elapses from the statutory time-limit for payment until the day on which such amended declaration is filed or a written notice of reassessment pertaining to such reassessment is issued;
- (ii) in the case where a special declaration form after time-limit is filed for the customs duty pertaining to such amended declaration or reassessment, if such amended declaration is made or a written notice of reassessment pertaining to such reassessment is issued, after the day on which one year elapses from the day following the date on which the special declaration form after time-limit is filed: the number of days from the day following the date on which one year elapses from the day following the date on which the special declaration form after time-limit is filed until the day on which such amended declaration is made or the day on which the written notice of reassessment pertaining to such reassessment is issued.

(11) In the case where a amended declaration is made or reassessment which results in increase of the amount of duty payable (including similar reassessment prescribed by Cabinet Order; hereinafter referred to as "increase reassessment" in this paragraph) is made, if, with respect to customs duty pertaining to such declaration or increase reassessment, a declaration prescribed in paragraph (1) of Article 7 (in the case of a special declaration, a special declaration form before time-limit) or a special declaration form after time-limit has been filed, and if such amended declaration or such increase reassessment is made after, as a result of reassessment, the amount duty

payable has decreased on the basis of such declaration or special declaration form after time-limit (hereinafter referred to as "decrease reassessment" in this paragraph), paragraph (1) shall, notwithstanding the provision of the preceding paragraph, apply to customs duty payable on the basis of such amended declaration or increase reassessment (limited to customs duty, as prescribed by Cabinet Order, up to the amount of duty pertaining to such declaration or special declaration form after time-limit) after deducting the number of days set forth in the following (in the case of customs duty payable on the basis of a specific amended declaration or specific reassessment or such other customs duty as may be prescribed by Cabinet Order, limited to the number of days set forth in item (i)) from the number of days provided for in paragraph (1):

- (i) the number of days from the day following the date on which the amount of duty payable (if the date comes before the statutory time-limit for payment of such customs duty, such statutory time-limit for payment) is paid by filing such declaration or special declaration form after time-limit until the day on which a notice of reassessment pertaining to such decrease reassessment is issued;
- (ii) the number of days from the day following the date on which a notice of reassessment pertaining to such decrease reassessment is issued (in the case where such decrease reassessment is the reassessment based on the request for reassessment, the date on which one year elapses from the day following the date on which such notice of reassessment is issued) until the day on which such amended declaration is made or a notice of reassessment pertaining to such increase reassessment is issued.

(Additional Tax for Under Report )

Article 12-2 (1) In the case where a declaration prescribed in paragraph (1) of Article 7 (Declaration) (hereinafter referred to as "initial declaration") has been made (in the case where a special declaration form after time-limit is filed, limited to the case where the proviso to paragraph (1) or paragraph (6) of the next Article applies), if an amended declaration or reassessment is made, there shall be imposed on the person liable to pay customs duty an additional tax for under report in an amount equivalent to the amount obtained by multiplying the amount of duty to be, pursuant to the provision of paragraph (1) or (2) of Article 9 (Payment of Customs Duty under the Self-Assessment System), paid on the basis of such amended declaration or reassessment by a rate of 10/100 (or, when an amended declaration is not made while anticipating that reassessment is likely to be made for customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty, a rate of 5/100, instead of a rate of 10/100).

- (2) In the case referred to in the preceding paragraph (excluding the case where paragraph (4) applies), if the amount of duty payable as provided for in the paragraph (when, prior to the amended declaration or reassessment referred to in the paragraph, an amended declaration or reassessment has been made with respect to customs duty pertaining to the amended declaration or reassessment referred to in the paragraph, then the amount obtained by adding cumulative additional amount of duty pertaining to such customs duty) exceeds the amount equivalent to the amount of duty pertaining to the initial declaration or 500,000 yen, whichever is larger, the amount of additional tax for under report referred to in the paragraph shall, notwithstanding the provision of the paragraph, be the amount obtained by adding to the amount calculated pursuant to the provision of the paragraph an amount obtained by multiplying the amount equivalent to such excess amount (if the amount of duty payable provided for in the paragraph is less than the amount of duty equivalent to such excess amount, then such amount of duty payable) by a rate of 5/100.
- (3) In the case set forth in the following items, the preceding two paragraphs shall apply after deducting the amount calculated, pursuant to the provision of Cabinet Order, as the amount of duty specified in the following items from the amount of duty payable as provided for in the preceding two paragraphs:
- (i) in the case where there is, among the facts which have been taken as a basis for calculation of the amount of duty payable as provided for in the preceding two paragraphs, any fact which is found justifiable for not having been taken as a basis for calculation of the amount of duty prior to the amended declaration or reassessment: the amount of duty calculated on the basis of the fact as found justifiable;
- (ii) in the case where, with respect to customs duty pertaining to an amended declaration or reassessment referred to in paragraph (1), reassessment which decreases the amount of duty to be paid on the basis of the initial declaration was made (excluding reassessment based on a request for reassessment) prior to the amended declaration or reassessment referred to in paragraph (1): the amount of duty up to the amount of duty pertaining to such initial declaration.
- (4) In the case where an amended declaration has not been made while anticipating that reassessment is likely to be made for the customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty, if such amended declaration was made before a notification is issued with respect to the matters set forth in items (iv) and (v) of paragraph (1) of Article 74-9 (Prior Notice of Examination to Taxpayers) of the Act on General Rules for National Taxes, as applied mutatis mutandis pursuant to Article 105-2 (Prior Notice of Examination to Importers) relating to an examination on the customs duty pertaining to such

declaration and such other matters as may be prescribed by Cabinet Order (such notification is referred to as "notification of examination" in paragraph (5) of the next Article), then paragraph (1) shall not apply.

(5) Paragraphs (3) and (4) of the preceding Article (Delinquent Tax) apply mutatis mutandis to an additional tax for under report. In this case, the terms "amount of customs duty" and "paragraph (1)" in paragraph (3) of the Article shall be deemed to be replaced with "amount of duty" and "paragraphs (1) and (2) of the next Article", respectively, and the term "1,000 yen" in paragraph (4) of the Article shall be deemed to be replaced with "5,000 yen."

(6) The "cumulative additional amount of duty" provided for in paragraph (2) means the total amount of duty to be, pursuant to the provision of paragraph (1) or (2) of Article 9, paid on the basis of an amended declaration (excluding an amended declaration to which paragraph (4) applies) or reassessment for the customs duty, which was made prior to the amended declaration or reassessment referred to in paragraph (1) (if, with respect to the customs duty, any reassessment to decrease such amount of duty payable was made, or any changes in the original disposition was made on the basis of the determination, ruling or judicial decision given on an appeal or action pertaining to reassessment, then the amount equivalent to the amount of duty so decreased shall be deducted from the total amount of duty and if paragraph (3) was applied, then the amount which should have been deducted pursuant to the provision of the paragraph shall be deducted from the total amount of duty).

#### (Additional Tax for Non-Declaration)

Article 12-3 (1) If the situation falls under any of the following items, there shall be imposed on a person liable to pay customs duty an additional tax for non-declaration in an amount equivalent to the amount calculated by multiplying the amount of customs duty to be, pursuant to the provision of paragraph (2) of Article 9 (Payment of Customs Duty under the Self-Assessment System), paid on the basis of the declaration, determination or reassessment as provided for respectively in the following items by a rate of 15/100 (when filing of a special declaration form after time-limit or an amended declaration referred to in item (ii) is not made while anticipating that reassessment or determination prescribed in paragraph (2) of Article 7-16 (Reassessment and Determination) (hereinafter referred to as "reassessment or determination" in this Section) is likely to be made with respect to customs duty pertaining to the declaration for the reason that an examination has been conducted with respect to such customs duty pertaining to the declaration, then by a rate of 10/100, instead of 15/100); provided, however, that this does not apply to the case where it is found justifiable for not having made the initial declaration by the time of importation of goods for which such declaration is required (in the case of a

- special declaration, within the time-limit for filing a special declaration form):
- (i) where a special declaration form after time-limit is filed or a determination prescribed in paragraph (2) of Article 7-16 is made;
  - (ii) where an amended declaration or reassessment is made after a special declaration form after time-limit was filed or a determination prescribed in paragraph (2) of Article 7-16 was made.
- (2) In the case referred to in the preceding paragraph (excluding the case where the proviso to the paragraph or paragraph (6) applies), if the amount of duty payable, as provided for in the preceding paragraph (in the case where an amended declaration or reassessment as referred to in item (ii) of the paragraph is made, the amount of duty obtained by adding the cumulative amount of duty payable pertaining to the customs duty) exceeds 500,000 yen, the amount of the additional tax for non-declaration referred to in the paragraph shall, notwithstanding the provision of the paragraph, be the amount obtained by adding to the amount calculated pursuant to the provision of the paragraph an amount obtained by multiplying the amount of duty equivalent to the excess amount (if the amount of duty payable, as provided for in the paragraph is less than the amount of duty equivalent to the excess amount, then such amount of duty payable) by a rate of 5/100.
- (3) In the case where the situation falls under paragraph (1) (excluding the case where the proviso to the paragraph or paragraph (6) applies, or the case where filing of a special declaration form after time-limit or an amended declaration referred to in item (ii) of paragraph (1) is not made while anticipating that reassessment or determination is likely to be made with respect to the customs duty pertaining to the declaration for the reason that an examination has been conducted with respect to such customs duty), if an additional tax for non-declaration (excluding an additional tax for non-declaration which is imposed in the case where filing of a special declaration form after time-limit or an amended declaration referred to in the item is not made while anticipating that reassessment or determination is likely to be made with respect to the customs duty pertaining to the declaration for the reason that an examination has been conducted with respect to such customs duty) or heavy additional tax (referred to as "additional tax for non-declaration, etc." in paragraph (3) of the next Article) was imposed with respect to customs duty during five years preceding the date on which the special declaration form after time-limit was filed, or the amended declaration or reassessment or determination was made, the amount of additional tax for non-declaration referred to in paragraph (1) shall, notwithstanding the provision of the preceding two paragraphs, be the amount obtained by adding to the amount calculated pursuant to the provision of the preceding two paragraphs an amount obtained by multiplying the amount of duty payable, as prescribed in paragraph (1) by a rate of 10/100.

- (4) Paragraph (3) of the preceding Article (limited to the provision pertaining to item (i)) applies mutatis mutandis to the case referred to in item (ii) of paragraph (1).
- (5) In the case where filing of a special declaration form after time-limit or an amended declaration referred to in item (ii) of paragraph (1) is not made while anticipating that reassessment or determination is likely to be made with respect to the customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty, if filing of the special declaration form after time-limit or the amended declaration is made before a notification of examination for customs duty pertaining to the declaration is issued, the amount of additional tax for non-declaration referred to in paragraph (1), pertaining to the amount of duty to be, pursuant to the provision of paragraph (2) of Article 9, paid on the basis of such declaration shall, notwithstanding the provision of paragraphs (1) and (2), be the amount obtained by multiplying such amount of duty payable by a rate of 5/100.
- (6) In the case where a special declaration form after time-limit is not filed while anticipating that determination prescribed in paragraph (2) of Article 7-16 is likely to be made with respect to the customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty, if a special declaration form after time-limit is filed in conformity with the case prescribed by Cabinet Order as the case in which it is assumed that a special declaration form before time-limit was intended to be filed and if the written special declaration after time-limit is filed on or before the day on which one month elapses from the time-limit for filing, then paragraph (1) shall not apply.
- (7) Paragraphs (3) and (4) of Article 12 (Delinquent Tax) apply mutatis mutandis to an additional tax for non-declaration. In this case, the terms "amount of customs duty" and "paragraph (1)" in paragraph (3) of the Article shall be deemed to be replaced with "amount of duty" and "the main clause of paragraph (1) of Article 12-3", respectively, and the term "1,000 yen" in paragraph (4) of the Article shall be deemed to be replaced with "5,000 yen."
- (8) The "cumulative amount of duty payable" provided for in paragraph (2) means the total amount of duty payable, as set forth in the following with respect to the customs duty prior to the amended declaration or reassessment as referred to in item (ii) of paragraph (1) (when, with respect to such customs duty, any reassessment to decrease the amount of duty payable was made or any changes in the original disposition were made on the basis of the determination, ruling or judicial decision given on an appeal or action pertaining to reassessment, then the amount equivalent to the amount of duty so decreased shall be deducted from the total amount of duty payable and if paragraph (3) of the preceding Article, as applied mutatis mutandis pursuant to paragraph (4)

applied, then the amount obtained after deducting an amount which should have been deducted pursuant to the provision of the paragraph shall be deducted from the total amount of duty payable):

- (i) the amount of duty to be, pursuant to the provision of paragraph (2) of Article 9, paid on the basis of filing of a special declaration form after time-limit or determination prescribed in paragraph (2) of Article 7-16;
- (ii) the amount of duty to be, pursuant to the provision of paragraph (2) of Article 9, paid on the basis of an amended declaration or reassessment.

(Heavy Additional Tax)

Article 12-4 (1) In the case where the situation falls under paragraph (1) of Article 12-2 (Additional Tax for Under Report) (excluding the case where an amended declaration is not made while anticipating that reassessment is likely to be made with respect to customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty), if a person liable to pay customs duty conceals or disguises either wholly or partly the basis for duty assessment, etc. (i.e., matters to be stated in an import declaration form provided for in paragraph (2) of Article 7 (Declaration) or those to be stated in a special declaration form provided for in paragraph (1) of Article 7-2 (Special Provisions for Declaration); hereinafter the same applies in this Article) or the facts which are to be taken as a basis for calculation of the amount of duty payable and files a declaration for payment, based on the facts so concealed or disguised, there shall, pursuant to the provision of Cabinet Order, be imposed on that person a heavy additional tax in an amount equivalent to the amount obtained by multiplying the amount of duty which is to be taken as a basis for calculation of the amount of additional tax for under report by a rate of 35/100, in lieu of the additional tax for under report pertaining to the amount of duty which is to be taken as a basis for calculation of the amount of such additional duty (if it is evident that there is any amount of duty which is calculated on the basis of facts not concealed or disguised, then the amount of duty obtained by deducting the amount equivalent to the amount of duty calculated, pursuant to the provision of Cabinet Order, on the basis of the facts not so concealed or disguised).

(2) In the case where the situation falls under paragraph (1) of the preceding Article (excluding the case where the proviso to the paragraph or paragraph (6) of the Article applies, or the case where filing of a special declaration form after time-limit or an amended declaration referred to in item (ii) of paragraph (1) of the Article is not made while anticipating that reassessment or determination is likely to be made with respect to customs duty pertaining to such declaration for the reason that an examination has been conducted with respect to such customs duty), if a person liable to pay customs duty conceals

or disguises either wholly or partly the basis for duty assessment, etc. or the facts which are to be taken as a basis for calculation of the amount of duty payable and if the situation as set forth in any of the items of the paragraph occurs as a result of such concealment or disguise, there shall, pursuant to the provision of Cabinet Order, be imposed on that person a heavy additional tax in an amount equivalent to the amount obtained by multiplying the amount of duty which is to be taken as a basis for calculation of the amount of additional tax for non-declaration by a rate of 40/100, in lieu of the additional tax for non-declaration pertaining to the amount of duty which is to be taken as a basis for calculation of the amount of such additional duty (if it is evident that there is any amount of duty which is calculated on the basis of the facts not concealed or disguised, then the amount of duty obtained by deducting the amount equivalent to the amount of duty calculated, pursuant to the provision of Cabinet Order, on the basis of the facts not so concealed or disguised).

(3) In the case where the situation falls under the preceding two paragraphs, if an additional tax for non-declaration, etc. was imposed with respect to customs duty during five years preceding the day on which filing of a special declaration form after time-limit was made or an amended declaration or reassessment or determination was made, on the basis of concealed or disguised facts which are to be taken as a basis for calculation of the amount of duty provided for in the preceding two paragraphs, the amount of heavy additional tax referred to in the preceding two paragraphs shall, notwithstanding the provision of the preceding two paragraphs, be the amount obtained by adding to the amount calculated pursuant to the provision of the preceding two paragraphs an amount calculated by multiplying the amount of duty which is to be taken as a basis as provided for in the preceding two paragraphs by a rate of 10/100.

(4) Paragraphs (3) and (4) of Article 12 (Delinquent Tax) apply mutatis mutandis to a heavy additional tax. In this case, the terms "amount of customs duty" and "paragraph (1)" in paragraph (3) of the Article shall be deemed to be replaced with "amount of duty" and "paragraphs (1) and (2) of Article 12-4", respectively, and the term "1,000 yen" in paragraph (4) of the Article shall be deemed to be replaced with "5,000 yen."

## **Section 5 Other Provisions**

(Refund and Allocation)

Article 13 (1) The Director General of Customs shall, when there is any amount of customs duty paid in excess or in error (including charges incurred for collection of delinquent customs duty; hereinafter the same applies in this Article), refund such amount in money without delay.



- (2) In cases where the amount paid in excess or in error as referred to in the preceding paragraph is refunded, or the amount of money to be refunded is allocated pursuant to the provision of paragraph (7), there shall be added to the amount to be so refunded or allocated the amount calculated by multiplying the amount to be so refunded or allocated by the annual rate of 7.3 percent according to the number of days during the period from the day following the date specified in each of the following items for the category of payment in excess or in error as set forth respectively therein until the day on which the decision for refund is made or until the day on which the allocation is made (hereinafter in this Article and paragraphs (5) and (6) of the supplementary provisions, the amount so calculated is referred to as "interest on tax refund"):
- (i) the amount paid in excess pertaining to the customs duty (including its delinquent tax) for which payable amount of duty is definitively determined by reassessment, determination prescribed in paragraph (2) of Article 7-16 (Reassessment and Determination) or determination for official assessment (excluding the amount paid in excess as set forth in the next item): the day on which the customs duty pertaining to the amount paid in excess is paid (if the day comes before the statutory time-limit for payment of such customs duty (in the case of additional tax for under report or heavy additional tax referred to in paragraph (1) or (3) of the preceding Article (with respect to paragraph (3), limited to the provision pertaining to heavy additional tax referred to in paragraph (1) of the Article), the customs duty which has caused such additional duty to be paid) as provided for in paragraph (9) of Article 12 (Delinquent Tax), then the statutory time-limit for payment);
  - (ii) the amount paid in excess pertaining to the customs duty (including delinquent tax pertaining to such customs duty) for which the payable amount of duty has decreased as a result of the reassessment made in response to the request for reassessment (including the determination, ruling or judicial decision given on an appeal or action pertaining to the disposition made in response to such request): the day on which a period of three months elapses from the day following the date on which the request for such reassessment is made or the day on which a period of one month elapses from the day following the date on which such reassessment is made, whichever comes earlier;
  - (iii) the amount paid in excess or in error pertaining to the customs duty, other than the amount paid in excess as set forth in the preceding two items: the day on which a period of one month elapses from the day following the date to be prescribed by Cabinet Order as the date of such payment in excess or in error.
- (3) In the case referred to in the preceding paragraph, if the situation falls under any of the following items, the period specified therein shall be deducted from

the period provided for in the paragraph:

- (i) when any order of seizure or disposition of seizure, as prescribed in the provision of the Civil Execution Act (Act No. 4 of 1979) is issued with respect to the right of restitution of the amount paid in excess or in error: the period until the day on which seven days elapse from the day following the date on which such order or disposition is received;
  - (ii) when provisional seizure is made with respect to the right of restitution of the amount paid in excess or in error: the period during which such provisional seizure is applied.
- (4) In cases where the amount paid in excess or in error which is to be taken as a basis for calculation of interest on tax refund is less than 10,000 yen, paragraph (2) shall not apply, and in cases where the amount paid in excess or in error is less than 10,000 yen, such amount shall be omitted.
- (5) In cases where the amount of interest on tax refund calculated pursuant to the provision of the preceding three paragraphs is less than 1,000 yen, the interest on tax refund shall not be added, and in cases where the amount of interest on tax refund is less than 100 yen, such amount shall be omitted.
- (6) For the purpose of application of paragraph (2) in the case where payment in excess or in error occurs with respect to the customs duty paid in two or more installments, the amount of customs duty equivalent to the amount paid in excess or in error shall be deemed to have been paid on the day of the most recent payment and if the amount paid in excess or in error exceeds the amount paid on that day, the amount of customs duty equivalent to the excess amount shall be deemed to have been paid on the day of earlier payment on which the amount of customs duty paid in such installments reaches the amount paid in excess or in error.
- (7) In the case where the amount paid in excess or in error as referred to in paragraph (1) is to be refunded, if there is any customs duty to be paid by a person who is entitled to receive such refund, the Director General of Customs shall, pursuant to the provision of Cabinet Order, allocate the amount to be so refunded to such customs duty.

(Collection of Customs Duty pertaining to Overrefund)

Article 13-2 In cases where repayment or refund of customs duty as prescribed in paragraph (2) of Article 10 (Refund of Customs Duty in the Case of Deterioration and Damage) of the Customs Tariff Act or such other laws relating to customs duty as may be prescribed by Cabinet Order has, upon application from a person who receives such repayment or refund, been made in excess of the amount to be repaid or refunded, the Director General of Customs shall collect the amount of customs duty equivalent to the excess amount from a person who has so received, using the same rule as collection of

national taxes.

(Supplementary Liability to Pay Customs Duty in the Case of Underpayment)

Article 13-3 In cases where, with respect to goods withdrawn with import permission or with the approval of the Director General of Customs as prescribed in paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission), any shortfall in the amount of customs duty paid is found, if the address of a person who is deemed to be an importer of such goods at the time of such permission or approval is unknown or if that person claims that it is not the importer of such goods, and a customs broker (i.e., a customs broker provided for in item (iii) of Article 2 (Definitions) of the Customs Brokerage Act; hereinafter the same applies) who provided customs clearance services at the time of importation of such goods cannot identify a person who entrusted him with such services, then the customs broker and the importer of such goods shall jointly and severally be liable to pay such customs duty.

(Calculation of Fractions)

Article 13-4 Paragraphs (1) and (2) of Article 118 (Calculation of Fractions of the Basis for Assessment of National Taxes) of the Act on General Rules for National Taxes apply mutatis mutandis to calculation of fractions when the basis for duty assessment is to be determined, paragraphs (1) and (3) of Article 119 (Calculation of Fractions of the Determined Amount of National Tax) of the Act apply mutatis mutandis to calculation of fractions of the amount of customs duty, and paragraphs (1) and (2) of Article 120 (Calculation of Fractions of Refund Money) of the Act apply mutatis mutandis to calculation of fractions of the amount of repayment or refund pertaining to customs duty.

(Restrictions on the Period for Reassessment and determination)

Article 14 (1) Reassessment, determination or determination for official assessment for customs duty shall not be made on or after the date on which a period of five years has elapsed from the statutory time-limit for payment, etc. of the customs duty concerned (or, with respect to the determination for official assessment pertaining to customs duty provided for in item (ii)(a) or (ii)(e) of paragraph (1) of Article 6-2 (Systems for Determining Amount of Duty), for which declaration for the basis for duty assessment is made, a period of three years).

(2) Reassessment pertaining to the request for reassessment made within six months preceding the day on which the reassessment ceases to be made pursuant to the provision of the preceding paragraph or the determination for official assessment to be made with respect to the additional tax for under report, additional tax for non-declaration or heavy additional tax as a result of

such reassessment may, notwithstanding the provision of the paragraph, be made on or before the date on which a period of six months elapses from the day on which such request for reassessment is made.

- (3) In the case where goods are imported in evasion of customs duty by deception or other wrongful acts or without paying customs duty payable, the reassessment, determination or determination for official assessment pertaining to such goods may, notwithstanding the provision of the preceding two paragraphs, be made on or before the date on which a period of seven years elapses from the statutory time-limit for payment, etc.
- (4) In the case where paragraph (2) of Article 10 (Special Provisions for Computation of the Period and for Time-Limit) of the Act on General Rules for National Taxes, as applied mutatis mutandis pursuant to Article 2-2, or Article 2-3 (Extension of Time-Limit Due to Disasters) applies to the time-limit for the request for reassessment, the reassessment pertaining to the request for reassessment which is made within a period during which such request may be made pursuant to these provisions or the determination for official assessment to be made for the additional tax for under report, additional tax for non-declaration or heavy additional tax which has been caused to be imposed as a result of such reassessment may, notwithstanding the provisions of the preceding three paragraphs, be made on or before the date on which a period of six months elapses from the day on which the request for such reassessment is made.
- (5) The "statutory time-limit for payment, etc." as used in this Article and paragraph (1) of the next Article means the day of importation of goods (or, with respect to goods which require import permission, the day of such permission) on which the customs duty concerned is to be imposed (in the case of additional tax for under report, additional tax for non-declaration or heavy additional tax, the customs duty which causes such additional duty to be paid); provided, however, that the statutory time-limit for payment, etc. for the customs duty set forth in the following items means the day or time-limit as specified respectively in the following items:
- (i) customs duty payable on goods pertaining to a special declaration: the time-limit for filing a special declaration form;
  - (ii) customs duty payable on goods withdrawn with approval of the Director General of Customs pursuant to the provision of paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission): the date of such approval;
  - (iii) customs duty payable on postal items which are received with approval of the Director General of Customs pursuant to the provision of paragraph (6) of Article 77 (Payment of Customs Duty on Postal Items): the date of such approval;
  - (iv) customs duty to be imposed pursuant to the provision of paragraph (3) of

Article 7 (Countervailing Duty), or paragraph (2) of Article 8 (Anti-Dumping Duty) of the Customs Tariff Act, or customs duty to be imposed pursuant to the provision of paragraph (1) of the Article, which is altered or maintained pursuant to the provision of paragraph (16) of the Article: the date on which imposition of such customs duty becomes due;

(v) customs duty to be immediately collected pursuant to the provisions of this Act, the Customs Tariff Act or other laws relating to customs duty if certain event occurs: the date on which such event occurs.

(Extinctive Prescription of Right to Collect Duty)

Article 14-2 (1) The right of the State to collect customs duty (hereinafter in this Article referred to as "right to collect customs duty") shall be extinguished by prescription when such right is not exercised for a period of five years from the statutory time-limit for payment of the customs duty, etc. (with respect to customs duty to be paid as a result of the reassessment or the determination for official assessment as prescribed in paragraph (2) or (4) of the preceding Article, the day on which such reassessment is made).

(2) Paragraph (2) of Article 72 (Extinctive Prescription of the Right to Collect National Tax) and Article 73 (excluding item (iv) of paragraph (3))

(Interruption and Suspension of Prescription) of the Act on General Rules for National Taxes apply mutatis mutandis to the prescription of the right to collect customs duty. In this case, the term "national tax of the part" in paragraph (1) of the Article shall be deemed to be replaced with "customs duty of the part"; in item (i) of the paragraph, the term "item (ii) of paragraph (2) of Article 35 (Payment Based on Reassessment or Determination) of national tax" shall be deemed to be replaced with "paragraph (2) of Article 9 (Payment of Customs Duty under the Self-Assessment System) of the Customs Act of customs duty"; in item (ii) of the paragraph, the term "heavy additional tax (limited to the tax prescribed in paragraph (1), (2) or (4) of Article 68 (Heavy Additional Tax) (the applicable provision of paragraph (4) is limited to the provision pertaining to the heavy additional tax referred to in paragraph (1) or (2) of the Article))" shall be deemed to be replaced with "heavy additional tax", the term "these national taxes" shall be deemed to be replaced with "these customs duties" and the term "paragraph (3) of Article 35" shall be deemed to be replaced with "paragraph (3) or (4) of Article 9 of the Customs Act"; in the main clause of paragraph (3) of the Article, the term "national tax" shall be deemed to be replaced with "customs duty", the term "or refunded the whole or part of the tax amount" shall be deemed to be replaced with "or pertaining to such goods in the case where imported without payment of customs duty payable", the term "pertaining to income tax in the case where the special provisions for moving out to overseas, etc. apply" shall be deemed to be

replaced with "pertaining to" and the term "statutory time-limit for payment" shall be deemed to be replaced with "statutory time-limit for payment, etc., as provided for in paragraph (5) of Article 14 (Restrictions on the Period for Reassessment and Determination) of the Customs Act (with regard to those for which payment shall be made upon reassessment or determination for official assessment as prescribed in paragraph (2) or (4) of the Article, the day on which such reassessment is made; hereinafter referred to as "statutory time-limit for payment" in this paragraph)"; in the proviso to the paragraph, the term "national tax" shall be deemed to be replaced with "customs duty"; in item (i) of the paragraph, the term "declaration form for tax payment" shall be deemed to be replaced with "a written form pertaining to the declaration for duty payment (i.e., the declaration for duty payment as provided for in item (i) of paragraph (1) of Article 7-14 (Amended Declaration) of the Customs Act" and the term "the declaration form" shall be deemed to be replaced with "the written form pertaining to the declaration for duty payment"; in item (ii) of the paragraph, the term "reassessment, determination, etc. (excluding determination for official assessment pertaining to additional tax)" shall be deemed to be replaced with "reassessment or determination prescribed in paragraph (2) of Article 7-16 (Reassessment and Determination) of the Customs Act, or determination for official assessment (excluding determination for official assessment pertaining to additional tax for under report, additional tax for non-declaration and heavy additional tax; hereinafter in this item referred to as "reassessment, determination, etc.)"; in item (iii) of the paragraph, the term "national tax" shall be deemed to be replaced with "customs duty"; in paragraph (4) of the Article, the term "deferment or postponement of tax payment" shall be deemed to be replaced with "deferment of duty payment," the term "national tax of the part" shall be deemed to be replaced with "customs duty of the part" and the term "delinquent tax and interest tax" shall be deemed to be replaced with "delinquent tax"; and in paragraph (5) of the Article, the term "national taxes (accessory tax, delinquent tax, and national tax)" shall be deemed to be replaced with "customs duties (accessory tax and customs duty", the term "the national tax" shall be deemed to be replaced with "the customs duty," and the term "national tax concerning the delinquent tax or interest tax pertaining to national tax" shall be deemed to be replaced with "customs duty concerning the delinquent tax pertaining to customs duty."

- (3) Except as otherwise provided for in this Article, the provisions of the Civil Code (Act No. 89 of 1896) apply mutatis mutandis to the prescription of the right to collect customs duty.

(Prescription of Claim for Refund)

Article 14-3 (1) The claim against the State for repayment or refund of customs duty due to its payment in excess or in error, or under the provisions of laws relating to customs duty shall extinguish by prescription if such claim is not exercised for a period of five years from the date on which such claim may initially be made.

(2) Paragraph (2) of Article 72 (Extinctive Prescription of the Right to Collect National Tax) of the Act on General Rules for National Taxes and paragraph (3) of the preceding Article apply mutatis mutandis to the case referred to in the preceding paragraph.

Article 14-4 Deleted.

(Special Provisions for Allocation or Collection from Proceeds of Realization)  
Article 14-5 With respect to goods provided for in paragraph (1) of Article 85 (Allocation of Proceeds from Public Auction) (including the case where applied mutatis mutandis pursuant to Article 88 (Retained Goods); hereinafter the same applies in this Article) or paragraph (5) or (6) of Article 134 (Allocation or Collection from Proceeds of Realization of Detained Goods), the amount of customs duty to be allocated or collected pursuant to these provisions, and, in the case where any shortfall in the amount of customs duty so allocated or collected is found, the amount of customs duty to be allocated or collected pursuant to the provision of paragraph (1) of Article 85 or Article 11 (Collection Governed by the Same Rule as Collection of National Taxes) shall be limited to the amount of proceeds from public auction or sale of such goods (in cases where there are expenses incurred for public auction or sales and any other expenses to be collected prior to customs duty, the amount of such proceeds deducts these expenses).

### **Chapter III Vessels and Aircrafts**

(Procedures for Entry into Port)

Article 15 (1) A master of a vessel engaged in foreign trade that intends to enter an open port shall, as provided by Cabinet Order, report the name and nationality of the vessel engaged in foreign trade as well as such matters as provided by Cabinet Order that pertain to cargo, passengers (limited to the case where passengers are on board the vessel engaged in foreign trade) and crew members of such vessel engaged in foreign trade in advance to the customs having jurisdiction over the location of the open port that it intends to enter, except in the event of any failure in telecommunications facility or as otherwise provided by Cabinet Order.

(2) When a vessel engaged in foreign trade enters an open port without such

reporting as referred to in the preceding paragraph, the master shall, immediately after the vessel engaged in foreign trade enters the port, submit to the customs a document specifying such matters to be reported as provided in the paragraph.

- (3) When a vessel engaged in foreign trade enters an open port, the master must, within twenty-four hours from the time of its entry into the port (as calculated excluding the part, if any, in which such period of time overlaps with any of the holidays of administrative organs (which mean such holidays as listed in each item of Article 1, paragraph (1) (Holidays of Administrative Organs) of the Act on Holidays of Administrative Organs (Act No. 91 of 1988); the same shall apply hereinafter); the same shall apply in paragraph (1) of Article 18 (Simplified Procedures for Entry into or Departure from Port)), submit to the customs an entrance notice and a vessel's stores manifest, specifying such matters as provided by Cabinet Order, and present a certificate of vessel's nationality or any document in lieu thereof to a customs official.
- (4) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of this Act, request a master to report such matters to be specified in a vessel's stores manifest as referred to in the preceding paragraph before its entry into a port. In such case, the master shall so report before its entry into the port except in the event of any failure in telecommunications facility or as otherwise provided by Cabinet Order.
- (5) In the case of such request as referred to in the preceding paragraph, a master who fails to so report before entry into the port as referred to in the paragraph shall submit to the customs a vessel's stores manifest as referred to in paragraph (3) immediately after the entry into the port.
- (6) A master who so reports as referred to in paragraph (4) shall not, notwithstanding paragraph (3), be required to submit a vessel's stores manifest as referred to in the paragraph.
- (7) An operator, etc. (which means a vessel owner, a vessel lessee or a vessel charterer who is a party to a transportation contract for such cargo as provided in this paragraph) of a vessel engaged in foreign trade that intends to enter an open port shall, before departure by the vessel engaged in foreign trade from the port of loading of the cargo that remains at the time of an entry by the vessel engaged in foreign trade into such open port (limited to those banned in containers), report the name and nationality of the vessel engaged in foreign trade as well as such matters as provided by Cabinet Order that pertain to such cargo to the customs having jurisdiction over the location of the open port that it intends to enter, as provided by Cabinet Order, except if any disaster or other special circumstance as specified by Cabinet Order is found to occur.
- (8) A consignor of such cargo as referred to in the preceding paragraph who constitutes such person as provided by Cabinet Order (hereinafter simply



referred to as a "consignor" in this paragraph) shall, before a departure by the vessel engaged in foreign trade from the port of loading of the cargo of the consignor, report the name and nationality of the vessel engaged in foreign trade as well as such matters as provided by Cabinet Order that pertain to such cargo to the customs having jurisdiction over the location of the open port that it intends to enter, as provided by Cabinet Order, except if any disaster or other special circumstance as specified by Cabinet Order is found to occur.

- (9) A captain of an aircraft engaged in foreign trade that intends to enter a customs airport shall, as provided by Cabinet Order, report the registered mark and nationality of the aircraft engaged in foreign trade as well as such matters as provided by Cabinet Order that pertain to cargo, passengers (limited to the case where passengers are on board the aircraft engaged in foreign trade) and crew members of the aircraft engaged in foreign trade in advance to the customs having jurisdiction over the location of the customs airport that it intends to enter, except in the event of any failure in telecommunications facility or as otherwise provided by Cabinet Order.
- (10) When an aircraft engaged in foreign trade enters a customs airport without such reporting as referred to in the preceding paragraph, the captain shall, immediately after the entry by the aircraft engaged in foreign trade into the airport, submit to the customs a document specifying such matters to be reported as provided in the paragraph.
- (11) When an aircraft engaged in foreign trade enters a customs airport, the captain shall immediately submit to the customs an entrance notice, specifying such matters as provided by Cabinet Order.
- (12) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-11 (Goods the Importation of which is Prohibited) or any other provision of this Act, request an operator of an aircraft engaged in foreign trade entering a customs airport with passengers on board (limited to that operated by a person who is granted permission under paragraph (1) of Article 100 (Permission), paragraph (1) of Article 129 (International Air Transportation Services by Foreign Nationals) or Article 130-2 (Transportation of Passengers Departing from or Arriving in Japan) of the Civil Aeronautics Act (Act No. 231 of 1952) (hereinafter referred to as an "air carrier")) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations (which mean those who have booked airline tickets; the same shall apply hereinafter) for the aircraft engaged in foreign trade, details of their bookings, their personal effects and the formalities for them to board the aircraft engaged in foreign trade, before the entry by the aircraft engaged in foreign trade into the airport.
- (13) Any person who is requested to report as provided in the preceding

paragraph shall make such reporting, as provided by Cabinet Order.

- (14) Such reporting as provided in paragraph (1) (excluding the reporting on matters pertaining to cargo), such submission of a document as provided in paragraph (2) (excluding the submission of a document specifying matters pertaining to cargo), such reporting as provided in paragraphs (7) to (9) or the preceding paragraph, or such submission of a document as provided in paragraph (10) shall be made by means of electronic data processing system; provided, however, that this does not apply if such reporting or such submission of a document cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Reporting on Matters Pertaining to Cargo)

Article 15-2 (1) If such reporting on matters pertaining to cargo as provided in paragraph (1) or paragraphs (7) to (9) of the preceding Article is made, the Director General of Customs may, when the clarification of the details thereof is considered necessary for ensuring the enforcement of this Act, request reporting from a consignee of the cargo or any other person as provided by Cabinet Order before an entry into a port or airport, as provided by Cabinet Order.

- (2) Any person who is requested to report as provided in the preceding paragraph shall make such reporting without delay.

(Procedures for Entry into Port for Special Vessel, etc.)

Article 15-3 (1) A master or captain of a special vessel, etc. (which means a vessel or aircraft coming and/or going between Japan and a foreign country that is not a vessel engaged in foreign trade or an aircraft engaged in foreign trade (excluding a public vessel, a public aircraft or any other vessel or aircraft as provided by Cabinet Order); the same shall apply hereinafter) that intends to enter an open port or customs airport shall, as provided by Cabinet Order, report the name or registered mark and nationality of the special vessel, etc. as well as such matters as provided by Cabinet Order that pertain to passengers (limited to the case where passengers are on board the special vessel, etc.) and crew members of such special vessel, etc. in advance to the customs having jurisdiction over the location of the open port or customs airport that it intends to enter, except in the event of any failure in telecommunications facility or as otherwise provided by Cabinet Order.

- (2) When a special vessel, etc. enters an open port or customs airport without such reporting as referred to in the preceding paragraph, the master or captain shall, immediately after the entry by the special vessel, etc. into the port or airport, submit to the customs a document specifying such matters to be

reported as provided in the paragraph.

- (3) When a special vessel, etc. enters an open port or customs airport, the master or captain shall immediately submit to the customs an entrance notice, specifying such matters as provided by Cabinet Order.
- (4) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-11 (Goods the Importation of which is Prohibited) or any other provision of this Act, request an operator of a special aircraft (which means an aircraft that constitutes a special vessel, etc.; the same shall apply hereinafter) entering a customs airport with passengers on board (limited to that operated by an air carrier) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations for the special aircraft, details of their bookings, their personal effects and the formalities for them to board the special aircraft, before an entry by the special aircraft into the airport.
- (5) Any person who is requested to report as provided in the preceding paragraph shall make such reporting, as provided by Cabinet Order.
- (6) Such reporting as provided in paragraph (1) or the preceding paragraph, or such submission of a document as provided in paragraph (2) shall be made by means of electronic data processing system; provided, however, that this does not apply if such reporting or such submission of a document cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

#### (Loading or Unloading of Goods)

Article 16 (1) Loading or unloading of goods onto or from a vessel engaged in foreign trade or an aircraft engaged in foreign trade (hereinafter referred to as a "vessel engaged in foreign trade, etc.") shall not be carried out if such reporting on matters pertaining to cargo as provided paragraph (1) of Article 15 (Procedures for Entry into Port) is not made (except to the extent that a document specifying such matters pertaining to cargo as provided in paragraph (2) of the Article is submitted), or if such reporting on matters pertaining to cargo as provided in paragraph (9) of the Article is not made (except to the extent that a document specifying such matters pertaining to cargo as provided in paragraph (10) of the Article or paragraph (4) of Article 18 (Simplified Procedures for Entry into or Departure from Port) is submitted); provided, however, that this does not apply with respect to personal effects of passengers and crew members, postal items (including correspondence that does not fall within postal items; the same shall apply in Articles 18 and 19, paragraph (2) of Article 24, and paragraph (1) of Article 63), and vessel's stores and aircraft's

stores.

- (2) Any person who intends to load or unload foreign goods onto or from a vessel or aircraft shall, as provided by Cabinet Order, present to a customs official relevant documents for loading or unloading. The same shall apply with respect to any person who intends to load or unload domestic goods onto or from a vessel engaged in foreign trade, etc.
- (3) In addition to the case referred to in paragraph (1), if with respect to any such cargo as provided in paragraph (7) of Article 15, such reporting as provided in the paragraph and paragraph (8) of the Article is not made, unloading of such cargo shall not be carried out; provided, however, that this does not apply when any such reporting in lieu thereof as provided by Cabinet Order is made, and permission of the Director General of Customs is given as provided by Cabinet Order.

(Procedures for Departure from Port)

- Article 17 (1) When a vessel engaged in foreign trade, etc. intends to depart from an open port or customs airport, the master or captain shall submit to the customs a clearance notice specifying such matters as provided by Cabinet Order, to obtain permission of the Director General of Customs. In such case, the Director General of Customs may, when it is considered necessary for ensuring the enforcement of this Act, request the master or captain to submit a document specifying such matters as provided by Cabinet Order that pertain to cargo, passengers (limited to the case where passengers are on board the vessel engaged in foreign trade, etc.) and crew members.
- (2) In the case referred to in the preceding paragraph, when any amount of tonnage taxes and special tonnage taxes are payable for the vessel engaged in foreign trade as provided by the Tonnage Tax Act (Act No. 37 of 1957) and the Special Tonnage Tax Act (Act No. 38 of 1957), any such permission as referred to in the paragraph shall not be given without paying such amount; provided, however, that this does not apply if security as provided in paragraph (1) of Article 9 (Security) of the Tonnage Tax Act and paragraph (1) of Article 7 (Security) of the Special Tonnage Tax Act is provided.
  - (3) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-2 (Goods the Exportation of which is Prohibited) or any other provision of this Act, request an operator of an aircraft engaged in foreign trade departing from a customs airport with passengers on board (limited to that operated by an air carrier) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations for the aircraft engaged in foreign trade, details of their bookings, their personal effects and the formalities for them to board the aircraft engaged in foreign trade, before

the departure by the aircraft engaged in foreign trade from the airport.

(4) Any person who is requested to report as provided in the preceding paragraph shall make such reporting, as provided by Cabinet Order.

(5) Such submission of a document as provided in the second sentence of paragraph (1) (excluding the submission of a document specifying matters pertaining to cargo), or such reporting as provided in the preceding paragraph shall be made by means of electronic data processing system; provided, however, that this does not apply if such submission of a document or such reporting cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Procedures for Departure from Port for Special Vessel, etc.)

Article 17-2 (1) When a special vessel, etc. intends to depart from an open port or customs airport, the master or captain shall submit to the customs a clearance notice specifying such matters as provided by Cabinet Order. In such case, the Director General of Customs may, when it is considered necessary for ensuring the enforcement of this Act, request the master or captain to submit a document specifying such matters as provided by Cabinet Order that pertain to passengers (limited to the case where passengers are on board the special vessel, etc.) and crew members.

(2) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-2 (Goods the Exportation of which is Prohibited) or any other provision of this Act, request an operator of a special aircraft departing from a customs airport with passengers on board (limited to that operated by an air carrier) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations for the special aircraft, details of their bookings, their personal effects and the formalities for them to board the special aircraft, before the departure by the special aircraft from the airport.

(3) Any person who is requested to report as provided in the preceding paragraph shall make such reporting, as provided by Cabinet Order.

(4) Such submission of a document as provided in the second sentence of paragraph (1), or such reporting as provided in the preceding paragraph shall be made by means of electronic data processing system; provided, however, that this does not apply if such submission of a document or such reporting cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Simplified Procedures for Entry into or Departure from Port)

Article 18 (1) In the case of an entry by a vessel engaged in foreign trade into an open port, when it departs from the port within twenty-four hours after its entry without loading or unloading goods other than personal effects of crew members, postal items and vessel's stores, or any such other case as provided by Cabinet Order occurs, paragraphs (3) to (5) of Article 15 (Procedures for Entry into Port) shall not apply.

(2) In the case referred to in the preceding paragraph, the master of the vessel engaged in foreign trade referred to in the paragraph shall, no later than its departure from the port, submit to the customs an entrance notice, specifying such matters as provided by Cabinet Order.

(3) In the case of an entry by an aircraft engaged in foreign trade into a customs airport, when the aircraft departs from the airport without loading or unloading goods other than personal effects of crew members, postal items and aircraft's stores, or any such other case as provided by Cabinet Order occurs (referred to as a "case of short stay, etc." in the following paragraph), paragraphs (9) to (11) of Article 15, and paragraph (1) of Article 17 (Procedures for Departure from Port) shall not apply; provided, however, that with respect to matters pertaining to crew members, the captain shall make such reporting as provided in paragraph (9) of Article 15, or such submission of a document as provided in paragraph (10) of the Article, except as provided by Cabinet Order.

(4) In the case referred to in the preceding paragraph, the captain of the aircraft engaged in foreign trade referred to in the paragraph shall, no later than its departure from the airport, notify the customs that its stay falls within a case of short stay, etc., and shall, when its stay ceases to fall within a case of short stay, etc. after its entry into the airport, submit in advance to the customs a document specifying such matters to be reported as provided in paragraph (9) of Article 15 (excluding any matters reported, or specified in a document submitted, as provided in the proviso of the preceding paragraph), as provided by Cabinet Order.

(5) Such submission of a document as provided in the preceding paragraph shall be made by means of electronic data processing system; provided, however, that this does not apply if such submission of a document cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Simplified Procedures for Entry into or Departure from Port for Special Vessel, etc.)

Article 18-2 (1) In the case of an entry into an open port by a vessel that constitutes a special vessel, etc. (referred to as a "special vessel" in the following paragraph), when it departs from the port within twenty-four hours

after its entry without loading or unloading personal effects of passengers, or any such other case as provided by Cabinet Order occurs (referred to as a "case of short stay, etc." in the paragraph), Article 15-3 (Procedures for Entry into Port for Special Vessel, etc.), and paragraph (1) of Article 17-2 (Procedures for Departure from Port for Special Vessel, etc.) shall not apply; provided, however, that with respect to matters pertaining to crew members, the master shall make such reporting as provided in paragraph (1) of Article 15-3, or such submission of a document as provided in paragraph (2) of the Article, except as provided by Cabinet Order.

- (2) In the case referred to in the preceding paragraph, the master of the special vessel referred to in the paragraph shall, no later than its departure from the port, submit to the customs an entrance notice, specifying such matters as provided by Cabinet Order, and shall, when its stay ceases to fall within a case of short stay, etc. after its entry into the port, submit in advance to the customs a document specifying such matters to be reported as provided in paragraph (1) of Article 15-3 (excluding any matters reported, or specified in a document submitted, as provided in the proviso of the preceding paragraph), as provided by Cabinet Order.
- (3) In the case of an entry by a special aircraft into a customs airport, when it departs from the airport without loading or unloading personal effects of passengers, or any such other case as provided by Cabinet Order occurs (referred to as a "case of short stay, etc." in the following paragraph), paragraphs (1) to (3) of Article 15-3, and paragraph (1) of Article 17-2 shall not apply; provided, however, that with respect to matters pertaining to crew members, the captain shall make such reporting as provided in paragraph (1) of Article 15-3, or such submission of a document as provided in paragraph (2) of the Article, except as provided by Cabinet Order.
- (4) In the case referred to in the preceding paragraph, the captain of the special aircraft referred to in the paragraph shall, no later than its departure from the airport, notify the customs that its stay falls within a case of short stay, etc., and shall, when its stay ceases to fall within a case of short stay, etc. after its entry into the airport, submit in advance to the customs a document specifying such matters to be reported as provided in paragraph (1) of Article 15-3 (excluding any matters reported, or specified in a document submitted, as provided in the proviso of the preceding paragraph), as provided by Cabinet Order.
- (5) Such submission of a document as provided in paragraph (2) or the preceding paragraph shall be made by means of electronic data processing system; provided, however, that this does not apply if such submission of a document cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry

of Finance Order.

(Loading or Unloading of Goods Out of Official Office Hours)

Article 19 When it is intended, out of official office hours of a customs office (which mean the service hours of a customs office as determined and publicly notified by the Director General of Customs, taking account of the types of service provided at the customs office or of any other circumstances; the same shall apply in paragraph (1) of Article 98), to load or unload goods onto or from a vessel engaged in foreign trade, etc. or any other vessel or aircraft loaded with foreign goods, or to load foreign goods onto a vessel or aircraft, the Director General of Customs shall be notified in advance thereof; provided, however, that this does not apply with respect to personal effects of passengers and crew members, postal items, and vessel's stores or aircraft's stores.

(Entry into or Departure from Closed Port)

- Article 20 (1) A master or captain of a vessel engaged in foreign trade, etc. shall not, except with permission of the Director General of Customs, bring such vessel engaged in foreign trade, etc. into or out of a closed port; provided, however, that this does not apply if it enters or leaves a quarantine area solely for the purpose of quarantine inspection, or if a shipwreck or any other unavoidable accident occurs.
- (2) When a vessel engaged in foreign trade, etc. enters a closed port due to any accident as referred to in the proviso of the preceding paragraph, the master or captain shall immediately notify a customs official (or when no customs official is present, a police officer) of the fact together with the reason therefor.
- (3) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-2 (Goods the Exportation of which is Prohibited), Article 69-11 (Goods the Importation of which is Prohibited) or any other provision of this Act, request an operator of an aircraft engaged in foreign trade entering or departing from a closed port with passengers on board (limited to that operated by an air carrier) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations for the aircraft engaged in foreign trade, details of their bookings, their personal effects and the formalities for them to board the aircraft engaged in foreign trade, before the entry into or departure from the airport by the aircraft engaged in foreign trade.
- (4) Any person who is requested to report as provided in the preceding paragraph shall make such reporting, as provided by Cabinet Order.
- (5) Such reporting as provided in the preceding paragraph shall be made by means of electronic data processing system; provided, however, that this does



not apply if such reporting cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Entry into or Departure from Closed Port for Special Vessel, etc.)

Article 20-2 (1) A master or captain of a special vessel, etc. that intends to enter a closed port shall, as provided by Cabinet Order, report the name or registered mark and nationality of the special vessel, etc. as well as such matters as provided by Cabinet Order that pertain to passengers (limited to the case where passengers are on board the special vessel, etc.) and crew members of such special vessel, etc. in advance to the customs having jurisdiction over the location of the closed port that it intends to enter, except in the event of any failure in telecommunications facility or as otherwise provided by Cabinet Order.

- (2) When a special vessel, etc. enters a closed port without such reporting as referred to in the preceding paragraph, the master or captain shall, immediately after the entry by the special vessel, etc. into the port or airport, submit to the customs a document specifying such matters to be reported as provided in the paragraph.
- (3) When a special vessel, etc. enters a closed port, the master or captain shall immediately submit to the customs an entrance notice, specifying such matters as provided by Cabinet Order.
- (4) When a special vessel, etc. intends to depart from a closed port or airport, the master or captain shall submit to the customs a clearance notice, specifying such matters as provided by Cabinet Order. In such case, the Director General of Customs may, when it is considered necessary for ensuring the enforcement of this Act, request the master or captain to submit a document specifying such matters as provided by Cabinet Order that pertain to passengers (limited to the case where passengers are on board the special vessel, etc.) and crew members.
- (5) The Director General of Customs may, when it is considered necessary for ensuring the enforcement of Article 69-2 (Goods the Exportation of which is Prohibited), Article 69-11 (Goods the Importation of which is Prohibited) or any other provision of this Act, request an operator of a special aircraft entering or departing from a closed port with passengers on board (limited to that operated by an air carrier) or any such other person as provided by Ministry of Finance Order to report such matters as provided by Cabinet Order that pertain to persons having reservations for the special aircraft, details of their bookings, their personal effects and the formalities for them to board the special aircraft, before the entry into or departure from the airport by the special aircraft.
- (6) Any person who is requested to report as provided in the preceding paragraph

shall make such reporting, as provided by Cabinet Order.

(7) Such reporting as provided in paragraph (1) or the preceding paragraph, or such submission of a document as provided in paragraph (2) or the second sentence of paragraph (4) must be made by means of electronic data processing system; provided, however, that this does not apply if such reporting or such submission of a document cannot be made by means of electronic data processing system due to any failure in telecommunication lines or any other reason, as provided by Ministry of Finance Order.

(Temporary Landing of Foreign Goods)

Article 21 When it is intended to land foreign goods temporarily (including unloading; the same shall apply hereinafter), the master or captain shall notify the customs (or when no customs office is established, a customs official, or when no customs official is present, a police officer) in advance thereof; provided, however, that if it is not possible to notify in advance due to a shipwreck or any other unavoidable accident, such notification shall be made immediately after the landing.

(Notification of Call at Foreign Port for Coasting Vessel, etc.)

Article 22 When a coasting vessel or domestic aircraft (hereinafter referred to as a "coasting vessel, etc.") returns to Japan after it calls at a foreign port due to a shipwreck or any other unavoidable accident, the master or captain shall immediately notify the customs thereof, and shall, if any vessel's stores or aircraft's stores are loaded onto it in a foreign country, submit a manifest thereof to the customs.

(Loading of Vessel's or Aircraft's Stores)

Article 23 (1) Any vessel's stores or aircraft's stores that constitute foreign goods arriving in Japan from abroad may be loaded on board as foreign goods, provided that a declaration is made to the Director General of Customs as provided by Cabinet Order, and upon approval, are loaded from a bonded area onto a vessel (including a similar deep-sea fishing vessel or any other vessels as provided by Cabinet Order) or aircraft coming and/or going between Japan and a foreign country. In such case, the Director General of Customs may give blanket approval for loading of vessel's stores or aircraft's stores that shall be carried out within such period as specified by the Director General of Customs, not to exceed such period as provided by Cabinet Order, if such vessel's stores or aircraft's stores constitute those as provided by Cabinet Order as not causing any problem in customs control.

(2) Any person who intends to load onto a vessel or aircraft coming and/or going between Japan and a foreign country any vessel's stores or aircraft's stores

that constitute domestic goods shall, as provided by Cabinet Order, obtain an approval by making a declaration to the Director General of Customs; provided, however, that if it enters a closed port or airport due to a shipwreck or any other unavoidable accident, and it is urgently necessary to load such vessel's stores or aircraft's stores onto it, a police officer shall, when no customs official is present, be notified in advance thereof.

- (3) Any approval as referred to in the preceding two paragraphs shall be given if the types and quantities of the vessel's stores or aircraft's stores pertaining to such approval are deemed to be appropriate, taking account of, among other things, the type, the tonnage or empty weight, the number of days of voyage or flight and the number of passengers and crew members of the vessel or aircraft.
- (4) If approval is given as referred to in paragraph (1), the Director General of Customs shall specify a period of loading as may be deemed to be reasonable. In such case, the Director General of Customs may, when it is considered necessary due to a disaster or any other unavoidable reason arising after such specification, extend the period so specified.
- (5) Any person who is given approval as referred to in paragraph (1) shall, upon completion of loading of the vessel's stores or aircraft's stores pertaining to such approval, submit immediately to the customs a document certifying that fact as provided by Cabinet Order; provided, however, that in the case of blanket approval given as provided in the second sentence of the paragraph, such person may, for each of the shorter periods as specified by the Director General of Customs who has given the approval by subdividing the whole period pertaining to such approval pursuant to Cabinet Order, submit en bloc documents certifying the fact pertaining to the vessel's stores or aircraft's stores loaded within such period.
- (6) When any vessel's stores or aircraft's stores for which approval is given under paragraph (1) are not loaded on the vessel or aircraft pertaining to such approval within the period specified as provided in paragraph (4), corresponding customs duty shall immediately be collected from the person who has been given such approval; provided, however, that this does not apply if such vessel's or aircraft's stores are brought into a bonded area, are lost due to a disaster or any other unavoidable reason, or are destroyed with prior approval of the Director General of Customs.

(Travel between Vessel or Aircraft and Land)

Article 24 (1) Any travel (except to the extent that it falls within the following paragraph), or any loading or unloading of goods between land and a vessel or aircraft coming and/or going between Japan and a foreign country shall, except with permission of the Director General of Customs, be conducted by way of a designated place.

- (2) The travel to a vessel or aircraft coming and/or going between Japan and a foreign country shall, when its purpose is to deliver and/or receive goods (excluding goods whose delivery and receipt are approved or permitted as provided by this Act, and any postal items), be conducted with permission of the Director General of Customs as provided by Cabinet Order, and by way of a designated place.
- (3) Where a person who intends to obtain permission as referred to in the preceding paragraph falls within any of the following items, the Director General of Customs may not give such permission:
- (i) where such person was sentenced to a penalty or was subjected to a notified administrative disposition in violation of any provision of this Act, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which such the disposition was completed;
  - (ii) where such person was sentenced to imprisonment without work or a heavier penalty in violation of any provision of any law or regulation other than this Act, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (iii) where such person is an agent, employee or worker of any other person who falls within any of the preceding two items, or of any corporate for which such other person serves as an officer.
- (4) The travel between a vessel or aircraft coming and/or going between Japan and a foreign country and a coasting vessel, etc. shall not be conducted except with permission of the Director General of Customs.

(Change in the Status of Vessel or Aircraft)

- Article 25 (1) When it is intended to use any vessel or aircraft other than a vessel engaged in foreign trade, etc. as a vessel engaged in foreign trade, etc., the master or captain shall notify the customs in advance thereof. The same shall apply when it is intended to use any vessel engaged in foreign trade, etc. as a vessel or aircraft other than a vessel engaged in foreign trade, etc.
- (2) When it is intended to use any coasting vessel, etc. as a special vessel, etc., the master or captain shall notify the customs in advance thereof. The same shall apply when it is intended to use a special vessel, etc. as a coasting vessel, etc.

(Acting for Captain or Master)

- Article 26 Any act to be carried out by a master or captain as provided in any of paragraphs (1) to (5) and (9) to (11) of Article 15 (Procedures for Entry into Port), paragraphs (1) to (3) of Article 15-3 (Procedures for Entry into Port for

Special Vessel, etc.), paragraph (1) of Article 17 (Procedures for Departure from Port), paragraph (1) of Article 17-2 (Procedures for Departure from Port for Special Vessel, etc.), paragraphs (2) to (4) of Article 18 (Simplified Procedures for Entry into or Departure from Port), paragraphs (1) to (4) of Article 18-2 (Simplified Procedures for Entry into or Departure from Port for Special Vessel, etc.), paragraphs (1) and (2) of Article 20 (Entry into or Departure from Closed Port), paragraphs (1) to (4) of Article 20-2 (Entry into or Departure from Closed Port for Special Vessel, etc.), Article 21 (Temporary Landing of Foreign Goods) or the preceding Article may also be carried out by an owner, etc. (which means an owner or administrator, or any person acting for the owner or administrator or for a master or captain) of such vessel or aircraft as provided therein.

(Acting Master or Captain of Vessel or Aircraft)

Article 27 The provisions of this Chapter applicable to a master or captain shall, if the master or captain is unable to perform duties, apply to any person who acts for the master or captain to perform such duties.

(Provision of Facilities for Customs Official)

Article 28 If any customs official boards a vessel or aircraft for performing duties, the master or captain shall provide the customs official with space and other facilities as necessary for such performance of duties.

## **Chapter IV Bonded Areas**

### **Section 1 General Provisions**

(Types of Bonded Areas)

Article 29 Bonded areas include five types, i.e., designated bonded areas, customs warehouses, customs factories, customs display areas and integrated bonded areas.

(Restrictions on Places for Storage of Foreign Goods)

Article 30 (1) No foreign goods may be stored at places other than bonded areas; provided, however, that this does not apply to those foreign goods set forth in the following:

- (i) wreckage;
- (ii) goods which are found by the Director General of Customs to be difficult or significantly inappropriate to be stored in bonded areas, and hence are permitted to be stored at such place and for such period as may be designated by the Director General of Customs;
- (iii) specific postal items (i.e., postal items (limited to those imported))

- pertaining to a notification prescribed in paragraph (5) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items) and postal items which contain correspondence only; the same applies in paragraph (1) of Article 63-9), goods seized pursuant to the provision of the Code of Criminal Procedure (Act No. 131 of 1948) and such other goods as may be prescribed by Cabinet Order;
- (iv) postal correspondence (i.e., postal correspondence provided for in paragraph (3) of Article 2 (Definitions) of the Act on Correspondence Delivery by Private Business Operator; the same applies in Article 74, Article 78-3 and paragraphs (1) and (2) of Article 122), if the Director General of Customs finds that it will not cause any problem in customs control;
  - (v) goods for which an export declaration under specific entrustment as provided for in the second sentence of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration), an export declaration of specific manufactured goods as provided for in paragraph (2) of the Article or a specific export declaration as provided for in paragraph (3) of the Article is filed, and the exportation of which is permitted by the Director General of Customs (hereinafter referred to as "special export goods").
- (2) Notwithstanding the provision of the preceding paragraph, goods set forth in any of items (i) to (iv), (v-2), (vi) and (viii) to (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (limited to those arrived in Japan for the purpose other than for importation; in the case of goods set forth in item (ix) of the paragraph, those that infringe a layout-design exploitation right only are excluded) may not be stored in bonded areas.

Article 31 Deleted.

(Temporary Taking out of Samples)

Article 32 A person who temporarily takes any foreign goods stored in a bonded area out of that area as samples shall obtain permission of the Director General of Customs.

Article 33 Deleted.

(Disposal of Foreign Goods)

Article 34 A person who intends to dispose foreign goods stored in a bonded area shall notify the customs of its intention in advance; provided, however, that this does not apply to the case where approval for destruction has been given pursuant to the provision of the proviso to paragraph (1) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) (including the cases where applied mutatis mutandis pursuant to Articles 36,

41-3, 61-4, 62-7 and 62-15).

(Obligation of Record Keeping)

Article 34-2 A person who administers goods in a bonded area (excluding a customs factory and customs display area) shall maintain books for foreign goods which the person administers (excluding correspondence; the same applies in paragraph (1) of Article 43-2, paragraph (1) of Article 43-3, Article 61-3 (including the cases where applied mutatis mutandis pursuant to Article 62-7), paragraph (1) of Article 62-3, Article 62-9, Article 62-10 and paragraph (1) of Article 80) or for goods destined for export (excluding correspondence), and shall state therein such matters as may be prescribed by Cabinet Order.

(Dispatch of Customs Officials)

Article 35 The Director General of Customs may dispatch customs officials to a bonded area and have them provide part of the customs services therein.

(Application mutatis mutandis of the Provisions Concerning Bonded Areas)

Article 36 (1) Article 32 (Temporary Taking out of Samples), Article 34 (Disposal of Foreign Goods) and Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission of a Customs Warehouse) apply mutatis mutandis to goods for which permission is given by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Foreign Goods Stored with Permission at a Place other than Bonded Areas). In this case, the term "a bonded area" in Articles 32 and 34, and the term "customs warehouse" in Article 45 shall respectively be deemed to be replaced with "the place designated by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30."

(2) If a person intends to check, repack, sort or otherwise carry out normal handling operations with respect to goods for which permission has been given by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Foreign Goods Stored with Permission at a Place other than Bonded Areas), the person shall notify the customs of its intention in advance.

## **Section 2 Designated Bonded Areas**

(Designation or Revocation of a Designated Bonded Area)

Article 37 (1) A designated bonded area means the land, buildings or other facilities which are owned or administered by the State, by local public entities or by such juridical persons (i.e., those constructing or administering port or airport facilities) as may be prescribed by Cabinet Order, and which are

designated by the Minister of Finance as places where foreign goods may be loaded, unloaded, transported or stored temporarily for the purpose of promoting simplified and prompt handling of customs procedures in open ports or customs airports.

- (2) When the Minister of Finance finds that the whole or part of a designated bonded area is no more necessary to be maintained as such on the grounds of decrease in foreign trade conducted through such bonded area or for other reason, he/she may revoke the designation of such area as referred to in the preceding paragraph.
- (3) When the Minister of Finance designates a place as a designated bonded area, he/she shall in advance consult with the owner and administrator of the land, building or other facilities to be so designated, hold public hearings, and provide exporters, importers and other parties interested in such designation with the opportunities to state their opinions. The same applies to the case where the Minister of Finance revokes the designation of a designated bonded area.
- (4) When the Minister of Finance designates a place as a designated bonded area or revokes such designation, he/she shall immediately give a public notice of his/her disposition.
- (5) The Minister of Finance may, pursuant to the provision of Cabinet Order, delegate part of his/her authority pertaining to the designation or revocation prescribed in paragraph (1) or (2) to the Director General of Customs.

#### (Disposition of a Designated Bonded Area)

Article 38 (1) When the owner or administrator of the land, buildings or other facilities which have been designated as a designated bonded area intends to perform the acts set forth in the following items, it shall consult with the Director General of Customs in advance; provided, however, that if the owner or administrator is not the State or local public entity, it shall obtain approval of the Director General of Customs:

- (i) transfer, exchange, lease or other disposal of such land, buildings or other facilities, or change in use;
  - (ii) works in such land or construction of new buildings or other facilities on such land;
  - (iii) reconstruction, relocation, removal or other works of such buildings or facilities.
- (2) In the case referred to in the preceding paragraph, if the Director General of Customs finds that the acts pertaining to the consultation or application for approval, as referred to in the paragraph will not interfere with proper use of the designated bonded area and will not cause any problem in ensuring the enforcement of this Act, he/she shall give consent to, or approve such acts.



(3) When the Director General of Customs finds it necessary for the efficient execution of customs services in a designated bonded area, he/she may, with the consent of the owner and administrator of such area, install partitions or other similar structures in that area in order to separate the designated bonded area from other area.

(4) The owner or administrator of the land, buildings or other facilities which are designated as a designated bonded area (including a person who has taken a lease of port facilities from the person prescribed by Cabinet Order as referred to in paragraph (1) of the preceding Article (Designation of a Designated Bonded Area)) may not reject, without justifiable reason, loading, unloading, transport or storage of foreign goods or goods destined for export.

(Goods the Entry of which is Permitted)

Article 39 When it is considered necessary for the purpose of achieving the intended use of a designated bonded area, the Director General of Customs may specify the kinds of goods that may be brought into such area.

(Handling of Goods)

Article 40 (1) In a designated bonded area, foreign goods or goods destined for export may undergo, in addition to such acts as provided for in paragraph (1) of Article 37 (Designation of a Designated Bonded Area), checking, repacking, sorting or other normal handling operations of such goods.

(2) In a designated bonded area, foreign goods or goods destined for export may undergo, in addition to the acts provided for in the preceding paragraph, such acts as are permitted by the Director General of Customs, including display of samples, simple processing or other similar acts.

(3) The Director General of Customs shall, if the acts referred to in the preceding paragraph are deemed not to interfere with proper use of a designated bonded area and not to cause any problem in ensuring the enforcement of this Act, give permission referred to in the preceding paragraph.

(Foreign Goods after Revocation of Designation)

Article 41 In the case where designation of a designated bonded area was revoked, if there remain foreign goods (excluding special export goods; the same applies in paragraph (3) of Article 47 (including the cases where applied *mutatis mutandis* pursuant to Articles 61-4, 62-7 and 62-15) and paragraph (1) of Article 62-6) in that area at the time of the revocation, the place the designation of which was revoked is deemed to be a designated bonded area for such goods for a period specified by the Director General of Customs.

(Suspension of Bringing Foreign Goods into a Designated Bonded Area)

Article 41-2 (1) When a person who administers goods in a designated bonded area (in the case of a juridical person, its officers are included; hereinafter referred to as "administrator of goods" in this Article) or its agent, manager or other employee violates the provision of this Act in connection with the business in the designated bonded area, the Director General of Customs may suspend, for a specified period, the act of bringing into the designated bonded area any foreign goods or any goods destined for export, pertaining to the administrator of goods.

(2) When the Director General of Customs intends to suspend the act of bringing goods into a designated bonded area pursuant to the provision of the preceding paragraph, he/she shall give advance notice of his/her intention to the administrator of goods, and the owner or administrator of the land, buildings or other facilities of such bonded area, and shall request attendance of these persons or their agents for hearing their opinions or otherwise provide them with the opportunity to submit evidence for the purpose of clarification.

(Application mutatis mutandis of the Provisions Relating to Customs Warehouses)

Article 41-3 Article 45 (Liability for Payment of Customs Duty of a Person who Obtains Permission of a Customs Warehouse) applies mutatis mutandis to foreign goods stored in a designated bonded area. In this case, the term "the person who has obtained permission of the customs warehouse" in paragraphs (1) and (3) of the Article shall be deemed to be replaced with "the person who administers such foreign goods."

### **Section 3 Customs Warehouses**

(Permission of a Customs Warehouse)

Article 42 (1) A customs warehouse means a place which is, pursuant to the provision of Cabinet Order, permitted by the Director General of Customs as a place where foreign goods may be loaded, unloaded, transported or stored.

(2) The period of permission referred to in the preceding paragraph shall not exceed ten years; provided, however, that permission may, pursuant to the provision of Cabinet Order, be renewed for a period specified within ten years.

(3) When the Director General of Customs gives permission referred to in paragraph (1) or renews permission under the proviso to the preceding paragraph, he/she shall immediately give a public notice of that fact.

(Requirements for Permission)

Article 43 In the case where the situation falls under any of the following items, the Director General of Customs may select not to give permission referred to

in paragraph (1) of the preceding Article:

- (i) where permission was revoked with respect to a bonded area of a person who seeks permission referred to in paragraph (1) of the preceding Article (hereinafter referred to as "applicant" in this Article) and a period of three years has not elapsed from the day on which such permission was revoked;
- (ii) where an applicant was sentenced to a penalty or was subjected to a notified administrative disposition in violation of the provision of this Act, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which the disposition was completed;
- (iii) where an applicant was sentenced to imprisonment without work or heavier penalty in violation of the provision of the laws and regulations other than this Act, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
- (iv) where an applicant was sentenced to a fine in violation of the provision of the Act on Prevention of Unjust Acts by Organized Crime Group Members or for committing the offence of Article 204 (Injury), Article 206 (Incitement of Injury), Article 208 (Assault), paragraph (1) of Article 208-2 (Unlawful Assembly with Weapons), Article 222 (Intimidation) or Article 247 (Breach of Trust) of the Penal Code or the offence of the Act on Punishment of Physical Violence and Other Acts, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
- (v) where an applicant is a member of organized crime group, etc.;
- (vi) where an applicant is a juridical person whose officer falls under any of the preceding items or where an applicant employs any person who falls under any of the preceding items as an agent, manager or other principal employee;
- (vii) where business activities of an applicant are controlled by a member of organized crime group, etc.;
- (viii) where an applicant's financial resources are deemed insufficient to bear the burden imposed under this Act or otherwise where an applicant does not have sufficient ability to conduct customs warehousing business;
- (ix) where the location of, or the facilities installed in the place for which permission referred to in paragraph (1) of the preceding Article is sought are found unsuitable for a customs warehouse;
- (x) where the place for which permission referred to in paragraph (1) of the preceding Article is sought is anticipated of a little use or value as a customs warehouse.

(Period for which Foreign Goods may be Stored)

Article 43-2 (1) The period for which foreign goods may be stored in a customs warehouse shall be two years from the day on which approval for storage of such goods in the customs warehouse is initially given.

(2) If the Director General of Customs finds that there are special circumstances, he/she may, upon receipt of application, extend the period referred to in the preceding paragraph, specifying an additional period considered necessary.

(Approval for Storage of Foreign Goods)

Article 43-3 (1) In cases where a person who brings foreign goods into a customs warehouse intends to store such goods in that warehouse for a period exceeding three months (or, when it is considered necessary due to unavoidable reason arising, for such period as may be specified by the Director General of Customs at the request of that person) from the day on which they are brought into the warehouse, the person shall, pursuant to the provision of Cabinet Order, obtain approval of the Director General of Customs by filing an application with the Director General of Customs prior to the day on which the period of three months or the period specified by the Director General of Customs expires.

(2) Approval referred to in the preceding paragraph shall be given except in the case where foreign goods may not be stored in a customs warehouse for a period exceeding the period referred to in the paragraph under the provisions of other laws and regulations, or where proper use of a customs warehouse is hindered.

(3) Article 67-2 (Procedure for Export or Import Declaration), the first sentence of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration) and Article 67-19 (Special Provisions for Import Declaration) apply mutatis mutandis to the case where an application for approval referred to in paragraph (1) is filed.

(Inspection at the Time of Approval for Storage of Foreign Goods)

Article 43-4 (1) In cases where the Director General of Customs gives approval or specification, as referred to in paragraph (1) of the preceding Article, he/she shall have customs officials conduct necessary inspection of foreign goods referred to in the paragraph.

(2) Article 68-2 (Delegation of Authority Pertaining to Inspection of Goods) applies mutatis mutandis to the inspection referred to in the preceding paragraph.

(Increase and decrease in the storage capacity of goods)

Article 44 (1) When a person who has obtained permission of a customs warehouse intends to increase or decrease its storage capacity or to perform its rebuilding, relocation or other works, the person shall notify the customs of its

intention in advance.

- (2) In the case where notification is made under the preceding paragraph, if the Director General of Customs finds that such increase or decrease in the storage capacity or the works will cause any difficulty in ensuring the enforcement of this Act for the reason that, after completion of such increase or decrease or such works, no clear demarcation will be made between the customs warehouse and other places or the storage facilities of foreign goods will be insufficient, he/she may request a person who has made such notification to take necessary measures at the time of effectuating the matters pertaining to the notification.

(Liability for Payment of Customs Duty of a Person who has Obtained Permission)

Article 45 (1) When foreign goods stored in a customs warehouse (excluding goods the exportation of which has been permitted; hereinafter the same applies in this paragraph and the next paragraph) are lost or destroyed, corresponding customs duty shall immediately be collected from the person who has obtained permission of the customs warehouse; provided, however, that this does not apply to the case where foreign goods are lost due to a disaster or any other unavoidable reasons, or are destroyed with prior approval of the Director General of Customs.

(2) When the Director General of Customs finds that destruction of foreign goods stored in a customs warehouse is unavoidable on the grounds that they are likely to be spoiled, deteriorate or cause damage to other foreign goods, he/she shall give approval referred to in the proviso to the preceding paragraph.

(3) In cases where foreign goods stored in a customs warehouse are lost, a person who has obtained permission of the customs warehouse shall immediately notify such loss to the Director General of Customs.

(Notification of Suspension or Discontinuance of Business)

Article 46 When a person who has obtained permission of a customs warehouse intends to suspend or discontinue customs warehousing business before expiry of the period of permission, the person shall notify its intention to the Director General of Customs in advance.

(Invalidation of Permission)

Article 47 (1) Permission of a customs warehouse ceases to be effective if any of the situations as set forth in the following occurs:

(i) when a person who has obtained permission discontinues customs warehousing business;

(ii) when a person who has obtained permission has died and application prescribed in paragraph (2) of Article 48-2 (Succession of Permission) is not

- made within the period as provided for in the paragraph or a disposition not to give the approval referred to in the paragraph is made;
- (iii) when a person who has obtained permission has been dissolved;
  - (iv) when a person who has obtained permission has received a ruling for commencement of bankruptcy proceedings;
  - (v) when the effective period of permission has expired;
  - (vi) when the Director General of Customs has revoked permission.
- (2) When permission of a customs warehouse ceases to be effective, the Director General of Customs shall immediately give a public notice of that fact.
- (3) In the case where permission of a customs warehouse ceases to be effective, if any foreign goods are stored in that warehouse at the time of its invalidation, the place for which permission has ceased to be effective shall be deemed to be a customs warehouse for such goods for a period specified by the Director General of Customs. In this case, a person who has obtained such permission or his/her heir (if a person who has obtained permission is a juridical person that has ceased to exist as a result of merger, then the juridical person that survives the merger or the juridical person that is established as a result of the merger; if a person who has obtained permission is a juridical person that has been split up (limited to the case where the customs warehousing business is succeeded), then the juridical person that has succeeded such business; if a person who has obtained permission has transferred such business, then a person who has been transferred such business) may not be exempted from his/her obligations relating to the customs warehouse until all of the foreign goods are removed therefrom.

(Revocation of Permission)

- Article 48 (1) If any of the situations as set forth in the following occurs, the Director General of Customs may suspend bringing foreign goods or goods destined for export into a customs warehouse for a specified period or may revoke permission of a customs warehouse:
- (i) where a person who has obtained permission (in the case of a juridical person, including its officer) or its agent, manager or other employee violates the provision of this Act in connection with customs warehousing business;
  - (ii) where a person who has obtained permission falls under the case set forth in any of items (ii) to (x) of Article 43 (Requirements for Permission).
- (2) When the Director General of Customs makes disposition referred to in the preceding paragraph, he/she shall give advance notice of such disposition to a person who has obtained permission of the customs warehouse pertaining to such disposition, and shall request attendance of that person or its agent for hearing its opinions or otherwise provide it with the opportunity to submit evidence for the purpose of clarification.

(Succession of Permission)

- Article 48-2 (1) When there is a succession for a person who has obtained permission of a customs warehouse, his/her heir (in the case where there are more than one heir, if one of them is, with the consent of all of the heirs, selected as a heir to succeed the position based on that permission, then the heir so selected) succeeds the position based on the permission of the decedent.
- (2) A person who has taken over the position based on the permission of a customs warehouse pursuant to the provision of the preceding paragraph (referred to as "successor" in the next paragraph) may, pursuant to the provision of Cabinet Order, file an application for approval of succession with the Director General of Customs within sixty days after the death of the decedent.
- (3) If a successor falls under any of the items of Article 43 (Requirements for Permission), the Director General of Customs may select not to give approval referred to in the preceding paragraph.
- (4) In the case where a person who has obtained permission of a customs warehouse has been merged or has been split up (limited to the case where customs warehousing business is to be taken over) or where a person who has obtained permission of a customs warehouse has transferred customs warehousing business, if the person has in advance been given approval of the Director General of Customs pursuant to the provision of Cabinet Order, a juridical person that survives the merger or is established as a result of the merger, a juridical person that has taken over such business as a result of the split-up or a person who has been transferred such business (referred to as "juridical person after merger, etc." in the next paragraph) may, notwithstanding the provision of item (i) or (iii) of paragraph (1) of Article 47 (Invalidation of Permission), take over the position based on the permission of the juridical person that has ceased to exist as a result of such merger or has been split up, or based on the permission of the person who has transferred such business.
- (5) If the juridical person after merger, etc. falls under any of the items of Article 43, the Director General of Customs may select not to give approval referred to in the preceding paragraph.
- (6) When the Director General of Customs gives approval referred to in paragraph (2) or (4), he/she shall immediately give a public notice of his/her approval.

(Application mutatis mutandis of the Provisions Concerning Designated Bonded Areas)

Article 49 Article 40 (Handling of Goods in a Designated Bonded Area) applies

mutatis mutandis to a customs warehouse.

(Special Provisions for Permission of a Customs Warehouse)

- Article 50 (1) In cases where a person who has obtained permission referred to in paragraph (1) of Article 42 (Permission of a Customs Warehouse) and has obtained in advance approval of the Director General of Customs (hereinafter referred to as "holder of approval" in this Section) intends to perform the acts provided for in the paragraph (hereinafter referred to as "storage, etc. of foreign goods") at a place which meets, with respect to its location or facilities, the criteria prescribed by Ministry of Finance Order, the person may notify its intention to the Director General of Customs having jurisdiction over that place.
- (2) For the purpose of application of the provisions of this Act, the place pertaining to the notification referred to in the preceding paragraph is deemed to be the place which has been given permission referred to in paragraph (1) of Article 42 at the time when such notification is accepted. In this case, the period of permission pertaining to the place deemed to have been given permission shall, notwithstanding the provision of paragraph (2) of the Article, be the same period as the period during which the approval referred to in the preceding paragraph is effective.
- (3) A person who seeks approval referred to in paragraph (1) shall file an application form, stating its domicile or residence, and name and other necessary matters with the Director General of Customs having jurisdiction over the location of its domicile or residence.
- (4) The approval referred to in paragraph (1) shall cease to be effective after expiry of its period unless renewal is approved every eight years.
- (5) Necessary matters concerning the procedures for notification referred to in paragraph (1) and other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Requirements for Approval)

Article 51 When the Director General of Customs gives approval referred to in paragraph (1) of the preceding Article, he/she shall examine whether the following criteria are met:

- (i) that a person who seeks approval does not fall under any of the following items:
- (a) that a period of three years has not elapsed from the day on which approval referred to in paragraph (1) of the preceding Article was revoked pursuant to the provision of paragraph (1) of Article 54 (Revocation of Approval);
- (b) that, with respect to permission already given under paragraph (1) of



Article 42 (Permission of a Customs Warehouse), a period of three years has not elapsed from the day of such permission (in cases where permission has been given two or more times, the day on which the first permission was given);

(c) that the person falls under the cases set forth in items (ii) to (vii) of Article 43 (Requirements for Permission);

(ii) that a person who seeks approval has the ability to conduct the business relating to storage of foreign goods, etc., by means of electronic data processing system or otherwise to properly and surely conduct such business;

(iii) that a person who seeks approval has established, with respect to the business relating to storage of foreign goods, etc., a rule which contains such matters as may be prescribed by Ministry of Finance Order, which are the matters which the person (in the case where the person is a juridical person, including its officers) or its agent, manager or other employee is to observe in order to comply with the provisions of this Act or other laws and regulations.

(Improvement Measures Relating to a Rule)

Article 52 If it is considered necessary for ensuring the enforcement of this Act for the reason that a holder of approval fails to conduct the business relating to storage of foreign goods, etc. in accordance with the provision of this Act or for other reason, the Director General of Customs may request the holder of approval to take necessary measures for improving the rule provided for in item (iii) of the preceding Article or for improving the services pertaining to the matters specified by that rule or to newly establish a rule provided for in the item.

(Notification of Discontinuance of Application of Special Provisions for Permission of a Customs Warehouse)

Article 52-2 A holder of approval, when application of paragraph (1) of Article 50 (Special Provisions for Permission of a Customs Warehouse) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given the approval referred to in the paragraph.

(Invalidation of Approval)

Article 53 The approval referred to in paragraph (1) of Article 50 (Special Provisions for Permission of a Customs Warehouse) ceases to be effective if any of the situations as set forth in the following occurs:

(i) when notification prescribed in the preceding Article is submitted;

(ii) when permission referred to in paragraph (1) of Article 42 (Permission of a Customs Warehouse) ceases to be effective for a customs warehouse

- pertaining to a holder of approval as a whole;
- (iii) when, after a holder of approval has died, application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied mutatis mutandis pursuant to Article 55 is not made within the period specified in the paragraph or when disposition not to give approval referred to in the paragraph is made;
  - (iv) when the period of approval expires;
  - (v) when the Director General of Customs revokes the approval.

(Revocation of Approval)

Article 54 (1) The Director General of Customs may, when a holder of approval falls under any of the following items, revoke the approval referred to in paragraph (1) of Article 50 (Special Provisions for Permission of a Customs Warehouse):

- (i) when the person falls under item (i)(c) of Article 51 (Requirements for Approval) or the criteria referred to in item (ii) of the Article is not met;
  - (ii) when the person fails to take any measure in response to the request made by the Director General of Customs as prescribed in Article 52 (Improvement Measures Relating to a Rule).
- (2) When the Director General of Customs revokes approval pursuant to the provision of the preceding paragraph, he/she shall give advance notice of such revocation to a holder of approval pertaining to such disposition, and shall request attendance of the holder or its agent for hearing its opinions or otherwise provide it with the opportunity to submit evidence for the purpose of clarification.
- (3) Necessary matters concerning the procedures for revocation of approval as prescribed in paragraph (1) and other necessary matters concerning application of the preceding two paragraphs shall be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provision for Succession of Permission)  
Article 55 Paragraphs (1) to (5) of Article 48-2 (Succession of Permission) apply mutatis mutandis to a holder of approval. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

#### **Section 4 Customs Factories**

(Permission of a Customs Factory)

Article 56 (1) A customs factory means a factory which is, pursuant to the provision of Cabinet Order, permitted by the Director General of Customs as a place where processing of foreign goods, manufacturing using foreign goods as

raw materials (including blending) or repacking, sorting or other normal handling operations pertaining to foreign goods may be conducted (hereinafter referred to as "work using customs manufacturing procedures").

(2) A person who has obtained permission of a customs factory is, with respect to imported goods used therein, deemed to have also been given permission referred to in paragraph (1) of Article 42 (Permission of a Customs Warehouse) for such factory for a period up to three months from the day on which such imported goods are brought into the factory.

(3) A person who has obtained permission of a customs factory may also be given permission referred to in paragraph (1) of Article 42 for part of the site of the customs factory.

(Period for which Foreign Goods may be Stored)

Article 57 The period for which foreign goods to be used for the work using customs manufacturing procedures (including products obtained under such work using such foreign goods) may be stored in a customs factory shall be up to two years from the day on which approval for storage of these goods in that factory for such work or approval for use of these goods for such work therein is given.

(Notification of Work Using Customs Manufacturing Procedures)

Article 58 A person who conducts the work using customs manufacturing procedures in a customs factory shall notify commencement and completion of such work to the customs at the time of such commencement and completion; provided, however, that this does not apply to the commencement of such work if the Director General of Customs finds that it will not cause any problem in customs control and hence notifies to that effect.

(Special Provisions for Declaration for Duty Payment pertaining to Products Manufactured under Work Using Customs Manufacturing Procedures)

Article 58-2 A person who has obtained permission of a customs factory where there may be conducted the work for oil refinery or such other work as may be prescribed by Cabinet Order, using customs manufacturing procedures in which two or more kinds of products are manufactured in a single manufacturing process shall, when such work is completed, notwithstanding the provisions of paragraph (1) of Article 7 (Declaration) and Article 67 (Permission of Exportation or Importation), file a declaration for duty payment with the Director General of Customs without delay after completion of such work and obtain import permission prescribed in the Article with respect to the foreign goods manufactured under such work (hereinafter referred to as "manufactured foreign goods" in this Article), other than those foreign goods as

those which are to be reshipped to any foreign country, and those which are to be manufactured under such work prescribed by Cabinet Order. In this case, if the person is an authorized importer or a special entrusting importer, the person is not precluded from filing a special declaration with respect to the manufactured foreign goods (excluding goods provided for in paragraph (4) of Article 7-2 (Special Provisions for Declaration)).

(Use of Domestic Goods)

- Article 59 (1) When foreign goods and domestic goods are used for the work using customs manufacturing procedures (except repacking, sorting or other normal handling operations) in a customs factory, products manufactured therefrom are deemed to be foreign goods which arrive in Japan from abroad.
- (2) When, pursuant to the provision of Cabinet Order, foreign goods are used in combination with domestic goods with the approval of the Director General of Customs, products manufactured therefrom which correspond to the quantity of the foreign goods used are, notwithstanding the provision of the preceding paragraph, deemed to be foreign goods which arrive in Japan from abroad.

Article 60 Deleted.

(Work Using Customs Manufacturing Procedures Performed Outside a Customs Factory)

- Article 61 (1) When the Director General of Customs considers that it will contribute to the promotion of trade and will not cause any problem in ensuring the enforcement of this Act, he/she may, pursuant to the provision of Cabinet Order, by designating the period and place, give permission to remove foreign goods stored in a customs factory from that factory to the place so designated for carrying out the work using customs manufacturing procedures for such goods.
- (2) When the Director General of Customs gives permission referred to in the preceding paragraph, he/she may, if it is considered necessary, require security to be provided in an amount equivalent to that of customs duty chargeable on the foreign goods pertaining to the permission.
- (3) When foreign goods are removed from a customs factory with permission referred to in paragraph (1), the Director General of Customs shall have customs officials conduct necessary inspection of such goods at the time of their removal.
- (4) Foreign goods which, with permission referred to in paragraph (1), have been removed to a place designated under the paragraph are deemed to be stored in the customs factory from which they were removed until the period designated under the paragraph expires.

(5) In the case where the period designated under paragraph (1) has expired, if foreign goods for which permission is given under the paragraph or products manufactured therefrom are stored in the designated place, corresponding customs duty shall immediately be collected from the person who has obtained permission of the customs factory from which such goods were removed.

(Simplified Procedures for a Designated Customs Factory)

Article 61-2 (1) In cases where the Director General of Customs considers that, with respect to a customs factory, it will not cause any problem in customs control, taking into account the stable state in the production yield of raw materials used, the nature of the work using customs manufacturing procedures or other circumstances, and hence designates the customs factory by specifying products to be manufactured under such work and foreign goods to be used as raw materials, the customs factory so designated, notwithstanding the provision of Article 58 (Notification of Work Using Customs Manufacturing Procedures), is not required to make a notification at the time of commencement and completion of the work for manufacturing such products.

(2) A person who has obtained the designation referred to in the preceding paragraph shall, pursuant to the provision of Cabinet Order, submit to the customs a written report, stating the quantities of raw materials (being foreign goods) used each month, the quantities of products manufactured therefrom each month, which have been specified by the Director General of Customs under the paragraph (or, if the Director General of Customs specifies a period longer than one month for the cases such as seasonal work using customs manufacturing procedures, etc., then within a longer period so specified) and such other matters as may be prescribed by Cabinet Order, on or before the tenth day of the month following the month of such use or manufacture (if a special period is specified by the Director General of Customs, the day on which ten days elapse from the day on which such special period expires) (in the case where the work pertaining to such products is suspended, then the report shall be submitted after such suspension without delay).

(Obligation of Record Keeping)

Article 61-3 A person who has obtained permission of a customs factory shall maintain books for the foreign goods stored therein and state therein the matters as may be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provisions Concerning Customs Warehouses)

Article 61-4 Paragraphs (2) and (3) of Article 42 (Permission of a Customs

Warehouse), Article 43 (Requirements for Permission), paragraph (2) of Article 43-2 (Period for which Foreign Goods may be Stored) and Articles 43-3 to 48-2 (Approval for Storage of Foreign Goods; Inspection at the Time of Giving Approval for Storage of Foreign Goods; Increase and Decrease in Storage Capacity of Goods; Liability for Payment of Customs Duty of a Person who has Obtained Permission; Notification of Suspension or Discontinuance of Business; Invalidation of Permission; Revocation of Permission; Succession of Permission) apply mutatis mutandis to customs factories. In this case, the terms "three months (or, when it is considered necessary due to unavoidable reason arising, for such period as may be specified by the Director General of Customs at the request of that person) from the day on which they are brought into the warehouse", "In cases where a person intends to store such goods" and "prior to the day on which the period expires" in paragraph (1) of Article 43-3 shall be deemed to be replaced with "three months", "In cases where a person intends to store such goods for the work using customs manufacturing procedures, or use such goods for such work within three months from the day on which they are brought into the customs factory" and "prior to the day on which the period expires or prior to the day on which they are used for such work" respectively, and the term "suspend bringing into a customs warehouse" in paragraph (1) of Article 48 shall be deemed to be replaced with "suspend bringing into a customs factory or performing work using customs manufacturing procedures at a customs factory."

(Special Provisions for Permission of a Customs Factory)

- Article 61-5 (1) A person who has obtained permission referred to in paragraph (1) of Article 56 (Permission of a Customs Factory) and has in advance been given approval of the Director General of Customs, intends to conduct the work using customs manufacturing procedures at a place which meets, with respect to the location and facilities, the criteria prescribed by Ministry of Finance Order, the person may notify its intention to the Director General of Customs having jurisdiction over the place.
- (2) For the purpose of application of the provisions of this Act and the Customs Tariff Act, the place pertaining to the notification referred to in the preceding paragraph is deemed to be given permission referred to in paragraph (1) of Article 56 at the time when such notification is accepted. In this case, the period of such permission pertaining to the place deemed to be given such permission shall, notwithstanding the provision of paragraph (2) of Article 42 (Permission of a Customs Warehouse), as applied mutatis mutandis pursuant to the preceding Article, be the same period as the period during which approval referred to in the preceding paragraph is effective.
- (3) A person who seeks approval referred to in paragraph (1) shall file an

application form, stating its domicile or residence, and name and other necessary matters, with the Director General of Customs having jurisdiction over the location of its domicile or residence.

- (4) The approval referred to in paragraph (1) ceases to be effective after expiry of its period unless approval is renewed every eight years.
- (5) Necessary matters concerning the procedures for notification referred to in paragraph (1) and other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provisions Concerning Special Provisions for Permission of a Customs Warehouse)

Article 62 The provisions of Articles 51 to 55 (Requirements for Approval; Improvement Measures Relating to a Rule; Notification of Discontinuance of Application of Special Provisions for a Customs Warehouse; Invalidation of Approval; Revocation of Approval; Application mutatis mutandis of the Provisions Concerning Succession of Permission) apply mutatis mutandis to the approval prescribed in paragraph (1) of preceding Article. In this case, the term "paragraph (1) of Article 42 (Permission of a Customs Warehouse)" in item (i)(b) of Article 51 shall be deemed to be replaced with "paragraph (1) of Article 56 (Permission of a Customs Factory)", the term "storage of foreign goods, etc." in items (ii) and (iii) of Article 51 and in Article 52 shall be deemed to be replaced with "work using customs manufacturing procedures" and the term "a customs warehouse" in item (ii) of Article 53 shall be deemed to be replaced with "a customs factory", and necessary technical replacement of terms shall be prescribed by Cabinet Order.

## **Section 5 Customs Display Areas**

(Permission of a Customs Display Area)

- Article 62-2 (1) A customs display area means an area permitted, pursuant to the provision of Cabinet Order, by the Director General of Customs to be used as a place for displaying foreign goods at such exhibition, fair or other similar events as may be prescribed by Cabinet Order (hereinafter referred to as "exhibition, etc.").
- (2) The period of permission referred to in the preceding paragraph shall be such period as is considered necessary by the Director General of Customs, taking into account the duration of exhibition, etc.
  - (3) For the purpose of construction, maintenance or removal of facilities for exhibition, etc. or for the purpose of administration of exhibition, etc., the acts set forth in the following items and prescribed by Cabinet Order may be performed in a customs display area for those foreign goods to be prescribed by

Cabinet Order:

- (i) loading, unloading, transport or storage;
- (ii) checking, repacking, sorting or other normal handling operations;
- (iii) display or use;
- (iv) acts similar to those set forth in the preceding three items.

(Procedures Pertaining to Foreign Goods to be Brought into a Customs Display Area)

Article 62-3 (1) A person who brings foreign goods into a customs display area shall, pursuant to the provision of Cabinet Order, file a declaration with the Director General of Customs and obtain his/her approval for performing the acts referred to in paragraph (3) of the preceding Article.

(2) In cases where the Director General of Customs gives approval referred to in the preceding paragraph, he/she shall have customs officials conduct necessary inspection of foreign goods referred to in the paragraph.

(3) In cases where a declaration referred to in paragraph (1) is filed, if the foreign goods so declared do not fall under those set forth in paragraph (3) of the preceding Article, the Director General of Customs shall not give approval referred to in paragraph (1). In this case, he/she shall notify a person who has filed such declaration of his/her disapproval, and shall also request that person to remove such foreign goods from the customs display area or to take other measures within such period as may be specified by the Director General of Customs.

(4) In a customs display area, the acts set forth in item (i) or (ii) of paragraph (3) of the preceding Article (limited to those prescribed by Cabinet Order, as provided for in the paragraph) may be performed with respect to foreign goods brought into that area during the period until approval referred to in paragraph (1) is given (or, with respect to goods pertaining to the notification referred to in the preceding paragraph, during the period until the period specified in the paragraph elapses).

(Restriction on Places for Storage of Goods for Sale)

Article 62-4 (1) When it is considered necessary for ensuring the enforcement of this Act with respect to foreign goods which have been brought into a customs display area and are or are likely to be sold, used or consumed, the Director General of Customs may, pursuant to the provision of Cabinet Order, restrict, within the customs display area, the place where such goods may be stored, or may request to make a report on the details of use of foreign goods which have been brought into the customs display area and are to undergo any changes in their nature or shape.

(2) In cases where foreign goods brought into a customs display area are sold



within that area (excluding such cases as may be prescribed by Cabinet Order), such sale is deemed to be importation for the purpose of application of this Act. In this case, the Director General of Customs may, if it is considered necessary, require security to be provided in advance within the amount equivalent to that of customs duty chargeable on the goods which are likely to be sold.

(Permission of Use outside a Customs Display Area)

Article 62-5 With respect to foreign goods which have been brought into a customs display area, but which need to be used outside the customs display area (excluding goods which fall under Article 32 (Temporary Taking out of Samples)), the Director General of Customs may, if he/she finds that there it will not cause any problem in ensuring the enforcement of this Act, permit, pursuant to the provision of Cabinet Order, use of such foreign goods outside the customs display area, specifying the period and place for such use.

(Collection of Customs Duty on Foreign Goods Stored in a Customs Display Area after Expiry of the Period of Permission)

Article 62-6 (1) With respect to foreign goods brought into a customs display area and stored in that area at the time when the period of permission of such area expires or at the time when such permission ceases to be effective, the Director General of Customs may request a person who has obtained permission of such area to remove such foreign goods or to take other measures within such period of time as may be specified by the Director General of Customs, and if the person fails to take such measures within the period so specified, the Director General of Customs shall immediately collect corresponding customs duty from that person.

(2) In cases where the Director General of Customs finds that importation of the foreign goods referred to in the preceding paragraph is not permitted under other laws and regulations or otherwise there are any unavoidable circumstances, the provisions pertaining to collection of customs duty referred to in the preceding paragraph shall not apply while these circumstances remain.

(Application mutatis mutandis of the Provisions Concerning a Customs Warehouse and a Customs Factory)

Article 62-7 Paragraph (3) of Article 42 (Permission of a Customs Warehouse), Article 43 (Requirements for Permission), paragraph (3) of Article 43-3 (Approval for Storage of Foreign Goods), paragraph (2) of Article 43-4 (Inspection at the Time of Approval for Storage of Foreign Goods), Articles 44 to 48-2 (Increase and Decrease in Storage Capacity of Goods; Liability for Payment of Customs Duty of a Person who has Obtained Permission;

Notification of Suspension or Discontinuance of Business; Invalidation of Permission; Revocation of Permission; Succession of Permission), paragraph (1) of Article 59 (Use of Domestic Goods), paragraphs (3) to (5) of Article 61 (Work Using Customs Manufacturing Procedures Performed Outside a Customs Factory) and Article 61-3 (Obligation of Record Keeping) apply mutatis mutandis to a customs display area. In this case, the terms "Article 67-2" and ", paragraph (1)" in paragraph (3) of Article 43-3 shall be deemed to be replaced with "paragraph (1) of Article 67-2" and ", paragraph (1) of Article 62-3 (Procedures Pertaining to Foreign Goods to be Brought into a Customs Display Area)", respectively, and the term "the preceding paragraph" in paragraph (2) of Article 43-4 shall be deemed to be replaced with "paragraph (2) of Article 62-3 (Procedures Pertaining to Foreign Goods to be Brought into a Customs Display Area) ."

## **Section 6 Integrated Bonded Areas**

(Permission of an Integrated Bonded Area)

Article 62-8 (1) An integrated bonded area means an area of land, buildings and other facilities located on that land (referred to as "collective area of land, etc." in the next paragraph), where acts set forth in the following are, pursuant to the provision of Cabinet Order, permitted by the Director General of Customs to be performed:

- (i) loading, unloading, transportation, storage, checking, repacking, sorting or other normal handling operations of foreign goods;
- (ii) processing of foreign goods or manufacture (including mixing) using foreign goods as raw materials;
- (iii) display of foreign goods or use related thereto (limited to such acts as may be prescribed by Cabinet Order).

(2) When the Director General of Customs gives permission referred to in the preceding paragraph, he/she shall examine whether the following criteria are met:

- (i) that the collective area of land, etc. is owned or administered by a juridical person that meets such requirements as may be prescribed by Cabinet Order, taking into account the details of its business or other matters;
- (ii) that the trade-related facilities established in the collective area of land, etc. are highly integrated;
- (iii) that the acts set forth in the items of the preceding paragraph are anticipated to be performed in the collective area of land, etc. in an integrated manner, whereby substantial contribution to facilitation of importation or promotion of trade is expected;
- (iv) that it is, in light of the location, facilities and other circumstances of the

collective area of land, etc., found that it will not cause any problem in ensuring the enforcement of this Act;

(v) that a juridical person that owns or administers the collective area of land, etc. (including a person, other than the juridical person, who administers goods in the collective area of land, etc. if any; the same applies in the next item) does not fall under any of the cases set forth in items (i) to (vii) of Article 43 (Requirements for Permission);

(vi) that a juridical person that owns or administers the collective area of land, etc. is found to have sufficient ability to conduct the business of the integrated bonded area in light of the financial resources and other circumstances of that juridical person.

(Period for which Foreign Goods may be Stored)

Article 62-9 The period for which foreign goods may be stored in an integrated bonded area shall be two years from the day on which approval for storage of such goods in that area or for performing in that area the acts set forth in item (ii) or (iii) of paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area) on such goods.

(Approval for Storage of Foreign Goods)

Article 62-10 In cases where a person who brings foreign goods into an integrated bonded area intends to store such goods in that area for a period exceeding three months from the day on which they are brought into that area or perform the acts set forth in item (ii) or (iii) of paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area) on such goods in that area within three months from the day on which they are brought into that area, the person shall, pursuant to the provision of Cabinet Order, obtain approval of the Director General of Customs by filing an application with the Director General of Customs prior to the day on which such period expires or on which such acts are performed.

(Notification of Bringing Goods for Sale)

Article 62-11 A person who intends to bring into an integrated bonded area foreign goods to be sold or consumed in that area or such other similar goods as may be prescribed by Cabinet Order shall notify the customs of its intention in advance.

Article 62-12 Deleted.

(Joint and Several Liability for Payment of Customs Duty of Administrator of Goods)

Article 62-13 In cases where a juridical person that has obtained permission of an integrated bonded area becomes liable to pay customs duty on foreign goods pursuant to the provision of the main clause of paragraph (1) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission of a Customs Warehouse) or paragraph (5) of Article 61 (Liability for Payment of Customs Duty of a Person who has Obtained Permission of a Customs Factory), as applied mutatis mutandis pursuant to Article 62-15 (An Integrated Bonded Area), if a person who administers those goods in the integrated bonded area at the time when they were lost or destroyed or at the time when they were brought out of the integrated bonded area is a person other than the juridical person, the person who administers those goods and the juridical person shall jointly and severally be liable to pay the customs duty chargeable.

(Revocation of Permission)

Article 62-14 (1) If any of the situations as set forth in the following occurs, the Director General of Customs may, specifying a person who is to administer goods and the period, suspend the act of bringing foreign goods or goods destined for export into an integrated bonded area or the acts set forth in item (ii) or (iii) of paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area) to be performed in that area, or may revoke permission of the integrated bonded area:

- (i) where the juridical person that has obtained permission of an integrated bonded area (including a person, other than the juridical person, who administers goods in the integrated bonded area, if any) or any officer, agent, manager or other employee, of the juridical person violates the provisions of this Act in connection with the business of the integrated bonded area;
  - (ii) where any of the requirements set forth in the items of paragraph (2) of Article 62-8 (Requirements for Permission of an Integrated Bonded Area) with respect to an integrated bonded area ceases to be met.
- (2) When the Director General of Customs makes the disposition referred to in the preceding paragraph, he/she shall give advance notice of such disposition to a person who administers goods pertaining to the disposition or a juridical person that has obtained permission of the integrated bonded area, and shall request attendance of that person or its agent for hearing its opinions or otherwise provide it with the opportunity to submit evidence for the purpose of clarification.

(Application mutatis mutandis of the Provisions Concerning a Customs Warehouse, Customs Factory and Customs Display Area)

Article 62-15 The following provisions apply mutatis mutandis to an integrated

bonded area: paragraphs (2) and (3) of Article 42 (Permission of a Customs Warehouse), paragraph (2) of Article 43-2 (Period for which Foreign Goods may be Stored), paragraphs (2) and (3) of Article 43-3 (Approval for Storage of Foreign Goods), Articles 43-4 to 47 (Inspection at the Time of Approval of Storage of Foreign Goods; Increase and Decrease in Storage Capacity of Goods; Liability for Payment of Customs Duty of a Person who has Obtained Permission; Notification of Suspension or Discontinuance of Business; Invalidation of Permission), paragraphs (4) to (6) of Article 48-2 (Succession of Permission), Article 58-2 (Special Provisions for Declaration for Duty Payment Pertaining to Products Manufactured under Work Using Customs Manufacturing Procedures), Article 59 (Use of Domestic Goods), Article 61 (Work Using Customs Manufacturing Procedures Performed outside a Customs Factory), paragraph (2) of Article 61-2 (Simplified Procedures for a Designated Customs Factory), Article 62-4 (Restriction on Places for Storage of Goods for Sale) and Article 62-5 (Permission of Use outside a Customs Display Area). In this case, in paragraph (2) of Article 42, the term "the preceding paragraph" shall be deemed to be replaced with "paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area)"; in paragraph (3) of the Article, the terms "paragraph (1)" and "the proviso to the preceding paragraph" shall be deemed to be replaced with "paragraph (1) of Article 62-8" and "the proviso to the preceding paragraph, as applied mutatis mutandis pursuant to Article 62-15 (Application mutatis mutandis of the Provisions Concerning a Customs Warehouse, Customs Factory and Customs Display Area)", respectively; in paragraph (2) of Article 43-2, the term "the preceding paragraph" shall be deemed to be replaced with "Article 62-9 (Period for which Foreign Goods may be Stored)"; in paragraph (2) of Article 43-3, the terms "the preceding paragraph" and "the paragraph" shall be deemed to be replaced with "Article 62-10 (Approval of Storage of Foreign Goods)" and "the Article", respectively; in paragraph (3) of the Article, the term ", paragraph (1)" shall be deemed to be replaced with ", Article 62-10"; in paragraph (1) of Article 43-4, the terms "paragraph (1) of the preceding Article" and "the paragraph" shall be deemed to be replaced with "Article 62-10 (Approval of Storage of Foreign Goods)" and "the Article", respectively; in paragraph (1) of Article 47, the term "the following items" shall be deemed to be replaced with "item (i) or items (iii) to (vi)"; in paragraph (3) of the Article, the term "person who has obtained such permission" shall be deemed to be replaced with "person who has obtained such permission (including a person, other than the person obtained such permission, who administers goods in the integrated bonded area, if any; hereinafter the same applies in this paragraph)"; in paragraph (4) of Article 48-2, the term "item (i) or (iii) of paragraph (1) of Article 47" shall be deemed to be replaced with "item (i) or (iii) of paragraph (1) of Article 47, as applied mutatis

mutandis pursuant to Article 62-15 (Application mutatis mutandis of the Provisions of a Customs Warehouse, a Customs Factory and a Customs Display Area)"; in paragraph (5) of the Article, the term "falls under any of the items of Article 43" shall be deemed to be replaced with "does not meet the requirements set forth in the items of paragraph (2) of Article 62-8 (Permission of an Integrated Bonded Area)"; in paragraph (6) of the Article, the term "paragraph (2) or (4)" shall be deemed to be replaced with "paragraph (4)"; in Article 58-2, the term "A person who has obtained permission of a customs factory where there may be conducted" shall be deemed to be replaced with "A person who conducts in an integrated bonded area the work"; in paragraph (3) of Article 61, the term "paragraph (1)" shall be deemed to be replaced with "paragraph (1) or Article 62-5 (Permission of Use outside a Customs Display Area), as applied mutatis mutandis pursuant to Article 62-15 (Application mutatis mutandis of the Provisions of a Customs Warehouse, a Customs Factory and a Customs Display Area)"; in paragraphs (4) and (5) of the Article, the terms "paragraph (1)" and "the paragraph" shall be deemed to be replaced with "paragraph (1) or Article 62-5, as applied mutatis mutandis pursuant to Article 62-15" and "these provisions", respectively; in paragraph (2) of Article 61-2, the terms "person who has obtained the designation referred to in the preceding paragraph" and "foreign goods, which have been specified by the Director General of Customs under the paragraph" shall be deemed to be replaced with "person who conducts the work using customs manufacturing procedures in an integrated bonded area (excluding repacking, sorting and other normal handling operations; hereinafter the same applies in this paragraph)" and "foreign goods" respectively; in paragraph (1) of Article 62-4, the term "restrict, within the customs display area, the place where such goods may be stored, or may request to make a report on the details of use of foreign goods which have been brought into the customs display area and are to undergo any changes in their nature or shape" shall be deemed to be replaced with "restrict, within the customs display area, the place where such goods may be stored ."

## **Chapter V Transportation**

(Customs Transportation)

Article 63 (1) Foreign goods (excluding postal items, special export goods and such other goods as may be prescribed by Cabinet Order; hereinafter the same applies in this Chapter (excluding paragraph (1) of Article 63-9 and Article 65-3)) may be transported as such, subject to declaration to, and approval of the Director General of Customs, provided that they are transported between open ports, customs airports, bonded areas, customs offices and the places

designated by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Restriction on Places for Storage of Foreign Goods) (referred to as "specific section" in paragraph (1) of the next Article and paragraph (1) of Article 63-9). In this case, if the Director General of Customs, taking into account transportation conditions or other circumstances, finds that it will not cause any problem in customs control, he/she may give blanket approval for transportation of foreign goods to be shipped within such period as may be specified by the Director General of Customs within the limit of period prescribed by Cabinet Order.

- (2) If it is considered finds it necessary at the time of giving approval referred to in the preceding paragraph, the Director General of Customs may have customs officials inspect goods referred to in the paragraph or may require security to be provided in an amount equivalent to that of customs duty chargeable.
- (3) At the time of transporting goods under paragraph (1), a transportation manifest shall, pursuant to the provision of Cabinet Order, be presented to the customs and have it verified by the customs; provided, however, that in the case where blanket approval has been given pursuant to the provision of the second sentence of the paragraph, blanket verification may be sought for the transportation manifest pertaining to the foreign goods shipped within each of such shorter periods as may be specified by the Director General of Customs who has given such approval by subdividing the period of approval pursuant to the provision of Cabinet Order.
- (4) When the Director General of Customs gives approval referred to in paragraph (1), he/she shall specify transportation period deemed to be reasonable. In this case, the Director General of Customs may, when it is considered necessary due to a disaster or any other unavoidable reason arising after the specification, extend the period so specified.
- (5) When foreign goods which have been approved pursuant to the provision of paragraph (1) arrive at their destination, a person who has obtained the approval shall immediately present the transportation manifest which was verified under paragraph (3) to the customs located at the destination and have it verified by the customs; provided, however, that in the case where blanket approval has been given pursuant to the provision of the second sentence of paragraph (1), blanket verification may be sought for the transportation manifest pertaining to foreign goods that have arrived within each of such shorter periods as may be specified, on the basis of the periods specified under paragraph (3) and the preceding paragraph, by the Director General of Customs who has given such approval.
- (6) A person who has obtained approval under paragraph (1) shall, pursuant to the provision of Cabinet Order, submit a transportation manifest which has

been verified under the preceding paragraph to the Director General of Customs who has given such approval.

(Special provisions for customs Transportation)

Article 63-2 (1) Approval prescribed in paragraph (1) of the preceding Article is not required with respect to transportation of foreign goods the transportation of which is, subject to advance approval of the Director General of Customs, carried out, within such specific section as may be prescribed by Cabinet Order (hereinafter referred to as "specific customs transportation"), by an authorized customs broker or an international freight forwarder (hereinafter referred to as "carrier engaged in specific customs transportation") (an international freight forwarder as used herein is a person who has obtained approval referred to in paragraph (1) of Article 50 (Special Provisions for Permission of a Customs Warehouse) or paragraph (1) of Article 61-5 (Special Provisions for Permission of a Customs Factory) or other person who meets the requirements prescribed by Cabinet Order as a person who engages in the business relating to transportation or administration of international freight; the same applies in item (i)(b) of Article 63-4 and item (iii)(b) of paragraph (1) of Article 63-7).

- (2) At the time of carrying out the specific customs transportation, a transportation manifest shall be presented to the customs and have it verified by the customs.
- (3) When foreign goods pertaining to the specific customs transportation arrive at their destination, a carrier engaged in specific customs transportation shall present without delay the transportation manifest which has been verified under the preceding paragraph to the customs located at the destination and have it verified by the customs.
- (4) A carrier engaged in specific customs transportation shall submit the transportation manifest which has been verified under the preceding paragraph to the Director General of Customs having jurisdiction over the customs office where the verification was conducted under paragraph (2).
- (5) Necessary matters for presenting the transportation manifest referred to in paragraph (2) and other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Procedures for Approval)

Article 63-3 (1) A person who seeks approval referred to in paragraph (1) of the preceding Article shall file an application form, stating its domicile or residence, and its name and other necessary matters with the Director General of Customs.

- (2) In cases where an application form prescribed in the preceding paragraph is filed, when the Director General of Customs gives approval referred to in



paragraph (1) of the preceding Article, he/she shall immediately give a public notice of his/her approval.

- (3) Necessary matters for filing an application form referred to in paragraph (1) and any other necessary matters concerning application of the preceding two paragraphs shall be prescribed by Cabinet Order.

(Requirements for Approval)

Article 63-4 When the Director General of Customs gives approval referred to in paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation), he/she shall examine whether the following criteria are met:

- (i) that a person who seeks approval does not fall under any of the following items:
- (a) that the person was sentenced to a penalty or was subjected to a notified administrative disposition in violation of the provisions of this Act, the Customs Tariff Act, other laws relating to customs duty or orders based on these laws, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which the disposition was completed;
  - (b) that the person was sentenced to a penalty in violation of the provisions of the laws or the orders based on such laws, as provided for by Cabinet Order for the types of international freight forwarders to be prescribed by Cabinet Order, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (c) that the person was sentenced to imprisonment without work or heavier penalty in violation of the laws and regulations other than those provided for in items (a) and (b) and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (d) that the person was sentenced to a fine in violation of the provisions of the Act on Prevention of Unjust Acts by Organized Crime Group Members or for committing the offence of Article 204 (Injury), Article 206 (Incitement of Injury), Article 208 (Assault), paragraph (1) of Article 208-2 (Unlawful Assembly with Weapons), Article 222 (Intimidation) or Article 247 (Breach of Trust) of the Penal Code or the offence of the Act on Punishment of Physical Violence and Other Acts, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (e) that the person is a member of organized crime group, etc.;
  - (f) that the person is a juridical person whose officer falls under any of items (a) to (e) with respect to its business or it uses such person as an agent, an

- employee or other worker;
- (g) that its business activities are controlled by a member of organized crime group, etc.;
  - (h) that a period of three years has not elapsed from the day on which approval given to the person under paragraph (1) of Article 63-2 was revoked pursuant to the provision of item (i)(b) or (ii) of paragraph (1) of Article 63-8 (Revocation of Approval);
  - (ii) that a person who seeks approval has the ability to conduct the business relating to specific customs transportation by means of electronic data processing system or otherwise to properly and surely conduct such business;
  - (iii) that a person who seeks approval has established, with respect to the business relating to specific customs transportation, a rule which contains such matters as may be prescribed by Ministry of Finance Order, which are the matters which the person (in the case where the person is a juridical person, including its officers) or its agent, manager or other employee is to observe in order to comply with the provisions of this Act or other laws and regulations.

(Improvement Measures Relating to a Rule)

Article 63-5 If it is considered necessary for ensuring the enforcement of this Act for the reason that a carrier engaged in specific customs transportation fails to conduct such transportation in accordance with the provision of this Act or for other reason, the Director General of Customs may request the carrier to take necessary measures for improving the rule provided for in item (iii) of the preceding Article or for improving the services pertaining to the matters specified by the rule or to newly establish a rule provided for in the item.

(Notification of Discontinuance of Application of Special Provisions for Customs Transportation)

Article 63-6 A carrier engaged in specific customs transportation, when application of paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given the approval referred to in the paragraph.

(Invalidation of Approval)

Article 63-7 (1) The approval referred to in paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation) ceases to be effective if any of the situations as set forth in the following occurs:

- (i) when notification prescribed in the preceding Article is submitted;
- (ii) when, after a carrier engaged in specific customs transportation has died,

- application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied mutatis mutandis pursuant to Article 63-8-2 (Application mutatis mutandis of the Provision for Succession of Permission) is not made within the period specified in the paragraph or disposition not to give the approval referred to in the paragraph is made;
- (iii) when a person set forth in the following falls under any of the cases specified for the category of the person as set forth respectively in the following:
    - (a) an authorized customs broker (excluding a person set forth in item (b)): where authorization referred to in paragraph (1) of Article 79 (Authorization of Customs Broker) ceases to be effective;
    - (b) an international freight forwarder: where the requirements provided for in paragraph (1) of Article 63-2 are not met;
  - (iv) when the Director General of Customs revokes approval.
- (2) When approval referred to in paragraph (1) of Article 63-2 ceases to be effective, the Director General of Customs shall immediately give a public notice of that fact.
- (3) In the case where approval referred to in paragraph (1) of Article 63-2 has ceased to be effective, a person who has obtained such approval or his/her heir (in the case where a juridical person that has been given approval has ceased to exist as a result of merger, then the juridical person that survives the merger or the juridical person that has been established as a result of the merger) may not be exempted from the obligation imposed under the provisions of this Act or other laws relating to customs duty with respect to foreign goods shipped before the approval ceased to be effective.

(Revocation of Approval)

- Article 63-8 (1) The Director General of Customs may, if any of the situations as set forth in the following items occurs, revoke the approval referred to in paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation):
- (i) when a carrier engaged in specific customs transportation falls under any of the following:
    - (a) when the person falls under any of items (i)(a) to (i)(g) of Article 63-4 (Requirements for Approval) or the criteria referred to in item (ii) of the Article is not met;
    - (b) when the person fails to take any necessary measure in response to the request of the Director General of Customs as prescribed in Article 63-5 (Improvement Measures Relating to a Rule);
  - (ii) when, at the time of carrying out specific customs transportation, the person fails to present the transportation manifest prescribed in paragraph (2) or (3) of Article 63-2 or to have it verified under these paragraphs or the

person fails to submit the transportation manifest prescribed in paragraph (4) of the Article.

- (2) Necessary matters concerning the procedures for revocation of approval prescribed in the preceding paragraph and any other necessary matters concerning application of the paragraph shall be prescribed by Cabinet Order.

(Application mutatis mutandis of Provision for Succession of Permission)

Article 63-8-2 Article 48-2 (Succession of Permission) applies mutatis mutandis to a carrier engaged in specific customs transportation. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Customs Transportation of Postal Items)

Article 63-9 (1) Postal items (excluding specific postal items) may, subject to notification to the Director General of Customs, be transported without changing the status as foreign goods, provided that they are transported within the specific section.

- (2) At the time of carrying out transportation referred to in the preceding paragraph, a transportation manifest shall be presented to the customs and have it verified by the customs.
- (3) When a postal item pertaining to the notification prescribed in paragraph (1) arrives at its destination, a person who has made such notification shall present without delay the transportation manifest which has been verified under the preceding paragraph to the customs located at the destination and have it verified by the customs.
- (4) A person who made the notification prescribed in paragraph (1) shall submit the transportation manifest which has been verified under the preceding paragraph to the Director General of Customs to whom the notification was made.
- (5) Necessary matters concerning the procedures for notification referred to in paragraph (1) and any other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Transportation of Wreckage)

Article 64 (1) Notwithstanding the provision of the first sentence of paragraph (1) of Article 63 (Customs Transportation), foreign goods set forth in the following may be transported as such from the place where they are stored to open ports, customs airports, bonded areas or customs offices. In this case, a person who transports such goods shall obtain approval of the Director General of Customs (or where no customs office is established, a customs official); provided, however, that in cases where there is urgent need to transport goods from the place where any customs office is not established, a police officer shall,

when no customs official is present, be notified in advance thereof:

- (i) wreckage;
  - (ii) goods which were on board a disabled vessel or aircraft;
  - (iii) goods temporarily landed.
- (2) Paragraph (4) of Article 63 applies mutatis mutandis to the approval referred to in the preceding paragraph.
- (3) When foreign goods which have been approved or notified under paragraph (1) arrive at their destination, a person who has obtained the approval or has made the notification shall immediately submit a document which certifies such approval or notification to the customs located at the destination.

(Collection of Customs Duty upon Expiry of Transportation Period)

- Article 65 (1) When foreign goods (excluding goods the exportation of which has been permitted; the same applies in the next paragraph) for which approval of transportation is given under paragraph (1) of Article 63 (Customs Transportation) or paragraph (1) of the preceding Article are not arrived at their destination within the specified period for transportation, corresponding customs duty shall immediately be collected from a person who has obtained the approval of transportation; provided, however, that this does not apply if they are lost due to a disaster or any other unavoidable reasons, or are destroyed with prior approval of the Director General of Customs.
- (2) When foreign goods pertaining to specific customs transportation are not arrived at their destination within seven days from the day following the date on which they are shipped, corresponding customs duty shall immediately be collected from a carrier engaged in specific customs transportation. In this case, the proviso to the preceding paragraph applies mutatis mutandis.
- (3) Paragraph (2) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) applies mutatis mutandis to the approval referred to in the proviso to paragraph (1) (including the cases where applied mutatis mutandis pursuant to the preceding paragraph).
- (4) In cases where foreign goods transported with approval of transportation pursuant to the provision of paragraph (1) of Article 63 or paragraph (1) of the preceding Article, or foreign goods pertaining to specific customs transportation are lost before arriving at their destination, a person who has obtained such approval or a carrier engaged in specific customs transportation shall immediately notify such loss to the Director General of Customs who has given such approval or the approval referred to in paragraph (1) of Article 63-2 (Special Provisions for Customs Transportation).

(Collection of Customs Duty pertaining to Postal Items not Arriving at Destination)

Article 65-2 (1) When postal items (excluding those destined for export) transported upon notification pursuant to the provision of paragraph (1) of Article 63-9 (Customs Transportation of Postal Items) are not arrived at their destination within seven days from the day following the date on which they are shipped, corresponding customs duty shall immediately be collected from a person who has made the notification prescribed in the paragraph; provided, however, that this does not apply if they are lost due to a disaster or any other unavoidable reasons, or are destroyed with prior approval of the Director General of Customs.

(2) Paragraph (2) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) applies mutatis mutandis to approval referred to in the proviso to the preceding paragraph.

(3) In cases where postal items transported upon notification pursuant to the provision of paragraph (1) of Article 63-9 are lost before arriving at their destination, a person who has made the notification prescribed in the paragraph shall immediately notify such loss to the Director General of Customs who has been so notified.

(Goods the Transportation of which is not Permitted under Customs Transportation)

Article 65-3 Notwithstanding the provisions of paragraph (1) of Article 24 (Travel between Vessel or Aircraft and Land), paragraph (1) of Article 63 (Customs Transportation), paragraph (1) of Article 63-2 (Special provisions for Customs Transportation), paragraph (1) of Article 63-9 (Customs Transportation of Postal Items) or paragraph (1) of Article 64 (Transportation of Wreckage), goods set forth in items (i) to (iv), (v-2), (vi) and (viii) to (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (limited to those arrived in Japan for the purpose other than for importation; in the case of goods set forth in item (ix) of the paragraph, those that infringe a layout-design exploitation right only are excluded) may not be transported (including loading and unloading; the same applies in paragraphs (1) and (2) of Article 109-2) as foreign goods.

(Transportation of Domestic Goods)

Article 66 (1) A person who intends to transport domestic goods on board a vessel engaged in foreign trade, etc. from one place to another in Japan shall obtain an approval by making a declaration for such transportation to the Director General of Customs.

(2) When goods which have been approved under the preceding paragraph arrive at their destination, a person who has obtained such approval shall immediately submit a document certifying such approval to the customs

located at the destination.

## **Chapter VI Clearance of Goods**

### **Section 1 General Provisions**

(Permission of Exportation or Importation)

Article 67 A person who exports or imports goods shall, pursuant to the provision of Cabinet Order, declare to the Director General of Customs the description, quantity and price of such goods (in the case of import goods (excluding goods subject to a special declaration), the quantity and value which are to be taken as a basis for duty assessment) and other necessary matters, and shall obtain permission from the Director General of Customs after they have undergone necessary inspection.

(Procedures for Export or Import Declaration)

Article 67-2 (1) An export or import declaration shall be made to the Director General of Customs having jurisdiction over the location of a bonded area, etc. (i.e., a bonded area, or a place designated by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Restriction on Places for Storage of Foreign Goods); hereinafter the same applies) where goods pertaining to such declaration are brought for the purpose of obtaining export or import permission.

(2) A person who intends to export or import goods required to be declared for exportation or importation while they are loaded on board a vessel engaged in foreign trade (including a vessel designated by Cabinet Order as a vessel equivalent to a vessel engaged in foreign trade; hereinafter the same applies in this paragraph) may, notwithstanding the provision of the preceding paragraph, file, with the approval of the Director General of Customs as may be prescribed by Cabinet Order, an export or import declaration with the Director General of Customs having jurisdiction over the place where the vessel is moored.

(3) An import declaration shall be made after goods pertaining to the declaration have been brought into a bonded area, etc.; provided, however, that this does not apply to the case where the situation falls under any of the following items:

(i) where approval prescribed in the preceding paragraph has been obtained;

(ii) where approval of the Director General of Customs is, pursuant to the provision of Cabinet Order, given for making a declaration without bringing such goods into a bonded area, etc.;

(iii) where an authorized importer or special entrusting importer makes an import declaration for such goods pursuant to the provision of Cabinet Order.

(4) In the case falling under any of the items of the preceding paragraph, an import declaration shall be made after matters concerning cargoes loaded as

prescribed in paragraph (1) or (9) of Article 15 (Procedures for Entry into Port) are reported to the customs with respect to such goods or after a document stating matters concerning cargoes loaded as prescribed in paragraph (2) or (10) of the Article or paragraph (4) of Article 18 (Simplified Procedures for Entry into or Departure from Port) is submitted to the customs.

## **Section 2 Special Provisions for Export Declaration**

(Special Provisions for Export Declaration)

Article 67-3 (1) Notwithstanding the provision of paragraph (1) or (2) of the preceding Article, a person set forth in the following may, pursuant to the provision of Cabinet Order, file an export declaration (excluding an export declaration pertaining to goods prescribed by Cabinet Order) with any of the Directors General of Customs. In this case, if a person set forth in item (ii) files an export declaration under specific entrustment (i.e., an export declaration which is made by that person with respect to goods for which export permission is sought without bringing such goods into a bonded area, etc.; the same applies in paragraph (4) and paragraph (3) of Article 79-4 (Invalidation of Authorization)), the person shall entrust a carrier engaged in specific customs transportation with transportation of goods pertaining to such declaration from the place where they are stored to an open port, customs airport or closed port where they are to be loaded onto a vessel engaged in foreign trade, etc.:

(i) a person who exports goods and has in advance been given approval of any of the Directors General of Customs (hereinafter referred to as "authorized exporter");

(ii) a person who exports goods and has entrusted customs clearance procedures for exporting of such goods an authorized customs broker (referred to as "specific entrusting exporter" in paragraph (1) of the next Article and Article 67-5) ;

(iii) an exporter of specific manufactured goods (i.e., an exporter of such goods, as provided for in paragraph (2) of Article 67-13 (Authorization of Manufacturer); the same applies in the next paragraph, paragraph (1) of the next Article and Article 67-5) who obtains from an authorized manufacturer (i.e., an authorized manufacturer provided for in Article 67-14 (Improvement Measures Relating to a Rule); hereinafter the same applies in this item and the next paragraph) goods manufactured by such manufacturer and exports such goods.

(2) An exporter of specific manufactured goods shall, at the time of export declaration of specific manufactured goods (i.e., the export declaration which is made by that exporter pursuant to the provision of the preceding paragraph with respect to goods for which export permission is sought without bringing



- such goods into a bonded area, etc.; hereinafter the same applies in this Section), submit to the Director General of Customs a document prepared by an authorized manufacturer, stating the description, quantity and such other matters as may be prescribed by Cabinet Order, of the goods pertaining to such export declaration (referred to as "written confirmation of goods" in item (ii)(a) of paragraph (3) of Article 67-13 and item (iii) of paragraph (1) of Article 67-17).
- (3) A person who seeks approval referred to in item (i) of paragraph (1) shall file with the Director General of Customs an application form stating the description and other necessary matters of the goods for which a specific export declaration (i.e., an export declaration which is made by an authorized exporter pursuant to the provision of the paragraph with respect to goods for which export permission is sought without bringing such goods into a bonded area, etc.; hereinafter the same applies in this Section) is intended to be made.
- (4) Matters to be stated in the export declaration under specific entrustment, the export declaration of specific manufactured goods and the specific export declaration, and other necessary matters concerning application of the preceding three paragraphs shall be prescribed by Cabinet Order.

#### (Revocation of Export Permission)

- Article 67-4 (1) An authorized exporter, a specific entrusting exporter or an exporter of specific manufactured goods, when export permission of special export goods becomes unnecessary for the reason that they are not to be exported or for other reason, may file an application for revocation of such permission with the Director General of Customs who has given such permission.
- (2) The Director General of Customs may, if an application prescribed in the preceding paragraph is filed or otherwise when it is considered necessary for ensuring the enforcement of this Act, revoke export permission pertaining to such special export goods before they are loaded onto a vessel engaged in foreign trade, etc.
- (3) If it is considered necessary at the time of revoking export permission pursuant to the provision of the preceding paragraph, the Director General of Customs may have customs officials inspect such special export goods.

#### (Notification of Loss of Special Export Goods)

Article 67-5 The main clause of Article 34 (Disposal of Foreign Goods) applies mutatis mutandis to the case where special export goods stored in a place outside a bonded area are disposed, and paragraph (3) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) applies mutatis mutandis to the case where special export goods stored in a place outside a bonded area are lost. In this case, the term "the customs" in the

main clause of Article 34 shall be deemed to be replaced with "the Director General of Customs who has given export permission", and the terms "a person who has obtained permission of the customs warehouse" and "the Director General of Customs" in paragraph (3) of Article 45 shall be deemed to be replaced with "an authorized exporter, a specific entrusting exporter or an exporter of specific manufactured goods pertaining to such special export goods" and "the Director General of Customs who has given export permission", respectively.

(Requirements for Approval)

Article 67-6 When the Director General of Customs gives approval referred to in item (i) of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration), he/she shall examine whether the following criteria are met:

- (i) that a person who seeks approval does not fall under any of the following items:
  - (a) that the person was sentenced to a penalty or was subjected to a notified administrative disposition in violation of the provision of this Act, the Customs Tariff Act, other laws relating to customs duty or the orders based on these laws, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which the disposition was completed;
  - (b) that the person was sentenced to a penalty in violation of the provisions relating to exportation of other laws and regulations as provided for in paragraph (1) or (2) of Article 70 (Certification or Confirmation), and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed (excluding the person provided for in item (a));
  - (c) that the person was sentenced to imprisonment without work or heavier penalty in violation of the laws and regulations other than those provided for in item (a) or (b) and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (d) that the person was sentenced to a fine in violation of the provisions of the Act on Prevention of Unjust Acts by Organized Crime Group Members or for committing the offence of Article 204 (Injury), Article 206 (Incitement of Injury), Article 208 (Assault), paragraph (1) of Article 208-2 (Unlawful Assembly with Weapons), Article 222 (Intimidation) or Article 247 (Breach of Trust) of the Penal Code or the offence of the Act on Punishment of Physical Violence and Other Acts, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;

- (e) that the person is a member of organized crime group, etc.;
- (f) that the person is a juridical person whose officer falls under any of the items (a) to (e) with respect to its business or it uses such person as an agent, an employee or other worker;
- (g) that its business activities are controlled by a member of organized crime group, etc.;
- (h) that a period of three years has not elapsed from the day on which approval given to the person under item (i) of paragraph (1) of Article 67-3 was revoked pursuant to the provision of item (i) or item (ii)(b) of Article 67-11 (Revocation of Approval);
- (ii) that a person who seeks approval has the ability to make specific export declaration by means of electronic data processing system or otherwise to properly and surely conduct the business relating to exportation of goods pertaining to specific export declaration (including the business relating to administration of such goods to be conducted until they are loaded for exportation onto a vessel engaged in foreign trade, etc.; the same applies in the next item and paragraphs (1) and (2) of Article 67-13);
- (iii) that a person who seeks approval has established, with respect to the business relating to exportation of goods pertaining to specific export declaration, a rule which contains such matters as may be prescribed by Ministry of Finance Order, which are matters which the person (in the case where the person is a juridical person, including its officers) or its agent, manager or other employee is to observe in order to comply with the provisions of this Act and other laws and regulations.

(Improvement Measures Relating to a Rule)

Article 67-7 If it is considered necessary for ensuring the enforcement of this Act for the reason that an authorized exporter fails to make a specific export declaration in accordance with the provision of this Act or for other reason, the Director General of Customs may request that exporter to take necessary measures for improving the rule provided for in item (iii) of the preceding Article or for improving the services pertaining to the matters specified by the rule or to newly establish a rule provided for in the item.

(Maintenance of Books)

Article 67-8 (1) An authorized exporter shall, pursuant to the provision of Cabinet Order, maintain books stating the descriptions, quantities, prices and other necessary matters, of specific export goods (i.e., goods for which a specific export declaration is made and export permission is given by the Director General of Customs; the same applies in paragraph (2) of Article 67-10 and paragraph (2) of Article 94), and preserve these books and documents prepared

or received in connection with transaction of such goods and such other documents as may be prescribed by Cabinet Order (referred to as "books and documents" in paragraph (2) of Article 67-10 and item (i) of Article 67-11).

(2) Article 4 (Preservation of Books and Documents Relating to National Taxes in Electronic or Magnetic Records), Article 5 (Preservation of Books and Documents Relating to National Taxes on Computer-output Microfilms), paragraphs (1) to (5) of Article 6 (Application for Approval of Preservation in Electronic or Magnetic Records), paragraphs (1) and (2) of Article 7 (Changes Pertaining to Approval of Preservation in Electronic or Magnetic Records), Articles 8 to 10 (Revocation of Approval of Preservation in Electronic or Magnetic Records; Application mutatis mutandis to Approval of Preservation on Computer-output Microfilms; Exclusion from Application of the Act on the Utilization of Information and Communications Technology in Administrative Procedures; Preservation of Electronic or Magnetic Records Pertaining to Information on Electronic Transactions) and Article 11 (excluding items (ii) to (iv) of paragraph (3)) (Application of provisions of other laws relating to national taxes), of the Act concerning Preservation of Electronic Books applies mutatis mutandis to an authorized exporter. In this case, the terms shown in the middle columns of the following table, which corresponds to the provisions set forth in the left columns shall be replaced respectively by the terms shown in the right columns, and necessary technical replacement of terms shall be prescribed by Cabinet Order.

Provisions of the Act concerning Preservation of Electronic Books	Terms to be replaced	Terms to replace
Paragraph (1) of Article 4	all or part of the books relating to national taxes	the books required to be maintained and preserved pursuant to the provision of paragraph (1) of Article 67-8 (Maintenance of Books) of the Customs Act (hereinafter referred to as "books relating to customs duty")

	the District Director of Tax Office having jurisdiction over the place of tax payment, etc. (in the case where Ministry of Finance Order so specifies, the Director General of Customs having jurisdiction over the place of tax payment, etc.; hereinafter referred to as "the competent District Director of Tax Office, etc.")	the Director General of Customs who has given approval referred to in item (i) of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration) of the Act (hereinafter referred to as "the Director General of Customs who has given approval")
Paragraph (2) of Article 4	all of the documents relating to national taxes	all of the documents required to be preserved pursuant to the provision of paragraph (1) of Article 67-8 of the Customs Act (hereinafter referred to as "documents relating to customs duty")
Paragraph (1) of Article 5	all or part of the books relating to national taxes	books relating to customs duty
Paragraph (3) of Article 5	of books and documents relating to national taxes	of books and documents relating to customs duty (i.e., books relating to customs duty or documents relating to customs duty; hereinafter the same applies)
Paragraph (1) of Article 6	the day of commencing maintenance of the books relating to national taxes (when the days of commencing maintenance of two or more books relating to national taxes, if any, are different, then the earliest day of commencing the maintenance; the same applies in item (i) of paragraph (5))	the day of commencing maintenance of the books relating to customs duty

	the kind of books relating to national taxes, such books relating to national taxes	books relating to customs duty
	all or part of the books relating to national taxes	books relating to customs duty
Article 9	the day to replace (where there are two or more books relating to national taxes, if the days on which such books are replaced are different, an earlier day on which such books are replaced; the same applies in item (i) of paragraph (5))	the day to replace
	the term "the paragraphs of Article 4" in paragraph (6) of the Article and paragraph (1) of Article 7	paragraph (1) of Article 7
Article 10	a person responsible for preservation, pertaining to income tax (excluding withholding income tax) and corporation tax	an authorized exporter
Item (i) of paragraph (3) of Article 11	item (i) of Article 145 (Dismissal of Application for Approval of Blue Return) of the Income Tax Act (including the case where applied mutatis mutandis pursuant to Article 166 (Report, Payment and Return) of the Act)	item (i) of paragraph (1) of Article 67-11 (Revocation of Approval) of the Customs Act
	books and documents)	pursuant to the provision of Cabinet Order
	, the paragraphs of Article 5	or the paragraphs of Article 5

	or Article 10 (Preservation of Electronic or Magnetic Records Pertaining to Information on Electronic Transactions)	as may be prescribed by Ministry of Finance Order provided for in
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(Notification of Discontinuance of Application of Special Provisions for Export Declaration)

Article 67-9 An authorized exporter, when application of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given approval referred to in item (i) of the paragraph.

(Invalidation of Approval)

Article 67-10 (1) The approval referred to in item (i) of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration) ceases to be effective if any of the situations as set forth in the following occurs:

- (i) when notification prescribed in the preceding Article is submitted;
- (ii) when, after an authorized exporter has died, application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied mutatis mutandis pursuant to Article 67-12 is not made within the period specified in the paragraph or disposition not to give the approval referred to in the paragraph is made;
- (iii) when an authorized exporter is dissolved;
- (iv) when an authorized exporter receives a ruling for commencement of bankruptcy proceedings;
- (v) when the Director General of Customs revokes the approval.

(2) In the case where approval referred to in item (i) of paragraph (1) of Article 67-3 ceases to be effective, a person who has obtained the approval or his/her heir (in the cases where a juridical person that has been given the approval has ceased to exist as a result of merger, then the juridical person that survives the merger or the juridical person that has been established as a result of the merger) may not be exempted from the obligation of maintenance of and entry in books, and preservation of books and documents, relating to specific export goods for which export permission has been given before the approval ceases to be effective, as prescribed in paragraph (1) of Article 67-8 (Maintenance of Books) and such other obligations as may be imposed pursuant to the provisions of this Act and other laws relating to customs duty.

(Revocation of Approval)

Article 67-11 The Director General of Customs may , if any of the situation as set forth in the following occurs, revoke approval referred to in item (i) of paragraph (1) of Article 67-3 (Special Provisions for Export Declaration):

- (i) when maintenance of or entry in books, or preservation of books and documents, as prescribed in paragraph (1) of Article 67-8 (Maintenance of Books) is not made in the manner prescribed by Cabinet Order as provided for in the paragraph, or any false statement is entered in books or documents;
- (ii) when an authorized exporter falls under any of the following:
  - (a) when the person does not meet the criteria referred to in item (i) or (ii) of Article 67-6 (Requirements for Approval);
  - (b) when the person fails to take any necessary measure in response to the request made by the Director General of Customs as prescribed in Article 67-7 (Improvement Measures Relating to a Rule).

(Application mutatis mutandis of the Provisions for succession of Permission)

Article 67-12 Paragraphs (1) to (5) of Article 48-2 (Succession of Permission) apply mutatis mutandis to an authorized exporter. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Authorization of Manufacturer)

Article 67-13 (1) A person who manufactures products may, upon application, be authorized by the Director General of Customs as a person capable of properly managing the services relating to exportation of products manufactured by that person in a manner that the business is properly and surely carried out by that person, the exporter or any other person.

- (2) A person who seeks authorization referred to in the preceding paragraph (hereinafter in this Article referred to as "applicant") shall file an application form stating the domiciles or residences, and names of that applicant and an exporter of specific manufactured products (i.e., a person who exports products manufactured by the applicant and performs the business relating to exportation of such products under the control of the applicant; hereinafter the same applies in this Section) and other necessary matters, with the Director General of Customs having jurisdiction over the location of the domicile or residence of the applicant.
- (3) When the Director General of Customs finds that the application for authorization prescribed in paragraph (1) meets the following criteria, he/she shall give the authorization:
  - (i) that the applicant does not fall under any of the following:
    - (a) that the applicant was sentenced to a penalty or was subjected to a



- notified administrative disposition in violation of the provision of this Act, the Customs Tariff Act, or other laws relating to customs duty or the orders based on these laws, and a period of three years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed, or on which the disposition was completed;
- (b) that the applicant was sentenced to a penalty in violation of the provision relating to exportation of other laws and regulations as provided for in paragraph (1) or (2) of Article 70 (Certification or Confirmation), and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed (excluding the person provided for in item (a));
  - (c) that the applicant was sentenced to imprisonment without work or heavier penalty in violation of the provision of the laws and regulations other than those provided for in items (a) and (b) and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (d) that the applicant was sentenced to a fine in violation of the provision of the Act on Prevention of Unjust Acts by Organized Crime Group Members or for committing the offence of Article 204 (Injury), Article 206 (Incitement of Injury), Article 208 (Assault), paragraph (1) of Article 208-2 (Unlawful Assembly with Weapons), Article 222 (Intimidation) or Article 247 (Breach of Trust) of the Penal Code or the offence of the Act on Punishment of Physical Violence and Other Acts, and a period of two years has not elapsed from the day on which the execution of the sentence was completed or the sentence ceased to be executed;
  - (e) that the applicant is a member of organized crime group, etc.;
  - (f) that the applicant is a juridical person whose officer falls under any of items (a) to (e) with respect to its business or it uses such person as an agent, employee or other worker;
  - (g) that its business activities are controlled by a member of organized crime group, etc.;
  - (h) that a period of three years has not elapsed from the day on which authorization given to the applicant under paragraph (1) was revoked pursuant to the provision of paragraph (1) of Article 67-17 (Revocation of Authorization);
  - (ii) that the applicant falls under all of the following:
    - (a) that, with respect to specific manufactured goods which an exporter of specific manufactured goods obtains from the applicant for exportation (i.e., products manufactured by the applicant; hereinafter the same applies in this item), the applicant has the ability to conduct the business necessary for ensuring that export declaration is made properly, including

- preparation of proper written confirmation of goods and delivery of such document to the exporter of specific manufactured goods;
- (b) that the applicant keeps under control the whole process pertaining to the management of the specific manufactured goods until they are loaded onto a vessel engaged in foreign trade, etc. for exportation and has the ability to conduct the business necessary for ensuring that such management is properly performed in accordance with the details of export declaration pertaining to such specific manufactured goods;
  - (c) that the applicant establishes a rule which contains such matters as may be prescribed by Ministry of Finance Order, which are those required to be performed in order to properly and surely conduct the business as provided for in items (a) and (b);
- (iii) that the exporter of specific manufactured goods falls under both of the following:
- (a) that the person does not fall under any of items (i)(a) to (i)(h) of Article 67-6 (Requirements for Approval);
  - (b) that the person has the ability to make an export declaration by means of electronic data processing system.
- (4) Necessary matters for filing an application form referred to in paragraph (2) and other necessary matters concerning application of the preceding three paragraphs shall be prescribed by Cabinet Order.

(Improvement Measures Relating to Rule)

Article 67-14 If it is considered necessary for ensuring the enforcement of this Act for the reason that an export declaration of specific manufactured goods pertaining to products manufactured by a person authorized under paragraph (1) of the preceding Article (hereinafter referred to as "authorized manufacturer" in this Section) has not been made in accordance with the provision of this Act or for other reason, the Director General of Customs may request the authorized manufacturer to take necessary measures for improving the rule provided for in item (ii)(c) of paragraph (3) of the Article or for improving the services pertaining to matters specified in the rule or to newly establish a rule provided for in the item.

(Notification of Discontinuance of Authorization of an Authorized Manufacturer)

Article 67-15 An authorized manufacturer, when authorization referred to in paragraph (1) of Article 67-13 (Authorization of Manufacturer) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given the authorization referred to in the paragraph.

(Invalidation of authorization)

Article 67-16 (1) Authorization referred to in paragraph (1) of Article 67-13 (Authorization of Manufacturer) ceases to be effective if any of the situation as set forth in the following occur:

- (i) when a notification prescribed in the preceding Article is submitted;
  - (ii) when, after an authorized manufacturer has died, application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied mutatis mutandis pursuant to Article 67-18 is not made within the period specified in the paragraph or disposition not to give the approval referred to in the paragraph is made;
  - (iii) when an authorized manufacturer is dissolved;
  - (iv) when an authorized manufacturer receives a ruling for commencement of bankruptcy procedures;
  - (v) when the Director General of Customs revokes the authorization.
- (2) In cases where the authorization referred to in paragraph (1) of Article 67-13 ceases to be effective, if there remain goods pertaining to an export declaration of specific manufactured goods (limited to the goods the exportation of which has not been permitted), a person who has been given the authorization or his/her heir (in the case where a juridical person that has been given authorization has ceased to exist as a result of merger, the juridical person that survives the merger or the juridical person that has been established as a result of the merger) is deemed to be authorized until customs clearance procedures pertaining to such goods are completed.

(Revocation of Authorization)

Article 67-17 (1) The Director General of Customs may, if he/she finds that an authorized manufacturer falls under any of the situations provided for in the following items, revoke the authorization referred to in paragraph (1) of Article 67-13 (Authorization of Manufacturer):

- (i) that the authorized manufacturer falls under any of items (i)(a) to (i)(g) of paragraph (3) of Article 67-13 or ceases to fall under item (ii)(a) or (ii)(b) of the paragraph;
  - (ii) that the authorized manufacturer fails to take necessary measures in response to the request of the Director General of Customs as prescribed in Article 67-14 (Improvement Measures Relating to a Rule);
  - (iii) that the authorized manufacturer delivers a false written confirmation of goods to an exporter of specific manufactured goods;
  - (iv) that an exporter of specific manufactured goods ceases to fall under item (iii)(a) or (iii)(b) of paragraph (3) of Article 67-13.
- (2) Necessary matters concerning the procedures for revoking authorization

prescribed in the preceding paragraph and any other necessary matters concerning application of the paragraph shall be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provisions for Succession of Permission)  
Article 67-18 Paragraphs (1) to (5) of Article 48-2 (Succession of Permission) apply mutatis mutandis to an authorized manufacturer. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

### **Section 2-2 Special Provisions for Import Declaration**

(Special Provisions for Import Declaration)

Article 67-19 An authorized importer or specific entrusting importer may, notwithstanding the provision of paragraph (1) or (2) of Article 67-2 (Procedures for Export or Import Declaration), file, pursuant to the provision of Cabinet Order, an import declaration (excluding an import declaration pertaining to such goods as may be prescribed by Cabinet Order) with any of the Directors General of Customs.

### **Section 3 Documents to be Submitted and the Procedure for Inspection**

(Documents to be Submitted at the Time of Export or Import Declaration)

Article 68 The Director General of Customs may, in the case where an declaration prescribed in Article 67 (Permission of Exportation or Importation) is made, if it is considered necessary for determining whether export or import permission is to be given or for determining whether the benefits accruing from the special provisions of any convention concerning customs duty (including the equivalent benefits prescribed by Cabinet Order) is to be granted, require submission of a written contract, invoice or other documents necessary for verifying the details of the declaration or such other documents as may be prescribed by Cabinet Order as those necessary for granting such benefits.

(Delegation of Authority Pertaining to Inspection of Goods)

Article 68-2 The Director General of Customs may, in cases where goods pertaining to the declaration prescribed in Article 67 (Permission of Exportation or Importation) are located in the area of the customs under the jurisdictional district of any other Director General of Customs, delegate his/her authority pertaining to inspection of the goods to such other Director General of Customs if it is considered necessary to conduct the inspection prescribed in the Article.

(Place for Inspection of Goods)

Article 69 (1) Inspection referred to in Article 67 (Permission of Exportation or Importation) shall be conducted at a place designated by the Director General of Customs.

(2) A person who requests the inspection referred to in Article 67 to be conducted at a place other than the place designated pursuant to the provision of the preceding paragraph shall obtain permission of the Director General of Customs having jurisdiction over the place where goods which are to undergo such inspection are stored.

(3) The Director General of Customs shall give permission referred to in the preceding paragraph if it is found that, due to the nature or quantity of the goods concerned, it is inappropriate to inspect them at the place which he/she has designated and that it will not cause any problem in conducting the inspection efficiently.

#### **Section 4 Goods the Exportation or Importation of which is Prohibited** **Subsection 1 Goods the Exportation of which is Prohibited**

(Goods the Exportation of which is Prohibited)

Article 69-2 (1) Goods set forth in the following shall not be exported:

(i) narcotics and psychotropics, cannabis, opium and opium poppies, and stimulants (including raw materials for stimulants thereof as referred to in the Stimulants Control Act (Act No. 252 of 1951)); provided, however, that those exported by the Government or by a person authorized, under other laws and regulations, to export pursuant to the provisions thereof are excluded;

(ii) child pornography (i.e., child pornography referred to in paragraph (3) of Article 2 (Definitions) of the Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children (Act No. 52 of 1999));

(iii) goods that infringe patent rights, utility model rights, design rights, trademark rights, copyrights or neighboring rights or breeder's rights;

(iv) goods that compose the acts set forth in any of items (i) to (iii) or (x) to (xii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (Act No. 47 of 1993) (excluding acts specified in any of items (i) to (v), (vii) and (viii) of paragraph (1) of Article 19 (Exclusion from Application) of the Act for the category of unfair competition as set forth respectively in these items).

(2) The Director General of Customs may confiscate and dispose of goods destined for export, set forth in item (i), (iii) or (iv) of the preceding paragraph.

(3) When the Director General of Customs has adequate grounds to believe that goods destined for export under the provision of this Chapter contain those

that may fall under goods set forth in item (ii) of paragraph (1), he/she shall notify his/her findings to a person who intends to export such goods.

(Verification Procedures Pertaining to Goods the Exportation of which is Prohibited)

Article 69-3 (1) If the Director General of Customs considers that goods destined for export under the provision of this Chapter contain those that may fall under the goods set forth in item (iii) or (iv) of paragraph (1) of the preceding Article, he/she shall, pursuant to the provision of Cabinet Order, initiate procedures for verifying whether such goods fall under those set forth in the items (hereinafter the procedures verified in this paragraph are referred to as "verification procedures" in this Subsection). In this case, the Director General of Customs shall, pursuant to the provision of Cabinet Order, notify a patent holder or other right holder pertaining to such goods and a person who exports such goods of the fact that verification procedures are to be initiated for such goods and that the patent holder or other right holder and the exporter may submit evidence and state their opinions as to whether they do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the preceding Article and such other matters as may be prescribed by Cabinet Order (the "patent holder or other right holder" as used in this Article and in the next Article means the holder of a patent right, utility model right, design right, trademark right, copyright or neighboring right or breeder's right, or a person who has the right to claim for an injunction against unfair competition (i.e., a person who may claim, pursuant to the provision of paragraph (1) of Article 3 (Right to Claim for an Injunction) of the Unfair Competition Prevention Act, the suspension or prevention of infringement of its business interests the infringement of which has been caused by the acts specified in item (iv) of paragraph (1) of the preceding Article with respect to the goods set forth in the item; hereinafter the same applies in this Subsection)).

(2) In cases where the Director General of Customs issues a notification prescribed in the preceding paragraph, he/she shall, together with the notification, notify the patent holder or other right holder pertaining to the goods of the names and addresses of the person who exports such goods and their consignee, and shall also notify the person who exports such goods of the name and address of the patent holder or other right holder concerned.

(3) In cases where the Director General of Customs finds that the name or address of a manufacturer of the goods subject to verification procedures is evident from an export declaration form or other documents filed with respect to such goods pursuant to the provision of Article 67 (Permission of Exportation or Importation) pertaining to the export of goods subject to verification procedures, from any other documents submitted to the Director

General of Customs in the verification procedures or from any signs affixed to such goods, he/she shall notify the patent holder or other right holder concerned of the name or address of the manufacturer simultaneously with the notification referred to in paragraph (1), or after such notification within the period during which the verification procedures are carried out.

- (4) No measures referred to in paragraph (2) of the preceding Article shall be taken by the Director General of Customs with respect to goods destined for export under the provision of this Chapter, unless such goods have been subjected to verification procedures.
- (5) When the Director General of Customs has verified as to whether the goods subject to verification procedures (in the next paragraph referred to as "suspect goods") do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the preceding Article, he/she shall notify the patent holder or other right holder pertaining to such verified goods and the person who exports such verified goods of his/her findings and the reasons therefor; provided, however, that this does not apply to the case where the notification prescribed in the next paragraph is issued.
- (6) In cases where the suspect goods have ceased to be exported before the notification of the verification pertaining to such suspect goods, as prescribed in the main clause of the preceding paragraph, is issued, the Director General of Customs shall notify the patent holder or other right holder pertaining to such suspect goods of that fact and shall discontinue the verification procedures. In this case, a person who ceases to export the suspect goods shall notify its intention to the Director General of Customs in advance.
- (7) Any person who has received the notification prescribed in paragraph (2) or (3) shall not divulge any matters, which have been notified, to any other person without reason, nor shall use them for any unjust purposes.

(Procedures for Application Pertaining to Goods the Exportation of which is Prohibited)

Article 69-4 (1) A patent holder or other right holder may, pursuant to the provision of Cabinet Order, submit to any of the Directors General of Customs evidence necessary to demonstrate prima facie infringement with respect to goods which, it believes, infringe its patent right, utility model right, design right, trademark right, copyright, neighboring right, breeder's right or business interests, and may file with the Director General of Customs an application for verification procedures to be initiated by the said or other Director General of Customs if such goods are to be exported in accordance with the provision of this Chapter (hereinafter in this Article and in the next Article, the Director General of Customs with whom such application is filed is referred to as "the Director General of Customs with whom application is

filed"). In this case, a person who has the right to claim for an injunction against unfair competition shall, pursuant to the provision of Ministry of Economy, Trade and Industry Order, seek from the Minister of the Ministry, in the case where such goods are those set forth in item (iv) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited) (excluding those pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act), the opinion with respect to the matters specified by the Order, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of the Act and related to that person be well known among consumers, or in the case where such goods are those set forth in item (iv) of paragraph (1) of Article 69-2 (limited to those pertaining to item (x) of paragraph (1) of Article 2 of the Act), the certification with respect to the fact that the goods concerned are those obtained by the acts of unauthorized use as provided for in item (x) of paragraph (1) of Article 2 of the Act and that a person who is likely to export such goods was, at the time when they were transferred to it, aware that they were created by such acts of unauthorized use and that it was grossly negligent in failing to know that they were so created, and shall submit the details of such opinion or certification in writing to the Director General of Customs with whom application is filed.

- (2) The Director General of Customs with whom application is filed may not accept the application referred to in the preceding paragraph if the evidence is considered insufficient to demonstrate prima facie infringement pertaining to such application.
- (3) In the case where the application prescribed in paragraph (1) is filed, if the Director General of Customs with whom application is filed accepts the application, he/she shall notify the person who has filed the application of his/her acceptance and the effective period of the application (i.e., the period during which the Director General of Customs is to carry out, based on that application, verification procedures each time he/she finds that goods to be exported during such period pursuant to the provision of this Chapter may contain those pertaining to that application), whereas if the Director General of Customs with whom application is filed does not accept the application pursuant to the provision of the preceding paragraph, he/she shall notify that person of such non-acceptance and the reason therefor.
- (4) In the case where the Director General of Customs has accepted the application prescribed in paragraph (1) or such application has been accepted by any other Director General of Customs, if he/she has initiated verification procedures for the goods pertaining to that application, he/she shall, pursuant to the provision of Cabinet Order, provide, upon request, the person who has filed such application or the person who exports such goods with the



opportunity to inspect such goods; provided, however, that this does not apply to the case where verification procedures have been discontinued pursuant to the provision of paragraph (6) of the preceding Article.

(Seeking Opinions of Technical Advisers with Respect to Application for Export Suspension)

Article 69-5 In the case where an application prescribed in paragraph (1) of the preceding Article is filed, the Director General of Customs with whom application is filed may, if it is considered necessary, designate persons with academic background and experience in intellectual property rights (i.e., intellectual property rights as defined in paragraph (2) of Article 2 (Definitions) of the Intellectual Property Basic Act (Act No. 122 of 2002); hereinafter the same applies), having no special interests with the parties involved in the cases pertaining to the application, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek opinions of the technical advisers as to whether the evidence submitted pursuant to the provision of paragraph (1) of the preceding Article is sufficient to demonstrate prima facie infringement pertaining to such application; provided, however, that this does not apply to the matters with respect to which the opinion or certification of the Minister of Economy, Trade and Industry is to be sought pursuant to the provision of the second sentence of paragraph (1) of the preceding Article.

(Deposit Pertaining to Application for Export Suspension)

Article 69-6 (1) In the case where the Director General of Customs has accepted the application prescribed in paragraph (1) of Article 69-4 (Procedures for Application Pertaining to Goods the Exportation of which is Prohibited) or such application has been accepted by any other Director General of Customs, if it is considered necessary for ensuring compensation for damages that a person who exports goods pertaining to such application is likely to incur from being unable to export until completion of the verification procedures for such goods, the Director General of Customs may order a person who has filed such application (hereinafter in this Article referred to as "applicant") to deposit, within a specified period, an amount of money deemed sufficient to cover such damages with the official depository to be designated by the Director General of Customs.

(2) The Director General of Customs may, if the amount of the monetary deposit provided pursuant to the provision of the preceding paragraph is considered insufficient to compensate for the damages provided for in the paragraph, order the applicant to deposit, within a specified period, the amount of money deemed equivalent to the shortfall.

- (3) The monetary deposit to be provided pursuant to the provision of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers to be secure (other securities include book-entry transfer bonds as provided for in paragraph (1) of Article 278 (Depositing Transferred Bonds) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001); the same applies in this Article and Article 69-10 (Request for Discontinuance of Verification Procedures Pertaining to Goods the Exportation of which is Prohibited)).
- (4) Necessary matters concerning the procedures required by the Director General of Customs with respect to the deposit provided pursuant to his/her order prescribed in paragraph (1) or (2) shall be prescribed by Cabinet Order.
- (5) When an applicant, pursuant to the provision of Cabinet Order, enters into a contract which provides that the amount necessary to compensate for the damages as provided for in paragraph (1) shall be paid for it and notifies the Director General of Customs of that fact within the period specified in paragraph (1) or (2), then the applicant may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract is effective.
- (6) An exporter of the goods referred to in paragraph (1) shall have the right, with respect to its claim for compensation for the damages against the applicant as provided for in the paragraph, to receive payment, in preference over other creditors, from the monetary deposit provided pursuant to the provision of paragraphs (1) and (2) (the monetary deposit includes the securities prescribed in paragraph (3); the same applies in paragraphs (8) to (10)).
- (7) Necessary matters concerning the exercise of right referred to in the preceding paragraph shall be prescribed by Cabinet Order.
- (8) An applicant who has provided the monetary deposit pursuant to the provision of paragraph (1) or (2) may recover the monetary deposit if the situation falls under any of the cases set forth in the following items:
- (i) where the applicant has, pursuant to the main clause of paragraph (5) of Article 69-3 (Verification Procedures Pertaining to Goods the Exportation of which is Prohibited), received a notification stating to the effect that the goods which have caused the deposit to be provided fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited);
  - (ii) where the applicant has received a notification prescribed in paragraph (6) of Article 69-3 with respect to the goods which have caused the deposit to be provided;
  - (iii) where it has been proved to, and confirmed by the Director General of Customs that the exporter of the goods referred to in paragraph (1) has

- consented to the recovery of the deposit, that the right to claim for compensation for damages as provided for in the paragraph has been extinguished by prescription, or otherwise that the deposit for compensation for damages as provided for in the paragraph is no longer necessary;
- (iv) where the applicant has entered into a contract referred to in paragraph (5) and the contract has, pursuant to the provision of Cabinet Order, been approved by the Director General of Customs;
- (v) where, pursuant to the provision of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, for the reason of redemption of the deposited securities or for other reason.
- (9) Necessary matters concerning the recovery of the monetary deposit prescribed in the preceding paragraph shall be prescribed by Ministry of Justice Order and Ministry of Finance Order.
- (10) If a person who has been ordered to deposit pursuant to the provision of paragraph (1) or (2) fails to deposit the full amount within the period specified pursuant to the provision of these paragraphs and also fails to notify of its entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures with respect to the goods which have caused the deposit to be provided.
- (11) When the Director General of Customs discontinues verification procedures pursuant to the provision of the preceding paragraph, he/she shall notify such discontinuance to a person who has filed an application pertaining to such procedures and a person who exports the goods pertaining to such procedures.

(Seeking the Opinion Pertaining to Goods the Exportation of which is Prohibited)

Article 69-7 (1) When verification procedures have been initiated to determine whether goods do or do not fall under those that infringe a patent right, utility model right, design right or those that compose the acts set forth in item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding the acts provided for in item (vii) of paragraph (1) of Article 19 (Exclusion from Application) of the Act; hereinafter the same applies in this paragraph and paragraph (9)), a patent holder or other right holder pertaining to such goods (i.e., a holder of patent right, utility model right or design right, or a person who has the right to claim for an injunction against unfair competition (limited to a person pertaining to those goods that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Act; hereinafter the same applies in this paragraph, paragraph (9) and paragraph (1) of Article 69-10 (Request for Discontinuance of Verification Procedures Pertaining to Goods the Exportation of which is Prohibited); hereinafter the same applies in this

Article) or an exporter pertaining to such goods (i.e., a person who exports goods pertaining to the verification procedures; hereinafter the same applies in this Article) may, pursuant to the provision of Cabinet Order, request the Director General of Customs to seek, provided that such request is made within the period in which the verification procedures are carried out, but before the day on which ten days (the holidays of the administrative organs are not included) elapse from the day on which the patent holder or other right holder receives the notification prescribed in paragraph (1) of Article 69-3 (Verification Procedures Pertaining to Goods the Exportation of which is Prohibited) (hereinafter in this paragraph and paragraph (2) of Article 69-10 referred to as "the date of notification") (in paragraphs (1) and (2) of Article 69-10, the day on which ten days elapse is referred to as "the day on which ten days elapse") (when the Director General of Customs, before expiry of the period of ten days, finds it necessary to extend such period, taking into account the progress made with respect to verification procedures and other circumstances and notifies the patent holder or other right holder and the exporter of that fact, the period may be extended until the day on which twenty days (the holidays of the administrative organs are not included) elapse from the date of notification (in paragraph (1) of Article 69-10, the day on which twenty days elapse from the date of notification is referred to as "the day on which twenty days elapse")), in the case where the verification procedures have been initiated to determine whether the goods pertaining to the procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patent holder or other right holder (excluding a person who has the right to claim for an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. (the "technical scope, etc." means the technical scope provided for in paragraph (1) of Article 70 (Technical Scope of Patented Invention) of the Patent Act (Act No. 121 of 1959) (including the case where applied mutatis mutandis pursuant to Article 26 (Application mutatis mutandis of the Patent Act) of the Utility Model Act (Act No. 123 of 1959)), or the scope provided for in paragraph (1) of Article 25 (The Scope of Registered Design) of the Design Act (Act No. 125 of 1959) (the same applies in paragraph (9) and Article 69-9 (Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited))), or in the case where the verification procedures have been initiated to determine whether the goods pertaining to the procedures do or do not fall under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act and related to the patent holder or other right holder (limited to a person who has the right to claim for an injunction against unfair competition), the opinion of the Minister of Economy, Trade and Industry as to

whether the goods subject to the verification procedures fall under those that compose the acts set forth in the item..

- (2) In the case where a request prescribed in the preceding paragraph has been made, the Director General of Customs shall, pursuant to the provision of Cabinet Order, seek the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office; provided, however, that this does not apply to the case where the Director General of Customs finds it evident that the goods pertaining to the request as prescribed in the paragraph do or do not fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited) or otherwise it is considered unnecessary to seek the opinion of the Minister or the Commissioner.
- (3) In the case where a request prescribed in paragraph (1) has been made, if the Director General of Customs has not sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the proviso to the preceding paragraph, the Director General of Customs shall notify the patent holder or other right holder or exporter who has made the request prescribed in paragraph (1) of that fact and the reason therefor.
- (4) When the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office is sought his/her opinion by the Director General of Customs pursuant to the provision of the main clause of paragraph (2), the Minister or the Commissioner shall provide his/her opinion in writing within thirty days from the day on which his/her opinion is sought.
- (5) When the Director General of Customs, pursuant to the provision of the main clause of paragraph (2), seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office, the Director General of Customs shall notify the patent holder or other right holder and exporter concerned of that fact.
- (6) When the opinion prescribed in paragraph (4) is provided, the Director General of Customs shall notify the patent holder or other right holder and exporter concerned of that fact and the details of that opinion.
- (7) When the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), the Director General of Customs shall, before the opinion prescribed in paragraph (4) is provided, not determine that, where a person who requests him/her to seek the opinion referred to in paragraph (1) is a patent holder or other right holder, the goods concerned do not fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2, or that, where a person who requests him/her to seek the opinion referred to in paragraph (1) is an exporter, the goods

concerned fall under those set forth in item (iii) or (iv) of paragraph (1) of the Article.

- (8) In the case where the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), if the Director General of Customs has, before the opinion prescribed in paragraph (4) is provided, determined that, where a person who requests under paragraph (1) is a patent holder or other right holder, the goods concerned fall under those set forth in item (iii) or (iv) of paragraph (1) of Article 69-2 or that, where a person who requests under paragraph (1) is an exporter, the goods concerned do not fall under those set forth in item (iii) or (iv) of paragraph (1) of the Article, or if the Director General of Customs has discontinued the verification procedures with respect to the goods concerned pursuant to the provision of paragraph (6) of Article 69-3 or paragraph (10) of the preceding Article, the Director General of Customs shall notify the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office of that fact. In this case, the Minister or the Commissioner is not required to provide his/her opinion prescribed in paragraph (4).
- (9) In the verification procedures for determining whether goods fall under those that infringe a patent right, utility model right or design right or under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act, if it is considered necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3, the Director General of Customs may, pursuant to the provision of Cabinet Order, in the case where verification procedures have been initiated to determine whether goods fall under those that infringe a patent right, utility model right or design right, seek the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. as to whether the goods pertaining to the verification procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patent holder or other right holder concerned (excluding a person who has the right to claim for an injunction against unfair competition), or in the case where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in the item, seek the opinion of the Minister of Economy, Trade and Industry as to whether the goods concerned fall under those that compose the acts set forth in the item, pertaining to the patent holder or other right holder concerned (limited to a person who has the right to claim for an injunction against unfair competition).
- (10) Paragraphs (4) to (6) of this Article and paragraph (5) of the next Article apply *mutatis mutandis* to the case where an opinion is sought pursuant to the provision of the preceding paragraph. In this case, necessary technical

replacement of terms shall be prescribed by Cabinet Order.

(Seeking the Opinion of the Minister of Agriculture, Forestry and Fisheries in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited)

- Article 69-8 (1) In the verification procedures for determining whether goods fall under those that infringe a breeder's right or those set forth in item (iv) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited) (excluding goods pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act: hereinafter the same applies in this paragraph and paragraph (5)), if it is considered necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3 (Verification Procedures Pertaining to Goods the Exportation of which is Prohibited), the Director General of Customs may, pursuant to the provision of Cabinet Order, seek, for reference purposes, the opinion of the Minister of Agriculture, Forestry and Fisheries in the case of verification procedures pertaining to goods that may infringe a breeder's right, or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures pertaining to goods that may fall under those set forth in item (iv) of paragraph (1) of Article 69-2.
- (2) When the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry is sought his/her opinion by the Director General of Customs pursuant to the provision of the preceding paragraph, the Minister shall provide his/her opinion in writing within thirty days from the date on which his/her opinion is sought.
- (3) When the Director General of Customs seeks the opinion pursuant to the provision of paragraph (1), he/she shall notify that fact to a holder of breeder's right or a person who has the right to claim for an injunction against unfair competition, involved in the verification procedures, and a person who exports the goods pertaining to the verification procedures.
- (4) When the opinion prescribed in paragraph (2) is provided, the Director General of Customs shall notify a holder of breeder's right or a person who has the right to claim for an injunction against unfair competition and a person who exports goods pertaining to the verification procedures of that fact and the details of the opinion, as referred to in the preceding paragraph.
- (5) In the case where the Director General of Customs seeks the opinion of the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (1), if the Director General of Customs has, before the opinion prescribed in paragraph (2) is provided, determined that the goods concerned do or do not fall under those that infringe a breeder's right or those set forth in item (iv) of paragraph (1) of

Article 69-2, or if the Director General of Customs has discontinued verification procedures with respect to such goods pursuant to the provision of paragraph (6) of Article 69-3 or paragraph (10) of Article 69-6 (Deposit Pertaining to an Application for Export Suspension), he/she shall notify the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry of that fact. In this case, the Minister is not required to provide his/her opinion prescribed in paragraph (2).

(Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited)

Article 69-9 In the verification procedures for determining whether goods fall under those set forth in item (iii) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited) (excluding goods that infringe a breeder's right), the Director General of Customs may, if it is considered necessary for the purpose of verification prescribed in paragraph (1) of Article 69-3 (Verification Procedures Pertaining to Goods the Exportation of which is Prohibited), designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the verification procedures, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek, for reference purposes, opinions of the technical advisers; provided, however, that this does not apply to the technical scope, etc.

(Request for Discontinuance of Verification Procedures Pertaining to Goods the Exportation of which is Prohibited)

Article 69-10 (1) In the case where an application of a holder of a patent right, utility model right or design right or a person who has the right to claim for an injunction against unfair competition, as prescribed in paragraph (1) of Article 69-4 (Procedures for Application Pertaining to Goods the Exportation of which is Prohibited) has been accepted by the Director General of Customs (hereinafter in this Article referred to as "applicant"), if verification procedures have been initiated with respect to goods pertaining to such application, a person who exports such goods may, pursuant to the provision of Cabinet Order, after the day specified in each of the following items for the category of cases as set forth respectively therein, provided that such request is made within the period in which the verification procedures are carried out, request the Director General of Customs to discontinue the verification procedures:

(i) in the case where it is notified that the period until the day on which ten days elapse is extended pursuant to the provision of paragraph (1) of Article 69-7 (Seeking the Opinion Pertaining to Goods the Exportation of which is Prohibited): the day on which twenty days elapse (in cases where a



- notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-7 (including the case where applied mutatis mutandis pursuant to paragraph (10) of Article 69-7; the same applies in the next item) has been received, the day on which twenty days elapse, or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7, pertaining to seeking such opinion (including the case where applied mutatis mutandis pursuant to paragraph (10) of Article 69-7; the same applies in the next item), whichever comes later);
- (ii) in the case other than the case set forth in the preceding item: the day on which ten days elapse (in cases where a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-7 has been received, the day on which ten days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-7 pertaining to seeking such opinion, whichever comes later).
- (2) When the Director General of Customs has initiated verification procedures with respect to goods pertaining to the application of the applicant, he/she shall, before the day on which ten days elapse, notify the date of notification to a person who exports such goods.
- (3) When the Director General of Customs is requested to discontinue verification procedures pursuant to the provision of paragraph (1), he/she shall notify the applicant who has filed an application pertaining to the verification procedures of such request, and shall order the person who so requests (hereinafter in this Article referred to as "requester") to deposit, within a specified period, the amount of money deemed sufficient to cover the damages that may be incurred by the applicant from the exportation of the goods pertaining to the verification procedures with the designated official depository.
- (4) The monetary deposit to be provided pursuant to the provision of the preceding paragraph may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers to be secure.
- (5) Necessary matters concerning the procedures required by the Director General of Customs with respect to the deposit provided pursuant to his/her order prescribed in paragraph (3) shall be prescribed by Cabinet Order.
- (6) When the requester, pursuant to the provision of Cabinet Order, enters into a contract providing that the amount of money necessary to compensate for the damages as provided for in paragraph (3) shall be paid for the requester and notifies the Director General of Customs of that fact within the period specified

in the paragraph, then the requester may not deposit the whole or part of the amount referred to in the paragraph while the contract is effective.

- (7) The applicant referred to in paragraph (3) shall have the right, with respect to its right to claim for compensation for the damages against the requester as provided for in the paragraph, to receive payment in preference over other creditors, from the monetary deposit provided pursuant to the provision of the paragraph (the monetary deposit includes the securities prescribed in paragraph (4); the same applies in paragraphs (9) to (11)).
- (8) Necessary matters concerning the exercise of right referred to in the preceding paragraph shall be prescribed by Cabinet Order.
- (9) The requester who has provided the monetary deposit pursuant to the provision of paragraph (3) may recover monetary deposit if the situation falls under any of the cases set forth in the following items:
- (i) where it has been proved to, and confirmed by the Director General of Customs that the applicant referred to in paragraph (12) has consented to the recovery of the deposit, that the right to claim for compensation for damages as provided for in paragraph (3) has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in paragraph (3) is no longer necessary;
  - (ii) where the requester has entered into a contract referred to in paragraph (6) and the contract has, pursuant to the provision of Cabinet Order, been approved by the Director General of Customs;
  - (iii) where, pursuant to the provision of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, for the reason of redemption of the deposited securities or for other reason;
  - (iv) beyond what is set forth in the preceding three items, where the applicant referred to in paragraph (12) fails to institute, within thirty days from the date on which it receives the notification prescribed in the paragraph, any judicial action for claiming for the damages as provided for in paragraph (3).
- (10) Necessary matters concerning the recovery of the monetary deposit prescribed in the preceding paragraph shall be prescribed by Ministry of Justice Order and Ministry of Finance Order.
- (11) If a person who has been ordered to deposit pursuant to the provision of paragraph (3) deposits the full amount within the period specified under the paragraph or notifies of its entering into a contract prescribed in paragraph (6), the Director General of Customs shall discontinue the verification procedures with respect to the goods which have caused such deposit to be ordered.
- (12) When the Director General of Customs discontinues the verification procedures pursuant to the provision of the preceding paragraph, he/she shall notify such discontinuance to the person who exports goods pertaining to such

verification procedures and the applicant who has filed an application pertaining to such verification procedures.

### **Subsection 2 Goods the Importation of which is Prohibited**

(Goods the Importation of which is Prohibited)

Article 69-11 (1) Goods set forth in the following shall not be imported:

- (i) narcotics and psychotropics, cannabis, opium and opium poppies, and stimulants (including raw materials for stimulants thereof as referred to in the Stimulants Control Act) and utensils for opium smoking; provided, however, that those imported by the Government or by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (i)-2 the designated substance provided for in paragraph (15) of Article 2 (Definitions) of the Act on Securing Quality, Efficacy and Safety of Products Including Pharmaceuticals and Medical Devices (Act No. 145 of 1960) (excluding those imported for the purpose of using for medical care, etc. as provided for in Article 76-4 (Prohibition of Manufacturing) of the Act;
- (ii) hand-guns, rifles, machine guns, cannons, and bullets thereof and parts of hand-guns; provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (iii) explosives (i.e., the explosives provided for in Article 1 (Use of Explosives) of the Criminal Regulations to Control Explosives (Cabinet Ordinance No. 32 of 1884); excluding those set forth items (ii) and (iv)); provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (iv) propellants (i.e., the propellants provided for in paragraph (1) of Article 2 (Definitions) of the Explosives Control Act (Act No. 149 of 1950); excluding goods that fall under item (ii)); provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (v) the specified substance provided for in paragraph (3) of Article 2 (Definitions) of the Act on the Prohibition of Chemical Weapons and the Regulation of Specific Chemicals (Act No. 65 of 1995); provided, however, that those imported by a person authorized, under international conventions or other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (v)-2 class I pathogens, etc. as referred to in paragraph (20) and class II pathogens, etc. as referred to in paragraph (21) of Article 6 (Definitions) of the Act on the Prevention of Infectious Diseases and Medical Care for

- Patients with Infections Diseases (Act No. 114 of 1998); provided, however, that those imported by a person authorized, under other laws and regulations, to import pursuant to the provisions thereof, are excluded;
- (vi) counterfeit, altered or imitated coins, money bills, bank notes, revenue stamps or postal stamps (including identification cards with marks representing postage, other than postal stamps (the same applies in this item)) or securities (excluding imitated revenue stamps imported with the authorization of the Minister of Finance under paragraph (2) of Article 1 of the Act on the Control of Imitating of Stamps (Act No. 189 of 1947) and imitated postal stamps imported with the authorization of the Minister of Internal Affairs and Communications under paragraph (2) of Article 1 of the Act on the Control of the Imitating of Postal Stamps (Act No. 50 of 1972)) and the cards (including materials used in the production of such cards) that are created unlawfully for the payment of charges or fees or for the withdrawal of depositions and that contain electronic or magnetic record (meaning a record used in computerized information processing which is created in electronic form, magnetic form, or any other form that cannot be perceived by the human senses ; the same shall apply hereinafter);
- (vii) books, drawings, sculptures or other goods that are detrimental to public security or that corrupt public morals (excluding goods that fall under the next item);
- (viii) child pornography (i.e., the child pornography referred to in paragraph (3) of Article 2 (Definitions) of the Act on the Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children;
- (ix) goods that infringe patent rights, utility model rights, design rights, trademark rights, copyrights, neighboring rights, layout- design exploitation rights or breeder's rights;
- (x) goods that compose the acts set forth in any of items (i) to (iii) or (x) to (xii) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act (excluding such acts as specified in any of items (i) to (v), (vii) and (viii) of paragraph (1) of Article 19 (Exclusion from Application) of the Act for the category of unfair competitions as set forth respectively in any of items (i) to (iii) and (x) to (xii) of paragraph (1) of Article 2 of the Act).
- (2) The Director General of Customs may confiscate and destroy goods destined for import, set forth in any of items (i) to (vi), (ix) and (x) of the preceding paragraph, or may order a person who imports such goods to reship them.
- (3) When the Director General of Customs has adequate grounds to believe that the goods destined for import under the provision of this Chapter contain those that may fall under goods set forth in item (vii) or (viii) of paragraph (1), he/she shall notify that his/her findings to a person who intends to imports

such goods.

(Verification Procedures Pertaining to Goods the Importation of which is Prohibited)

Article 69-12 (1) If the Director General of Customs considers that goods destined for import under the provision of this Chapter contain those that may fall under the goods set forth in item (ix) or (x) of paragraph (1) of the preceding Article, he/she shall, pursuant to the provision of Cabinet Order, initiate procedures for verifying whether such goods fall under those set forth in the items (hereinafter the procedures verified in this paragraph are referred to as "verification procedures" in this Subsection). In this case, the Director General of Customs shall, pursuant to the provision of Cabinet Order, notify a patent holder or other right holder pertaining to such goods and a person who imports such goods of the fact that verification procedures are to be initiated for such goods and that the patent holder or other right holder and the importer may submit evidence and state their opinions as to whether they do or do not fall under those set forth in item (ix) or (x) of paragraph (1) of the preceding Article and such other matters as may be prescribed by Cabinet Order (the "patent holder or other right holder" as used in this Article means the holder of a patent right, utility model right, design right, trademark right, copyright, neighboring right, layout-design exploitation right or breeder's right, or a person who has the right to claim for an injunction against unfair competition (i.e., a person who may claim, pursuant to the provision of paragraph (1) of Article 3 (Right to Claim for an Injunction) of the Unfair Competition Prevention Act, the suspension or prevention of infringement of its business interests the infringement of which has been caused by the acts specified in item (x) of paragraph (1) of the preceding Article with respect to the goods set forth in the item; hereinafter the same applies in this Subsection)).

(2) In cases where the Director General of Customs issues a notification prescribed in the preceding paragraph, he/she shall, together with the notification, notify the patent holder or other right holder pertaining to the goods of the names and addresses of the person who imports such goods and their consignor, and shall also notify the person who imports such goods of the name and address of the patent holder or other right holder concerned.

(3) In cases where the Director General of Customs finds that the name or address of a manufacturer of the goods subject to verification procedures is evident from an import declaration form and other documents filed with respect to such goods pursuant to the provision of Article 67 (Permission of Exportation or Importation), from any other documents submitted to the Director General of Customs in the verification procedures or from any signs

affixed to such goods, he/she shall notify the patent holder or other right holder concerned of the name or address of the manufacturer. Such notification may occur simultaneously with the notification referred to in paragraph (1), or it may occur thereafter, provided that it occurs within the period during which the verification procedures are carried out.

- (4) No measures referred to in paragraph (2) of the preceding Article shall be taken by the Director General of Customs with respect to goods destined for import under the provision of this Chapter unless such goods have been subjected to verification procedures.
- (5) When the Director General of Customs has verified as to whether the goods subject to verification procedures (hereinafter in this Article and Article 69-16 (Inspection of Samples of Suspect Goods by Applicants) referred to as "suspect goods") do or do not fall under those set forth in item (ix) or (x) of paragraph (1) of the preceding Article, he/she shall notify the patent holder or other right holder pertaining to such verified goods and the person who imports such verified goods of his/her findings and the reason therefor; provided, however, that this does not apply to the case where the notification prescribed in the next paragraph is issued.
- (6) If the situation falls under any of the following items before the notification of verification is issued with respect to suspect goods under the main clause of the preceding paragraph, the Director General of Customs shall notify the patent holder or other right holder pertaining to such suspect goods, and shall discontinue the verification procedures:
  - (i) where the suspect goods have been disposed pursuant to the provision of Article 34 (Disposal of Foreign Goods);
  - (ii) where the suspect goods have been destroyed pursuant to the provision of the proviso to paragraph (1) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) (including the case where applied *mutatis mutandis* pursuant to Articles 36, 41-3, 61-4, 62-7 and 62-15);
  - (iii) where the suspect goods have been reshipped pursuant to the provision of Article 75 (Reshipment of Foreign Goods);
  - (iv) in addition to the situations set forth in the preceding three items, where the suspect goods have ceased to be imported.
- (7) Any person who has received a notification prescribed in paragraph (2) or (3) or any applicant provided for in paragraph (2) of Article 69-16 whose application has been approved pursuant to the provision of the paragraph shall not divulge any matters to have been notified or any other matters to have learned during the inspection (including inspection by disassembling; the same applies in Article 69-16) or handling of a sample pertaining to the application to any other person without reason, nor shall use such matters for any unjust

purpose.

(Procedures for Application Pertaining to Goods the Importation of which is Prohibited)

- Article 69-13 (1) A holder of a patent right, utility model right, design right, trademark right, copyright, neighboring right, breeder's right or a person who has the right to claim for an injunction against unfair competition may, pursuant to the provision of Cabinet Order, submit to any of the Directors General of Customs evidence necessary to demonstrate prima facie infringement with respect to goods which, it believes, infringe its patent right, utility model right, design right, trademark right, copyright, neighboring right, breeder's right or business interests, and may file with the Director General of Customs an application for verification procedures to be initiated by the said or other Director General of Customs, if the goods are to be imported in accordance with the provision of this Chapter (hereinafter in this Article and in the next Article, the Director General of Customs with whom such application is filed is referred to as "the Director General of Customs with whom application is filed"). In this case, a person who has the right to claim for an injunction against unfair competition shall, pursuant to the provision of Ministry of Economy, Trade and Industry Order, seek from the Minister of the Ministry, in the case where such goods are those set forth in item (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (excluding those pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act), the opinion with respect to the matters specified by the Order, which may stipulate, among other things, that the indication of goods, etc. provided for in item (i) of paragraph (1) of Article 2 of the Act and related to that person be well known among consumers, or in the case where such goods are those set forth in item (x) of paragraph (1) of Article 69-11 (limited to those pertaining to item (x) of paragraph (1) of Article 2 of the Act), the certification with respect to the fact that the goods concerned are those obtained by the acts of unauthorized use as provided for in item (x) of paragraph (1) of Article 2 of the Act and that a person who is likely to import such goods was, at the time when they were transferred to it, aware that they were created by such acts of unauthorized use and that it was grossly negligent in failing to know that they were so created, and shall submit the details of such opinion or certification in writing to the Director General of Customs with whom application is filed.
- (2) The Director General of Customs with whom application is filed may not accept the application referred to the preceding paragraph if the evidence is considered to be insufficient to demonstrate prima facie infringement pertaining to such application.

(3) In the case where the application prescribed in paragraph (1) is filed, if the Director General of Customs with whom application is filed accepts the application, he/she shall notify the person who has filed the application of his/her acceptance and the effective period of the application (i.e., the period during which the Director General of Customs is to carry out, based on that application, verification procedures each time he finds that the goods to be imported during such period pursuant to the provision of this Chapter may contain those pertaining to that application), whereas if the Director General of Customs with whom application is filed does not accept that application pursuant to the provision of the preceding paragraph, he/she shall notify that person of such non-acceptance and the reason therefor.

(4) In the case where the Director General of Customs has accepted the application prescribed in paragraph (1) or such application has been accepted by any other Director General of Customs, if he/she has initiated verification procedures for goods pertaining to the application, he/she shall, pursuant to the provision of Cabinet Order, provide, upon request, the person who has filed such application or the person who imports such goods with the opportunity to inspect such goods; provided, however, that this does not apply to the case where verification procedures has been discontinued pursuant to the provision of paragraph (6) of the preceding Article.

(Seeking Opinions of Technical Advisers with Respect to Application for Import Suspension)

Article 69-14 In cases where an application prescribed in paragraph (1) of the preceding Article is filed, the Director General of Customs with whom application is filed may, if it is considered necessary, designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the application, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek the opinions of the technical advisers as to whether the evidence submitted pursuant to the provision of the paragraph is sufficient to demonstrate prima facie infringement pertaining to such application; provided, however, that this does not apply to the matters with respect to which the opinion or certification of the Minister of Economy, Trade and Industry is to be sought pursuant to the provision of the second sentence of the paragraph.

(Deposit Pertaining to Application for Import Suspension)

Article 69-15 (1) In the case where the Director General of Customs has accepted the application prescribed in paragraph (1) of Article 69-13 (Procedures for Application Pertaining to Goods the Importation of which is Prohibited) or such application has been accepted by any other Director General of Customs, if it is



considered necessary for ensuring compensation for damages that a person who imports the goods pertaining such application is likely to incur from being unable to import until completion of the verification procedures for such goods, the Director General of Customs may order a person who has filed such application (hereinafter in this Article referred to as "applicant") to deposit, within a specified period, an amount of money deemed sufficient to cover such damages with the official depository to be designated by the Director General of Customs.

- (2) The Director General of Customs may, if the amount of the monetary deposit provided pursuant to the provision of the preceding paragraph is considered insufficient to compensate for the damages provided for in the paragraph, order the applicant to deposit, within a specified period, the amount of money deemed equivalent to the shortfall.
- (3) The monetary deposit to be provided pursuant to the provision of the preceding two paragraphs may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers to be secure (other securities include book-entry transfer bonds as provided for in paragraph (1) of Article 278 (Depositing Transferred Bonds) of the Act on Book-Entry Transfer of Corporate Bonds and Shares; the same applies in this Article and in Article 69-20 (Request for Discontinuance of Verification Procedures Pertaining to Goods the Importation of which is Prohibited)).
- (4) Necessary matters concerning the procedures required by the Director General of Customs with respect to the deposit provided pursuant to his/her order prescribed in paragraph (1) or (2) shall be prescribed by Cabinet Order.
- (5) When an applicant, pursuant to the provision of Cabinet Order, enters into a contract which provides that the amount necessary to compensate for the damages as provided for in paragraph (1) shall be paid for it and notifies the Director General of Customs of that fact within the period specified in paragraph (1) or (2), then the applicant may not deposit the whole or part of the amount referred to in paragraph (1) or (2) while the contract is effective.
- (6) The importer of goods referred to in paragraph (1) shall have the right, with respect to its claim for compensation for the damages against the applicant as provided for in the paragraph, to receive payment, in preference over other creditors, from the monetary deposit provided pursuant to the provision of paragraphs (1) and (2) (the monetary deposit includes securities prescribed in paragraph (3); the same applies in paragraphs (8) to (10)).
- (7) Necessary matters concerning the exercise of right referred to in the preceding paragraph shall be prescribed by Cabinet Order.
- (8) An applicant who has provided the monetary deposit pursuant to the provision of paragraph (1) or (2) may recover the monetary deposit if the

situation falls under any of the cases set forth in the following items:

- (i) where the applicant has, pursuant to the main clause of paragraph (5) of Article 69-12 (Verification Procedures Pertaining to Goods the Importation of which is Prohibited), received a notification stating to the effect that the goods which have caused the deposit to be provided fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited);
  - (ii) where to the effect has received a notification prescribed in paragraph (6) of Article 69-12 with respect to goods which have caused the deposit to be provided;
  - (iii) where it has been proved to, and confirmed by the Director General of Customs that the importer of the goods referred to in paragraph (1) has consented to the recovery of the deposit, that the right to claim for compensation for damages as provided for in the paragraph has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in the paragraph is no longer necessary;
  - (iv) where the applicant has entered into the contract referred to in paragraph (5) and the contract has, pursuant to the provision of Cabinet Order, been approved by the Director General of Customs;
  - (v) where, pursuant to the provision of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, for the reason of redemption of the deposited securities or for other reason.
- (9) Necessary matters concerning recovery of the monetary deposit provided for in the preceding paragraph shall be prescribed by Ministry of Justice Order and Ministry of Finance Order.
- (10) If a person who has been ordered to deposit pursuant to the provision of paragraph (1) or (2) fails to deposit the full amount within the period specified pursuant to the provision of these paragraphs and also fails to notify its entering into a contract prescribed in paragraph (5), the Director General of Customs may discontinue verification procedures with respect to the goods which have caused the deposit to be provided.
- (11) When the Director General of Customs discontinues verification procedures pursuant to the provision of the preceding paragraph, he/she shall notify such discontinuance to a person who has filed an application pertaining to such procedures and a person who imports the goods pertaining to such procedures.

(Inspection of Samples of Suspect Goods by Applicant)

Article 69-16 (1) A holder of a patent right, utility model right, design right, trademark right, copyright, neighboring right or breeder's right, or a person who has the right to claim for an injunction against unfair competition, whose

application prescribed in paragraph (1) of Article 69-13 (Procedures for Application Pertaining to Goods the Importation of which is Prohibited) has been accepted, may file with the Director General of Customs an application for approval for inspection of a sample of suspect goods pertaining to the verification procedures, provided that it is filed within the period in which the verification procedures pertaining to such goods are carried out. In this case, the Director General of Customs, upon receipt of an application for approval, shall notify a person who imports such suspect goods of the fact.

- (2) The Director General of Customs shall, if all of the requirements set forth in the following items are met, give, in response to an application filed under the preceding paragraph, approval to a person who has filed such application (including a person who has been entrusted; hereinafter in this Article (excluding paragraph (5)) referred to as "applicant") to inspect the sample of suspect goods pertaining to the verification procedures; provided, however, that this does not apply to the case where the Director General of Customs finds it evident that the goods pertaining to the application do or do not fall under those set forth in item (ix) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (goods that infringe a layout-design exploitation right are excluded; the same applies in this paragraph and paragraph (5)) or item (x) of paragraph (1) of the Article, or otherwise where it is considered unnecessary to be given the approval:
  - (i) that the inspection of sample is considered necessary for the purpose of submitting evidence or stating its opinion to the Director General of Customs to substantiate that the suspect goods pertaining to the sample fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11;
  - (ii) that it is considered that the interests of a person who imports suspect goods pertaining to the sample are not likely to be unjustly infringed;
  - (iii) beyond what is set forth in the preceding items, that it is considered that the sample is not likely to be used for unjust purposes;
  - (iv) that the applicant is considered to have the ability and the financial resources necessary to properly carry out transport, storage, inspection or other handling of the sample.
- (3) In cases where the Director General of Customs approves inspection of a sample by an applicant pursuant to the provision of the preceding paragraph, he/she shall notify such approval to the applicant (excluding a person who has been entrusted) and the person who imports the suspect goods pertaining to the sample.
- (4) In cases where the approval is given by the Director General of Customs pursuant to the provision of paragraph (2), the applicant shall, to the extent necessary for the inspection of the sample, bear the expenses necessary for the transport, storage or inspection of a sample and other expenses.

(5) The preceding Article (excluding paragraph (11)) applies mutatis mutandis to the case where the Director General of Customs gives approval pursuant to the provision of paragraph (2). In this case, the terms reproduced in the middle columns of the following table, which are used in the paragraphs of the left columns shall be replaced respectively by the terms shown in the right columns:

Provisions to replace	Terms to be replaced	Terms to replace
Paragraph (1) of Article 69-15	from being unable to import until completion of the verification procedures for such goods	in cases where the suspect goods pertaining to the sample have been verified not to fall under the goods set forth in item (ix) or (x) of paragraph (1) of Article 69-11,
	a person who has filed such application (hereinafter in this Article referred to as "applicant	a person who has made an application for approval (hereinafter in this Article referred to as "applicant
Paragraphs (2), (5), (6) and (8) of Article 69-15	applicant	applicant
Paragraph (10) of Article 69-15	discontinue verification procedures	not give approval referred to in paragraph (2) of the next Article

(6) In cases where inspection of a sample is conducted by the applicant who has been given approval pursuant to the provision of paragraph (2), customs officials shall attend the inspection. In this case, a person who imports the suspect goods pertaining to the sample may, upon request to the Director General of Customs, attend the inspection.

(7) In addition to the matters provided for in the preceding paragraphs, necessary matters concerning the procedures required for application referred to in paragraph (1), the expenses to be borne under paragraph (4) and other matters concerning inspection of a sample by an applicant shall be prescribed by Cabinet Order.

(Seeking the Opinion Pertaining to Goods the Importation of which is Prohibited)

Article 69-17 (1) When verification procedures have been initiated to determine whether goods do or do not fall under those that infringe a patent right, utility model right, design right or those that compose the acts set forth in item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention

Act (excluding the acts provided for in item (vii) of paragraph (1) of Article 19 (Exclusion from Application) of the Act; hereinafter the same applies in this paragraph and paragraph (9)), a patent holder or other right holder pertaining to such goods (i.e., a holder of patent right, utility model right or design right, or a person who has the right to claim for an injunction against unfair competition (limited to a person pertaining to those goods that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Act; hereinafter the same applies in this paragraph, paragraph (9) and paragraph (1) of Article 69-20 (Request for Discontinuance of Verification Procedures Pertaining to Goods the Importation of which is Prohibited); hereinafter the same applies in this Article) or an importer pertaining to such goods (i.e., a person who imports the goods pertaining to the verification procedures; hereinafter the same applies in this Article) may, pursuant to the provision of Cabinet Order, request the Director General of Customs to seek, provided that such request is made within the period in which the verification procedures are carried out, but before the day on which ten days (the holidays of the administrative organs are not included) elapse from the day on which the patent holder or other right holder receives the notification prescribed in paragraph (1) of Article 69-12 (Verification Procedures Pertaining to Goods the Importation of which is Prohibited) (hereinafter in this paragraph and paragraph (2) of Article 69-20 (Request for Discontinuance of verification Procedures Pertaining to Goods the Importation of which is Prohibited) referred to as "the date of notification") (in paragraphs (1) and (2) of Article 69-20, the day on which ten days elapse is referred to as "the day on which ten days elapse") (when the Director General of Customs, before expiry of the period of ten days, finds it necessary to extend such period, taking into account the progress made with respect to verification procedures and other circumstances and notifies the patent holder or other right holder and the importer of that fact, the period may be extended until the day on which twenty days (the holidays of the administrative organs are not included) elapse from the date of notification (in paragraph (1) of Article 69-20, the day on which twenty days elapse from the date of notification is referred to as "the day on which twenty days elapse")), in the case where the verification procedures have been initiated to determine whether the goods pertaining to the procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patent holder or other right holder (excluding a person who has the right to claim for an injunction against unfair competition), the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. (the "technical scope, etc." means the technical scope provided for in paragraph (1) of Article 70 (Technical Scope of Patented Invention) of the Patent Act (including the case where applied *mutatis mutandis* pursuant to Article 26 (Application *mutatis mutandis* of the Patent

Act) of the Utility Model Act), or the scope provided for in paragraph (1) of Article 25 (The Scope of Registered Design) of the Design Act (the same applies in paragraph (9) and Article 69-19 (Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Importation of which is Prohibited)), or in the case where the verification procedures have been initiated to determine whether the goods pertaining to the procedures do or do not fall under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act and related to the patent holder or other right holder (limited to a person who has the right to claim for an injunction against unfair competition), the opinion of the Minister of Economy, Trade and Industry as to whether the goods subject to the verification procedures fall under those that compose the acts set forth in the item..

- (2) In the case where a request prescribed in the preceding paragraph has been made, the Director General of Customs shall, pursuant to the provision of Cabinet Order, seek the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office; provided, however, that this does not apply to the case where the Director General of Customs finds it evident that the goods pertaining to the request as prescribed in the said paragraph do or do not fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) or otherwise it is considered unnecessary to seek the opinion of the Minister or Commissioner.
- (3) In the case where a request prescribed in paragraph (1) has been made, if the Director General of Customs has not sought the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the proviso to the preceding paragraph, the Director General of Customs shall notify the patent holder or other right holder or importer who has made the request prescribed in paragraph (1) of that fact and the reason therefor.
- (4) When the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office is sought his/her opinion by the Director General of Customs pursuant to the provision of the main clause of paragraph (2), the Minister or Commissioner shall provide his opinion in writing within thirty days from the day on which his opinion is sought.
- (5) When the Director General of Customs, pursuant to the provision of the main clause of paragraph (2), seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office, the Director General of Customs shall notify the patent holder or other right holder and importer concerned of that fact.
- (6) When the opinion prescribed in paragraph (4) is provided, the Director

General of Customs shall notify the patent holder or other right holder and importer concerned of that fact and the details of that opinion.

- (7) When the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), the Director General of Customs shall, before the opinion prescribed in paragraph (4) is provided, not determine that, where a person who requestshim/her to seek the opinion referred to in paragraph (1) is a patent holder or other right holder, the goods concerned do not fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11, or that, where a person who requests him/her to seek the opinion referred to in paragraph (1) is an importer, the goods concerned fall under those set forth in item (ix) or (x) of paragraph (1) of the Article.
- (8) In the case where the Director General of Customs seeks the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office pursuant to the provision of the main clause of paragraph (2), if the Director General of Customs has, before the opinion prescribed in paragraph (4) is provided, determined that, where a person who requests under paragraph (1) is a patent holder or other right holder, the goods concerned fall under those set forth in item (ix) or (x) of paragraph (1) of Article 69-11 or that, where a person who makes the request under paragraph (1) is an importer, the goods concerned do not fall under those set forth in item (ix) or (x) of paragraph (1) of the Article, or if the Director General of Customs has discontinued verification procedures with respect to the goods concerned pursuant to the provision of paragraph (6) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit Pertaining to Application for Import Suspension), the Director General of Customs shall notify the Minister of Economy, Trade and Industry or the Commissioner of that fact. In this case, the Minister or Commissioner is not required to provide his/her opinion prescribed in paragraph (4).
- (9) In the verification procedures for determining whether goods fall under those that infringe a patent right, utility model right or design right or under those that compose the acts set forth in item (x) of paragraph (1) of Article 2 of the Unfair Competition Prevention Act, if it is considered necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12, the Director General of Customs may, pursuant to the provision of Cabinet Order, in the case where verification procedures have been initiated to determine whether the goods fall under those that infringe the patent right, utility model right or design right, seek the opinion of the Commissioner of the Patent Office with respect to the technical scope, etc. as to whether the goods pertaining to the verification procedures do or do not fall under those that infringe the patent right, utility model right or design right of the patent holder or other right holder concerned (excluding a person who has the right to claim for an

injunction against unfair competition), or in the case where the verification procedures have been initiated to determine whether goods fall under those that compose the acts set forth in the item, seek the opinion of the Minister of Economy, Trade and Industry as to whether the goods concerned fall under those that compose the acts set forth in the item, pertaining to the patent holder or other right holder (limited to a person who has the right to claim for an injunction against unfair competition).

(10) Paragraphs (4) to (6) of this Article and paragraph (5) of the next Article apply mutatis mutandis to the case where an opinion is sought pursuant to the provision of the preceding paragraph. In this case, necessary technical replacement of the terms shall be prescribed by Cabinet Order.

(Seeking the Opinion of the Minister of Agriculture, Forestry and Fisheries in Verification Procedures Pertaining to Goods the Importation of which is Prohibited)

Article 69-18 (1) In the verification procedures for determining whether goods fall under those that infringe a breeder's right or those set forth in item (x) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (excluding goods pertaining to item (x) of paragraph (1) of Article 2 (Definitions) of the Unfair Competition Prevention Act; the same applies in this paragraph and paragraph (5)), if it is considered necessary for the purpose of verification prescribed in paragraph (1) of Article 69-12 (Verification Procedures Pertaining to Goods the Importation of which is Prohibited), the Director General of Customs may, pursuant to the provision of Cabinet Order, seek, for reference purposes, the opinion of the Minister of Agriculture, Forestry and Fisheries in the case of verification procedures pertaining to goods that may infringe a breeder's right, or the opinion of the Minister of Economy, Trade and Industry in the case of verification procedures pertaining to goods that may fall under those set forth in item (x) of paragraph (1) of Article 69-11.

(2) When the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry is sought his/her opinion by the Director General of Customs pursuant to the provision of the preceding paragraph, the Minister shall provide his/her opinion in writing within thirty days from the date on which his/her opinion is sought.

(3) When the Director General of Customs seeks the opinion pursuant to the provision of paragraph (1), he/she shall notify that fact to a holder of breeder's right or a person who has the right to claim for an injunction against unfair competition, involved in the verification procedures, and a person who imports the goods pertaining to the verification procedures.

(4) When the opinion prescribed in paragraph (2) is provided, the Director



General of Customs shall notify a holder of breeder's right or a person who has the right to claim for an injunction against unfair competition, as the case may be, and to the person who imports goods pertaining to the verification procedures of that fact and the details of the opinion, as referred to in the preceding paragraph.

- (5) In the case where the Director General of Customs seeks the opinion of the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry pursuant to the provision of paragraph (1), if the Director General of Customs has, before the opinion prescribed in paragraph (2) is provided, determined that the goods concerned do or do not fall under those that infringe a breeder's right or those set forth in item (x) of paragraph (1) of Article 69-11, or if the Director General of Customs has discontinued verification procedures with respect to such goods pursuant to the provision of paragraph (6) of Article 69-12 or paragraph (10) of Article 69-15 (Deposit Pertaining to an Application for Import Suspension), he/she shall notify the Minister of Agriculture, Forestry and Fisheries or the Minister of Economy, Trade and Industry of that fact. In this case, the Minister concerned is not required to provide his/her opinion prescribed in paragraph (2).

(Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Importation of which is Prohibited)

Article 69-19 In the verification procedures for determining whether goods fall under those set forth in item (ix) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) (excluding goods that infringe a breeder's right), the Director General of Customs may, if it is considered necessary for the purpose of the verification prescribed in paragraph (1) of Article 69-12 (Verification Procedures Pertaining to Goods the Importation of which is Prohibited), designate persons with academic background and experience in intellectual property rights, having no special interests with the parties involved in the cases pertaining to the verification procedures, to serve as technical advisers and may, pursuant to the provision of Cabinet Order, seek, for reference purposes, the opinions of the technical advisers; provided, however, that this does not apply to the technical scope, etc.

(Request for Discontinuance of Verification Procedures Pertaining to Goods the Importation of which is Prohibited)

Article 69-20 (1) In the case where an application of a holder of patent right, utility model right, design right or a person who has the right to claim for an injunction against unfair competition, as prescribed in paragraph (1) of Article 69-13 (Procedures for Application Pertaining to Goods the Importation of which is Prohibited) has been accepted by the Director General of Customs

(hereinafter in this Article referred to as "applicant"), if verification procedures have been initiated with respect to goods pertaining to such application, a person who imports such goods may, pursuant to the provision of Cabinet Order, after the day specified in each of the following items for the category of cases as set forth respectively therein, provided that such request is made within the period in which the verification procedures are carried out, request the Director General of Customs to discontinue the verification procedures:

- (i) in the case where it is notified that the period until the day on which ten days elapse is extended pursuant to the provision of paragraph (1) of Article 69-17 (Seeking the Opinion Pertaining to Goods the Importation of which is Prohibited): the day on which twenty days elapse (in cases where a notification stating to the effect that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-17 (including the case where applied mutatis mutandis pursuant to paragraph (10) of Article 69-17; the same applies in the next item) has been received, the day on which twenty days elapse, or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-17 pertaining to seeking such opinion (including the case where applied mutatis mutandis pursuant to paragraph (10) of Article 69-17; the same applies in the next item), whichever comes later);
  - (ii) in the case other than the case set forth in the preceding item: the day on which ten days elapse (in cases where a notification stating that the opinion of the Minister of Economy, Trade and Industry or the Commissioner of the Patent Office has been sought pursuant to the provision of paragraph (5) of Article 69-17 has been received, the day on which ten days elapse or the day on which ten days elapse from the date of receipt of the notification prescribed in paragraph (6) of Article 69-17 pertaining to seeking such opinion, whichever comes later).
- (2) When the Director General of Customs has initiated verification procedures with respect to goods pertaining to the application of the applicant, he/she shall, before the day on which ten days elapse, notify the date of notification to a person who imports such goods.
  - (3) When the Director General of Customs is requested to discontinue verification procedures pursuant to the provision of paragraph (1), he/she shall notify the applicant who has filed an application pertaining to the verification procedures of such request, and shall order a person who so requests (hereinafter in this Article referred to as "requester") to deposit, within a specified period, the amount of money deemed sufficient to cover the damages that may be incurred by the applicant from the importation of the goods pertaining to the verification procedures with the designated official depository.

- (4) The monetary deposit to be provided pursuant to the provision of the preceding paragraph may be replaced by National Government Bonds, Local Government Bonds or other securities which the Director General of Customs considers to be secure.
- (5) Necessary matters concerning the procedures required by the Director General of Customs with respect to the deposit provided pursuant to his/her order prescribed in paragraph (3) shall be prescribed by Cabinet Order.
- (6) When the requester, pursuant to the provision of Cabinet Order, enters into a contract providing that the amount of money necessary to compensate for the damages as provided for in paragraph (3) shall be paid for it and notifies the Director General of Customs of that fact within the period specified in the paragraph, then the requester may not deposit the whole or part of the amount referred to in the paragraph while the contract is effective.
- (7) The applicant referred to in paragraph (3) shall have the right, with respect to its right to claim for compensation for damages against the requester as provided for in the paragraph, to receive payment in preference over other creditors, from the monetary deposit provided pursuant to the provision of the paragraph (the monetary deposit includes the securities prescribed in paragraph (4); the same applies in paragraphs (9) to (11)).
- (8) Necessary matters concerning the exercise of right referred to in the preceding paragraph shall be prescribed by Cabinet Order.
- (9) The requester who has provided the monetary deposit pursuant to the provision of paragraph (3) may recover monetary deposit if the situation falls under any of the cases set forth in the following items:
  - (i) where it has been proved to, and confirmed by the Director General of Customs that the applicant referred to in paragraph (12) has consented to the recovery of the deposit, that the right to claim for compensation for damages as provided for in paragraph (3) has been extinguished by prescription or otherwise that the deposit for compensation for damages as provided for in paragraph (3) is no longer necessary;
  - (ii) where the requester has entered into a contract referred to in paragraph (6) and the contract has, pursuant to the provision of Cabinet Order, been approved by the Director General of Customs;
  - (iii) where, pursuant to the provision of Cabinet Order, it has been approved by the Director General of Customs to provide another deposit, in lieu of the deposit actually provided, for the reason of redemption of the deposited securities or for other reason;
  - (iv) beyond what is set forth in the preceding three items, where the applicant referred to in paragraph (12) fails to institute, within thirty days from the date on which it receives the notification prescribed in the said paragraph, any judicial action for claiming for the damages as provided for in paragraph

- (3).
- (10) Necessary matters concerning the recovery of monetary deposit prescribed in the preceding paragraph shall be prescribed by Ministry of Justice Order and Ministry of Finance Order.
- (11) If a person who has been ordered to deposit pursuant to the provision of paragraph (3) deposits the full amount within the period specified under the paragraph or notifies it of its entering into a contract prescribed in paragraph (6), the Director General of Customs shall discontinue the verification procedures with respect to the goods which have caused such deposit to be provided.
- (12) When the Director General of Customs discontinues the verification procedures pursuant to the provision of the preceding paragraph, he/she shall notify such discontinuance to the person who imports the goods pertaining to such verification procedures and the applicant who has filed an application pertaining to such verification procedures.

### **Subsection 3 Technical Advisers**

Article 69-21 (1) Technical advisers whose opinions are sought by the Director General of Customs pursuant to the provisions of Article 69-5 (Seeking Opinions of Technical Advisers with Respect to Application for Export Suspension), Article 69-9 (Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited), Article 69-14 (Seeking Opinions of Technical Advisers with Respect to Application for Import Suspension) and Article 69-19 (Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Importation of which is Prohibited), shall not divulge any secrets that they have learned with respect to the cases for which their opinions are sought. The same applies after their resignation.

- (2) Necessary matters concerning technical advisers, including designation to technical advisers, shall be prescribed by Cabinet Order.

### **Section 5 Certification Relating to Exportation or Importation**

(Certification or Confirmation)

Article 70 (1) With respect to goods the exportation or importation of which is, pursuant to the provision of other laws and regulations, subject to permission, approval or other disposition of any administrative organ, or the equivalent (hereinafter in this paragraph referred to as "permission, approval, etc."), it shall, at the time of export or import declaration, be certified to the customs that such permission, approval, etc. has been given.

- (2) With respect to goods the exportation or importation of which, pursuant to the provision of other laws and regulations, requires completion of inspection or fulfillment of conditions, such completion or fulfillment prescribed by such laws and regulations shall be proved to, and confirmed by the customs at the time of inspection referred to in Article 67 ((Permission of Export or Import) or otherwise at the time of the customs examination pertaining to export or import declaration.
- (3) No export or import permission shall be given unless the certification referred to in paragraph (1) or the confirmation referred to in the preceding paragraph is made for the goods concerned.

(Importation of Goods having False Indication of Origin)

Article 71 (1) No import permission shall be given to any foreign goods if they directly or indirectly have any false or deceptive indication of origin.

- (2) The Director General of Customs shall immediately, with respect to foreign goods referred to in the preceding paragraph, notify a person who has filed an import declaration that they have false or deceptive indication with respect to their origin, specify a period, and shall require that person to erase or correct such indication, or to reship such goods, according to the person's preference.

## **Section 6 Import Permission and Withdrawal of Imported Goods**

(Payment of Customs Duty and Import Permission)

Article 72 With respect to foreign goods for which customs duty is to be paid, except in the case where goods pertaining to a special declaration are imported (excluding when security is not provided in the case where provision of security is ordered pursuant to the provision of paragraph (1) of Article 7-8 (Provision of Security)) or where time-limit for payment of customs duty is extended pursuant to the provision of paragraph (1) or (2) of Article 9-2 (Extension of Time-Limit for Payment), import permission may be given only after customs duty (excluding additional tax for under report and heavy additional tax referred to in paragraphs (1) and (3) of Article 12-4 (Heavy Additional Tax) (with respect to paragraph (3), limited to the provision pertaining to heavy additional tax referred to in paragraph (1) of the Article)) is paid (in the case where monetary security or proceeds of public auction of security (other than monetary security) are allocated to customs duty pursuant the provision of paragraph (2) of Article 10 (Allocation or Collection where Security has been Provided), import permission shall not be given unless the required procedures are completed, and in the case where provision of security is ordered to be provided pursuant to the provision of paragraph (10) of Article 7 (Countervailing Duty) or item (ii) of paragraph (9) or paragraph (18) of Article

8 (Anti-Dumping Duty) of the Customs Tariff Act, import permission shall not be given unless such security is provided and customs duty is paid at the rate set out in the Appended Table of the Act). The same applies to payment of internal consumption tax and local consumption tax pertaining to foreign goods (excluding penalty tax for understatement and heavy penalty tax to be imposed in lieu of the penalty tax for understatement), except in the case where time-limit for payment is extended or in such other cases as may be prescribed by Cabinet Order.

(Withdrawal of Goods Prior to Import Permission)

- Article 73 (1) A person who intends to withdraw foreign goods (excluding goods pertaining to a special declaration) after import declaration, but prior to import permission shall obtain approval of the Director General of Customs by providing security in an amount equivalent to that of customs duty chargeable (excluding the amount equivalent to that of additional tax for under report and heavy additional tax referred to in paragraphs (1) and (3) of Article 12-4 (Heavy Additional Tax) (with respect to paragraph (3), limited to the provision pertaining to heavy additional tax referred to in paragraph (1) of the Article).
- (2) In the case where import permission cannot be given (excluding the case prescribed in the preceding Article), the Director General of Customs shall not give the approval referred to in the preceding paragraph.
- (3) Foreign goods which have been given the approval referred to in paragraph (1) shall be deemed to be domestic goods for the purpose of application of this Act, except in the case where Article 4 (Time of Determination of Goods for Duty Assessment), Article 5 (Applicable Laws and Regulations), the preceding Article, Article 105 (Authority of Customs Officials) and Article 106 (Authority of the Director General of Customs in Special Cases) apply.

(Goods the Exportation of which is Deemed to be Permitted)

Article 73-2 Postal items the notification of which has been issued pursuant to the provision of paragraph (5) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items) (limited to those to be exported) are deemed to be goods the exportation of which is permitted, for the purpose of application of this Act.

(Goods the Importation of which is Deemed to be Permitted)

Article 74 For the purpose of application of this Act, the following goods are deemed to be goods the importation of which is permitted: foreign postal items delivered by Japan Post Co., Ltd. (excluding those prescribed by Cabinet Order) or foreign correspondence delivered by a person who dispatches postal correspondence in conformity with the cases set forth in the items of Article 3

(Exclusion from Application of the Postal Act) of the Act on Correspondence Delivery by Private Business Operators, foreign goods for which customs duty has been collected pursuant to the provision of paragraph (1) of Article 62-6 (Collection of Customs Duty on Foreign Goods Stored in a Customs Display Area after Expiry of the Period of Permission), foreign goods confiscated pursuant to the provision of paragraph (2) of Article 69-2 (Goods the Exportation of which is Prohibited), paragraph (2) of Article 69-11 (Goods the Importation of which is Prohibited) or paragraph (1) of Article 118 (Forfeiture), foreign goods which were offered for public auction or for sale by negotiated contract and have been purchased by a purchaser pursuant to the provision of paragraphs (1) to (3) of Article 84 (Public Auction or Sale of Goods Kept in Custody) (including the case where applied *mutatis mutandis* pursuant to Article 88 (Application *mutatis mutandis* of the Provision Concerning Goods in Custody) and paragraph (3) of Article 133 (Disposition of Retained Goods)) or paragraph (2) of Article 133), foreign goods which have vested in the national treasury pursuant to the provision of paragraph (3) of Article 134 (Return of Retained Goods), foreign goods offered pursuant to the provision of paragraph (1) of Article 146 (Notified Administrative Disposition by the Director General of Customs), foreign goods sold, confiscated or vested in the national treasury pursuant to the provisions of the Code of Criminal Procedure, foreign goods sold or vested in the national treasury pursuant to the provisions of the Act for Controlling the Possession of Firearms or Swords and Other Such Weapons (Act No. 6 of 1958) and such other similar foreign goods as may be prescribed by Cabinet Order.

### **Section 7 Reshipment of Foreign Goods**

Article 75 The following provisions apply *mutatis mutandis* to reshipment of foreign goods from Japan to foreign countries (excluding foreign goods temporarily landed (excluding those subjected to permission prescribed in paragraph (1) of Article 48 (Export Permission) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949); the same applies in paragraphs (1) and (2) of Article 108-4 and item (i) of paragraph (1) of Article 111)): Article 67 (Permission of Exportation or Importation), paragraphs (1) and (2) of Article 67-2 (Procedures for Export or Import Declaration), paragraph (1) of Article 67-3 (excluding the second sentence and item (iii)) (Special Provisions for Export Declaration), Articles 68 to 69-10 (Documents to be Submitted at the Time of Export or Import Declaration; Delegation of Authority Pertaining to Inspection of Goods; Place for Inspection of Goods; Goods the Exportation of which is Prohibited; Verification Procedures Pertaining to Goods the Exportation of which is Prohibited; Procedures for Application Pertaining to Goods the

Exportation of which is Prohibited; Seeking Opinions of Technical Advisers with Respect to Application for Export Suspension; Deposit Pertaining to Application for Export Suspension; Seeking the Opinion Pertaining to Goods the Exportation of which is Prohibited; Seeking the Opinion of the Minister of Agriculture, Forestry and Fisheries in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited; Seeking Opinions of Technical Advisers in Verification Procedures Pertaining to Goods the Exportation of which is Prohibited; Request for Discontinuance of Verification Procedures Pertaining to Goods the Exportation of which is Prohibited) and Article 70 (Certification or Confirmation). In this case, the term "goods" in paragraph (1) of Article 69-2 shall be deemed to be replaced with "goods (excluding those ordered to be reshipped pursuant to the provision of paragraph (2) of Article 69-11)" and the term "goods" in items (iii) and (iv) of the paragraph shall be deemed to be replaced with "goods (excluding those reshipped pursuant to the provision of other laws and regulations by a person who is permitted to reship pursuant to the provision of such other laws and regulations) ."

### **Section 8 Special Rules Relating to Postal Items**

(Simplified Procedures for Exportation or Importation of Postal Items)

Article 76 (1) With respect to postal items (excluding those the value of which exceeds two hundred thousand yen (other than gifts and such other goods as may be prescribed by Cabinet Order) (if they are imported goods, the value to be taken as a basis for duty assessment) and those pertaining to the case prescribed by Cabinet Order as referred to in paragraph (3); hereinafter the same applies in this paragraph, Article 94 and item (xiv) of Article 114-2), the following provisions shall not apply: Articles 67 to 69 (Permission of Exportation or Importation; Procedures for Export or Import Declaration; Special Provisions for Export Declaration; Revocation of Export Permission; Notification of Loss of Special Export Goods; Requirements for Approval; Improvement Measures Relating to a Rule; Maintenance of Books; Notification of Discontinuance of Application of Special Provisions for Export Declaration; Invalidation of Approval; Revocation of Approval; Application mutatis mutandis of the Provisions for Succession of Permission; Authorization of Manufacturer; Improvement measures Pertaining to Rule; Notification of Discontinuance of Authorization of Authorized Manufacturer; Invalidation of Authorization; Revocation of Authorization; Application mutatis mutandis of the Provisions Concerning Succession of Permission; Special Provisions for Import Declaration; Documents to be Submitted at the Time of Export or Import Declaration; Delegation of Authority Pertaining to Inspection of Goods; Place for Inspection of Goods) and Articles 70 to 73 (Certification or



Confirmation; Importation of Goods Having False Indication of Origin; Payment of Customs Duty and Import Permission; Withdrawal of Goods Prior to Import Permission), and in applying the preceding Article, the term "(excluding those subjected to permission prescribed in paragraph (1) of Article 48 (Export Permission) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949); the same applies in paragraphs (1) and (2) of Article 108-4 and item (i) of paragraph (1) of Article 111)" shall be deemed to be replaced with the term "(limited to those subjected to the permission prescribed in paragraph (1) of Article 48 (Export Permission) of the Foreign Exchange and Foreign Trade Act (Act No. 228 of 1949))"; provided, however, that the Director General of Customs shall, pursuant to the provision of Cabinet Order, have customs officials conduct necessary inspection of postal items to be exported or imported (other than correspondence contained therein).

- (2) Customs officials shall not violate the privacy of personal correspondence at the time of conducting inspection referred to in the second sentence of the preceding paragraph.
- (3) When Japan Post Co., Ltd. receives postal items which are to be exported or imported (excluding those containing correspondence only), it shall present such postal items to the Director General of Customs, except in the case where a person who exports or imports such items notifies that the person makes declaration under Article 67 with respect to such items or in such other cases as may be prescribed by Cabinet Order.
- (4) Article 70 applies mutatis mutandis to postal items subjected to inspection pursuant to the provision of the proviso to paragraph (1). In this case, the terms "export or import declaration" in paragraph (1) of the Article and "inspection referred to in Article 67 (Permission of Exportation or Importation) or otherwise at the time of customs examination pertaining to export or import declaration" in paragraph (2) of Article 70 shall respectively be deemed to be replaced with "inspection referred to in the proviso to paragraph (1) of Article 76 or otherwise at the time of customs examination pertaining to postal items," and the term "No export or import permission shall be given" in paragraph (3) of Article 70 shall be deemed to be replaced with "Japan Post Co., Ltd. shall not dispatch those postal items nor shall it deliver them to an addressee."
- (5) The Director General of Customs shall, when inspection referred to in the proviso to paragraph (1) is completed or when it is considered unnecessary to inspect, notify Japan Post Co., Ltd. thereof.

(Collection of Customs Duty Pertaining to Postal Items Before Delivery)

Article 76-2 (1) When postal items pertaining to a notification prescribed in paragraph (5) of the preceding Article (limited to those to be imported), which have not yet been delivered to an addressee (hereinafter referred to as "postal

items before delivery" in this Article) are lost or are destroyed, corresponding customs duty chargeable thereon shall immediately be collected from Japan Post Co., Ltd.; provided, however, that this does not apply to the case where postal items before delivery are lost due to a disaster or any other unavoidable reasons or are destroyed with prior approval of the Director General of Customs.

- (2) Paragraph (2) of Article 45 (Liability for Payment of Customs Duty of a Person who has Obtained Permission) applies mutatis mutandis to the approval referred to in the proviso to the preceding paragraph.
- (3) In cases where postal items before delivery are lost, Japan Post Co., Ltd. shall, pursuant to the provision of Cabinet Order, immediately notify such loss to the Director General of Customs.

(Payment of Customs Duty on Postal Items)

- Article 77 (1) When postal items contain goods for which customs duty is chargeable (limited to those subject to the official assessment system; hereinafter the same applies in this Article to Article 77-3 and Article 78), the Director General of Customs shall, through Japan Post Co., Ltd., notify in writing the basis for duty assessment and the amount of duty pertaining to such postal items to an addressee of such postal items.
- (2) Japan Post Co., Ltd. shall, before delivering postal items referred to in the preceding paragraph, deliver to the addressee a written notification referred to in the paragraph.
  - (3) A person who intends to receive postal items referred to in the preceding paragraph shall, before receiving them, pay customs duty in an amount equivalent to that stated in a written notification referred to in the paragraph or entrust Japan Post Co., Ltd. with payment of customs duty pursuant to the provision of paragraph (1) of the next Article; provided, however, that this does not apply to the case where a person who intends to receive such postal items obtains the approval referred to in paragraph (1) of Article 63 (Customs Transportation) for such items and receives such items by presenting a document pertaining to that approval to Japan Post Co., Ltd..
  - (4) A person who pays customs duty pursuant to the provision of the preceding paragraph shall pay the amount of money equivalent to that of customs duty, accompanied by a written statement of payment, to the Bank of Japan (including agents authorized to receive national taxes); provided, however, that payment in securities as provided for in the Act pertaining to Payment of Revenues in Securities shall not be precluded.
  - (5) In cases where an addressee of postal items referred to in paragraph (1) pays customs duty pertaining to such items pursuant to the provision of paragraph (3) or delivers to Japan Post Co., Ltd. the amount of money equivalent to that

of customs duty pertaining to such items pursuant to the provision of paragraph (1) of the next Article, the written notification pertaining to such items, referred to in paragraph (1) is deemed to be a written notice of determination for official assessment as provided for in paragraph (4) of Article 8 (Determination for Official Assessment).

- (6) An addressee of postal items referred to in paragraph (1) may, if approval of the Director General of Customs is, pursuant to the provision of Cabinet Order, given in advance, receive the postal items before determination is made with respect to the basis for duty assessment and the amount of duty, pertaining to such items. In this case, when the Director General of Customs becomes able to determine the basis for duty assessment and the amount of duty chargeable, he/she shall without delay make a determination prescribed in paragraph (1) of Article 8 (Determination for Official Assessment) and give a notice of duty payment prescribed in paragraph (1) of Article 9-3 (Notice of Duty Payment).
- (7) When the Director General of Customs gives approval referred to in the preceding paragraph, he/she may, if it is considered necessary, require security to be provided in an amount equivalent to that of customs duty chargeable.
- (8) Postal items received with the approval referred to in paragraph (6) are deemed to be domestic goods for the purpose of application of this Act, except in the case where Article 4 (Time of Determination of Goods for Duty Assessment) and Article 5 (Applicable Laws and Regulations) apply.

(Entrustment of Payment of Customs Duty Pertaining to Postal Items)

Article 77-2 (1) A person who intends to pay customs duty pertaining postal items may deliver the amount of money equivalent to that of duty stated in a written notification referred to in paragraph (1) of the preceding Article, accompanied by a written statement of payment referred to in paragraph (4) of the Article, to Japan Post Co., Ltd., and entrust Japan Post Co., Ltd. with the payment of customs duty.

- (2) When a person who intends to pay customs duty pertaining to postal items delivers the amount of money equivalent to that of duty to be paid pursuant to the provision of the preceding paragraph to Japan Post Co., Ltd., the customs duty is deemed to have been paid on the day of such delivery and Article 12 (Delinquent Tax) applies.

(Payment of Customs Duty by Japan Post Co., Ltd.)

Article 77-3 (1) When Japan Post Co., Ltd. has been delivered the amount of money equivalent to that of customs duty pertaining to postal items under entrustment from a person who is to pay such customs duty pursuant to the provision of paragraph (1) of the preceding Article, Japan Post Co., Ltd. shall pay to the Bank of Japan (including agents authorized to receive national

- taxes) the amount of money equivalent to that of customs duty so entrusted, accompanied by a written statement of payment, on or before the day as prescribed by Cabinet Order; provided, however, that payment in securities as provided for in the Act on Payment of Revenues in Securities is not precluded.
- (2) Japan Post Co., Ltd. shall, when Japan Post Co., Ltd. has been delivered the amount of money equivalent to that of customs duty pertaining to postal items under entrustment from a person who is to pay customs duty pursuant to the provision of paragraph (1) of the preceding Article, pursuant to the provision of Ministry of Finance Order, report that fact and the date of delivery to the Director General of Customs without delay.
- (3) When Japan Post Co., Ltd. fails to pay the full amount of customs duty referred to in paragraph (1) on or before the day prescribed by Cabinet Order as provided for in the paragraph, the Director General of Customs shall collect customs duty from Japan Post Co., Ltd., using the same rules as national taxes, applicable to collection relating to a guarantor of national taxes.
- (4) With respect to customs duty to be paid by Japan Post Co., Ltd. pursuant to the provision of paragraph (1), unless any balance to be collected remains even after disposition is made to Japan Post Co., Ltd. under Article 40 (Disposition of Delinquency) of the Act on General Rules for National Taxes which is to be applied as a rule pursuant to the provision of the preceding paragraph, the Director General of Customs may not collect the amount of such balance from a person who entrusts payment of customs duty under paragraph (1) of the preceding Article.
- (5) The Director General of Customs may, if it is considered necessary when the report prescribed in paragraph (2) is made, require Japan Post Co., Ltd. to provide security in an amount equivalent to that of customs duty chargeable on the postal items pertaining to the report.

(Maintenance of Books)

Article 77-4 Japan Post Co., Ltd. shall, pursuant to the provision of Cabinet Order, maintain books stating matters pertaining to the services relating to payment of customs duty, entrusted pursuant to the provision of paragraph (1) of Article 77-2 (Entrustment of Payment of Customs Duty Pertaining to Postal Items), and preserve these books.

(Rectification of Illegal Acts)

Article 77-5 (1) The Director General of Customs may, when it is found that Japan Post Co., Ltd. violates or is likely to violate paragraph (2) of Article 77-3 (Payment of Customs Duty by Japan Post Co., Ltd.) or the preceding Article, request Japan Post Co., Ltd. to take necessary measures to rectify such acts.

(2) Japan Post Co., Ltd. shall, when requested by the Director General of

Customs under the preceding paragraph, take measures to rectify such acts or other measures considered necessary without delay and shall report the details of such measures to the Director General of Customs.

(Postal Items Having False Indication of Origin)

- Article 78 (1) If goods other than correspondence, contained in imported postal items have directly or indirectly any false or deceptive indication of origin, the Director General of Customs shall notify Japan Post Co., Ltd. of that fact.
- (2) When Japan Post Co., Ltd. receives a notification referred to in the preceding paragraph, it shall require an addressee to erase or correct, the indication referred to in the paragraph according to its preference.
- (3) Unless an addressee erases or corrects the indication referred to in paragraph (1), Japan Post Co., Ltd. shall not deliver such postal items.

(Revocation of Export or Import Permission Pertaining to Postal Items)

- Article 78-2 (1) In cases where Japan Post Co., Ltd. is requested by an addresser to recover the postal item the exportation of which has been permitted, but which has not yet been exported or in such other cases as may be prescribed by Cabinet Order, it shall immediately notify the Director General of Customs of that fact and bring them into a bonded area where they were stored at the time of their export permission (or, in the case of postal items for which export permission is deemed to have been given under Article 73-2 (Goods the Exportation of which is Deemed to be Permitted), at the time when a notification was issued pursuant to the provision of paragraph (5) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items)).
- (2) In the case where the Director General of Customs receives a notification prescribed in the preceding paragraph, if the postal items referred to in the paragraph are brought into a bonded area referred to in the paragraph, he/she shall revoke export permission of such postal items.
- (3) When the Director General of Customs revokes export permission pursuant to the provision of the preceding paragraph, he/she shall notify such revocation to the addresser referred to in paragraph (1).
- (4) The preceding three paragraphs apply mutatis mutandis to postal items the importation of which has been permitted, but such postal items have not yet been delivered to their addressees. In this case, the term "at the time of their export permission (or, in the case of postal items for which export permission is deemed to have been given under Article 73-2 (Goods the Exportation of which is Deemed to be Permitted), at the time when a notification was issued pursuant to the provision of paragraph (5) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items))" in paragraph (1) shall be deemed to be replaced with "at the time of their import permission" and the

term "the addresser referred to in paragraph (1)" in the preceding paragraph shall be deemed to be replaced with "the addressee of the postal items", and the necessary technical replacement of terms shall be prescribed by Cabinet Order.

(Application mutatis mutandis of Provisions for Postal Items Pertaining to Correspondence)

Article 78-3 The main clause of paragraph (1) of Article 76 (Simplified Procedures for Exportation or Importation of Postal Items) applies mutatis mutandis to the correspondence which does not fall under postal items, and paragraph (2) of the Article applies mutatis mutandis to the case where inspection of postal correspondence is conducted pursuant to the provision of this Act.

## **Chapter VI-2 Authorized Customs Brokers**

(Authorization of Customs Brokers)

Article 79 (1) A customs broker may, upon application, be authorized by the Director General of Customs to be a broker recognized as being capable of carrying out properly and surely the customs clearance services and other services relating to exportation and importation.

(2) A person who seeks authorization referred to in the preceding paragraph shall file an application form stating its domicile or residence, and name and other necessary matters with the Director General of Customs.

(3) When the Director General of Customs finds that the application for authorization prescribed in paragraph (1) meets the following criteria, he/she shall give authorization:

- (i) that a person who seeks authorization does not fall under any of the following:
  - (a) that a period of three years has not elapsed from the day on which authorization referred to in paragraph (1) was revoked pursuant to the provision of paragraph (1) of Article 79-5 (Revocation of Authorization);
  - (b) that, with respect to permission already given under paragraph (1) of Article 3 (Permission for Customs Brokerage) of the Customs Brokerage Act, a period of three years has not elapsed from the day of such permission;
  - (c) that the criteria set forth in the items of Article 5 (Requirements for Permission) of the Customs Brokerage Act are not met;
  - (d) that the person falls under any of items (i), (iii) to (vii), (x) and (xi) of Article 6 (Grounds for Disqualification) of the Customs Brokerage Act;
  - (e) that the person uses, with respect to its services, any person who falls

- under item (vi) or (vii) of Article 6 of the Customs Brokerage Act as an agent, employee or other worker;
- (ii) that a person who seeks authorization has the ability to provide customs clearance services by means of electronic data processing system or otherwise to carry out services relating to exportation and importation in accordance with the criteria prescribed by Ministry of Finance Order;
  - (iii) that a person who seeks authorization establishes, with respect to the services relating to exportation and importation, a rule which contains such matters as may be prescribed by Ministry of Finance Order, which are the matters which the person (in the case where the person is a juridical person, including its officer) or its agent, manager or other employee in order to comply with the provisions of this Act and other laws and regulations.
- (4) When the Director General of Customs gives authorization referred to in paragraph (1), he/she shall immediately give a public notice of that fact.
- (5) Necessary matters concerning filing of an application form referred to in paragraph (2) and any other necessary matters concerning application of the preceding paragraphs shall be prescribed by Cabinet Order.

(Improvement Measures Relating to a Rule)

Article 79-2 If it is considered necessary for ensuring the enforcement of this Act for the reason that a person who has obtained authorization referred to in paragraph (1) of the preceding paragraph (hereinafter referred to as "authorized customs broker") fails to conduct the services relating to exportation and importation in accordance with the provisions of this Act, The Director General of Customs may request that person to take necessary measures for improving the rule provided for in item (iii) of paragraph (3) of the Article or for improving the services pertaining to the matters specified by the rule or to newly establish a rule provided for in the item.

(Notification of Discontinuance of Authorization of Authorized Customs Broker)

Article 79-3 An authorized customs broker, when authorization referred to in paragraph (1) of Article 79 (Authorization of a Customs Broker) becomes unnecessary, may, pursuant to the provision of Cabinet Order, notify that fact to the Director General of Customs who has given the authorization referred to in the paragraph.

(Invalidation of Authorization)

Article 79-4 (1) Authorization referred to in paragraph (1) of Article 79 (Authorization of a Customs Broker) ceases to be effective if any of the situations as set forth in the following occurs:

- (i) when a notification prescribed in the preceding Article is submitted;
  - (ii) when, after an authorized customs broker has died, application prescribed in paragraph (2) of Article 48-2 (Succession of Permission), as applied mutatis mutandis pursuant to Article 79-6 (Application mutatis mutandis of the Provision for Succession of Permission) is not made within the period specified in the paragraph or disposition not to give the approval referred to in the paragraph is made;
  - (iii) when permission of custom brokerage has ceased to be valid pursuant to the provision of paragraph (1) of Article 10 (Invalidation of Permission) of the Customs Brokerage Act;
  - (iv) when permission of customs brokerage is revoked pursuant to the provision of paragraph (1) of Article 11 (Revocation of Permission) of the Customs Brokerage Act;
  - (v) when the Director General of Customs revokes authorization.
- (2) When authorization referred to in paragraph (1) of Article 79 ceases to be effective, the Director General of Customs shall immediately give a public notice of that fact.
- (3) In the case where authorization referred to in paragraph (1) of Article 79 ceases to be effective, if any customs clearance procedures (limited to those pertaining to a special declaration (limited to a declaration pertaining to a special entrusting importer) or pertaining to an export declaration under specific entrustment; hereinafter the same applies in this paragraph) is being processed, a person who has been given the authorization or his/her heir (in the case where a juridical person that has been given authorization has ceased to exist as a result of merger, the juridical person that survives the merger or the juridical person that has been established as a result of the merger) is deemed to be given such authorization pertaining to such customs clearance procedures.

(Revocation of Authorization)

Article 79-5 (1) The Director General of Customs may, if an authorized customs broker falls under any of the following items, revoke the authorization referred to in paragraph (1) of Article 79 (Authorization of Customs Broker):

- (i) when the authorized customs broker falls under items (i)(c) to (i)(e) of paragraph (3) of Article 79 or the criteria referred to in item (ii) of the paragraph is not met;
  - (ii) when the authorized customs broker fails to take any necessary measures in response to the request made by the Director General of Customs as prescribed in Article 79-2 (Improvement Measures Relating to a Rule).
- (2) Necessary matters concerning the procedures for revocation of authorization prescribed in the preceding paragraph and any other necessary matters



concerning application of the paragraph shall be prescribed by Cabinet Order.

(Application mutatis mutandis of the Provision for Succession of Permission)  
Article 79-6 Article 48-2 (Succession of Permission) applies mutatis mutandis to an authorized customs broker. In this case, necessary technical replacement of terms shall be prescribed by Cabinet Order.

## **Chapter VII Custody and Retention**

(Custody of Goods)

Article 80 (1) The Director General of Customs may take goods set forth in the following into custody for the purpose of removing any obstacles to the use of a bonded area or ensuring collection of customs duty. In this case, the State does not, except in the case where it is caused intentionally or with negligence, bear the risk of any damage:

- (i) foreign goods stored in a designated bonded area for a period exceeding one month from the date on which they are brought into that area;
- (ii) foreign goods stored in a customs warehouse for a period exceeding the period specified in Article 43-2 (Period for which Foreign Goods may be Stored);
- (iii) foreign goods stored in a customs factory for a period exceeding the period specified in Article 57 (Period for which Foreign Goods may be Stored);
- (iii)-2 foreign goods stored in an integrated bonded area for a period exceeding the period specified in Article 62-9 (Period for which Foreign Goods may be Stored);
- (iii)-3 foreign goods stored in a customs warehouse, customs factory or integrated bonded area for a period exceeding the period specified in paragraph (1) of Article 43-3 (Approval for Storage of Foreign Goods) (including the case where applied mutatis mutandis pursuant to Article 61-4) or Article 62-10 (Approval for Storage of Foreign Goods), without obtaining approval prescribed in these provisions;
- (iv) foreign goods stored in a place deemed to be a designated bonded area, customs warehouse, customs factory, customs display area or integrated bonded area pursuant to the provision of Article 41 (Foreign Goods After Revocation of Designation) or paragraph (3) of Article 47 (Invalidation of Permission) (including the case where applied mutatis mutandis pursuant to Article 61-4, Article 62-7 and Article 62-15) for a period exceeding the period specified by the Director General of Customs pursuant to these provisions;
- (v) foreign goods permitted to be stored in a place specified pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Restrictions on Places for Storage of Foreign Goods), but stored in that place for a period exceeding the

- period specified pursuant to the provision of the item;
- (vi) goods which are stored in a bonded area and are, pursuant to the provision of item (i) of Article 106 (Authority of the Director General of Customs in Special Cases), ordered to be brought out of that area where they are stored for a period exceeding the period specified by the Director General of Customs pursuant to the provision of the item;
- (vii) goods which are, with the approval prescribed in paragraph (1) of Article 83 (Release from Custody), stored in a place where they were located at the time of the approval for more than three days (excluding the holidays of administrative organs, if any) after the date of such approval (excluding foreign goods which are kept in custody pursuant to the provision of the proviso to paragraph (3) of the next Article and for which permission referred to in Article 67 (Permission of Exportation or Importation) or approval referred to in paragraph (1) of Article 73 (Withdrawal of Goods Prior to Import Permission) is given).
- (2) In the case where goods set forth in the items are live animals or plants, where such goods are spoiled or deteriorate, where such goods are likely to be spoiled or deteriorate, or where such goods are likely to damage any other foreign goods, the period set forth in the items of the preceding paragraph may be shortened.
- (3) When the Director General of Customs takes goods into custody pursuant to the provision of paragraph (1) or the preceding paragraph, he/she shall, pursuant to the provision of Cabinet Order, immediately give a public notice of that fact. In this case, if the period has been shortened under the preceding paragraph, the Director General of Customs shall notify that fact to a known owner, administrator and any other interested persons of such goods.

(Method of Custody)

Article 80-2 (1) The custody is executed by way of the customs taking possession of goods.

- (2) Pledgees or holders of the rights of lien of goods to be taken into custody shall, notwithstanding the provisions of other laws and regulations, deliver the goods to the customs.
- (3) Goods taken into custody shall be kept at a place administered by the customs; provided, however, that if it is considered difficult or inappropriate to keep goods at such place, the customs may, with the consent of the administrator of the place where they are stored, have the administrator keep such goods. In this case, the customs shall make it clear, using seals or other means, that the goods are those taken into custody.

(Effect of Custody)

Article 81 (1) The effect of custody shall extend to natural fruits which may derive from goods taken into custody.

(2) Judicial provisional seizure or provisional disposition shall not preclude execution of custody.

(Custody Charge)

Article 82 With respect to goods taken into custody, there shall be imposed a custody charge in an amount to be prescribed by Cabinet Order on the basis of the kind, measurement or weight and the period of custody of the goods.

(Release from Custody)

Article 83 (1) A person who seeks release of goods from custody shall, pursuant to the provision of Cabinet Order, pay to the customs the expenses incurred for the custody and the custody charge, and shall obtain approval of the Director General of Customs.

(2) The Director General of Customs shall, when it is found that goods taken into custody will surely be withdrawn from custody, give the approval referred to in the preceding paragraph.

(Public Auction or Sale of Goods Kept in Custody)

Article 84 (1) If any goods are kept in custody for a period exceeding four months from the date on which they were initially taken into custody, the Director General of Customs may, pursuant to the provision of Cabinet Order, after giving a public notice, offer such goods for public auction. In this case, if the period is shortened under the next paragraph for the goods offered for public auction, the second sentence of paragraph (3) of Article 80 (Custody of Goods) applies *mutatis mutandis*.

(2) In the case where goods taken into custody are live animals or plants, where such goods are spoiled or deteriorate, where such goods are likely to be spoiled or deteriorate, or where such goods are likely to damage any other foreign goods, the period referred to in the preceding paragraph may be shortened.

(3) In cases where goods kept in custody are of such a nature that they cannot be offered for public auction or where there is no purchaser at the public auction, the Director General of Customs may, pursuant to the provision of Cabinet Order, put such goods on sale by negotiated contract.

(4) In the case where goods referred to in paragraph (1) of Article 71 (Goods Having False Indication of Origin) are offered for public auction or are put on sale by negotiated contract pursuant to the provision of paragraph (1), (2) or the preceding paragraph, the customs shall erase the false or deceptive indication of origin.

(5) The Director General of Customs may dispose goods kept in custody if they

are likely to cause an imminent danger of jeopardizing human life or damaging property, or if they depreciate significantly in their value due to spoiling, deterioration or other unavoidable reasons and there is no purchaser of them.

(6) Paragraph (2) of Article 81 (Custody and Provisional Seizure or Provisional Disposition) applies mutatis mutandis to public auction or sale by negotiated contract, as prescribed in paragraph (1) or (2), or (3).

(Allocation and Deposit of Proceeds from Public Auction)

Article 85 (1) In cases where goods are offered for public auction or are sold by negotiated contract pursuant to the provision of paragraph (1) or (2), or (3) of the preceding Article, customs duty and any other national taxes pertaining to such goods shall immediately be collected. In this case, the proceeds from such sale shall, pursuant to the provision of Cabinet Order, be allocated to the expenses in the order of expenses for public auction or sale by negotiated contract, expenses for custody, custody charge, customs duty and other national taxes, and the remainder, if any, shall be delivered to a person who owned such goods at the time of public auction or sale by negotiated contract.

(2) In the case where there is any remainder referred to in the preceding paragraph, if any person had a pledge of, or lien on goods at the time when the goods offered for public auction or sold by negotiated contract were taken into custody, the amount of money up to the amount of claim secured by such pledge or lien shall be delivered to the person who had such pledge or lien, prior to delivery of the remainder to the owner of such goods pursuant to the provision of the paragraph.

(3) The amount of money to be delivered under the preceding two paragraphs may be deposited pursuant to the provision of Cabinet Order.

(Retention of Personal Effects of Passengers)

Article 86 (1) If personal effects of a passenger or crew member are those that fall under paragraph (3) of Article 70 (Goods the Certification or Confirmation of which cannot be Made), the Director General of Customs may retain such goods in exchange for a certificate of retention.

(2) A person who seeks return of goods retained pursuant to the provision of the preceding paragraph shall pay to the customs the expenses incurred for their retention.

(Retention of Goods Having False Indication of Origin)

Article 87 (1) The Director General of Customs shall, in cases where a person who makes an import declaration of goods referred to in paragraph (1) of Article 71 (Goods Having False Indication of Origin) does not erase or correct a false or deceptive indication of origin, or the person does not reshipe them,

within the period specified pursuant to the provision of paragraph (2) of the Article, retain such goods.

- (2) Goods retained under the preceding paragraph shall, pursuant to the provision of Cabinet Order, be returned only after such false or deceptive indication of origin is erased or corrected or when it is found that they are to be reshipped.
- (3) Paragraph (2) of the preceding Article applies mutatis mutandis to the return referred to in the preceding paragraph.

(Application mutatis mutandis of Provisions Concerning Custody)

Article 88 The second sentence of paragraph (1) of Article 80 (Custody of Goods), Article 80-2 (Method of Custody), Article 81 (Effect of Custody), Article 84 (Public Auction or Sale of Goods Kept in Custody) and Article 85 (Allocation and Deposit of Proceeds from Public Auction) apply mutatis mutandis to the retention of goods referred to in the preceding two Articles.

#### **Chapter VII-2 Relations with Administrative Procedure Act**

Article 88-2 (1) The provisions of Chapter 2 (Dispositions upon Applications) (excluding Article 8 (Presentation of Grounds)) and Chapter 3 (Adverse Dispositions) (excluding Article 14 (Showing of Grounds for Adverse Dispositions)) of the Administrative Procedure Act do not apply to the dispositions or other acts of the exercise of public authority based on this Act or other laws relating to customs duty (excluding those based on the provision of paragraph (2) of Article 71 (Importation of Goods Having False Indication of Origin)), in addition to what is provided for in paragraph (1) of Article 3 (Exclusion from Application) and paragraph (1) of Article 4 (Exclusion from the Application of Dispositions Rendered towards National Government Organs) of the Administrative Procedure Act (Act No. 88 of 1993).

- (2) Paragraph (3) of Article 35 and Article 36 (Administrative Guidance Directed to More Than One Persons) of the Administrative Procedure Act shall not apply to administrative guidance performed for the purpose of properly discharging the obligations to pay customs duty pursuant to the provisions of this Act or other laws relating to customs duty (i.e., administrative guidance as provided for in item (vi) of Article 2 (Definitions) of the Administrative Procedure Act), in addition to what is provided for in paragraph (1) of Article 3 and paragraph (4) of Article 35 (Means of Administrative Guidance) of the Administrative Procedure Act.

#### **Chapter VIII Appeal**

(Request for Re-Investigation)

- Article 89 (1) Any person may request re-investigation if the person is dissatisfied with a disposition reached by the Director General of Customs as prescribed in the provisions of this Act or any other laws relating to customs duty.
- (2) For the purpose of application of the preceding paragraph and Article 91, any disposition reached by customs officials prescribed in the provisions of this Act or other laws relating to customs duty shall be deemed to be a disposition made by the Director General of Customs having jurisdiction over the customs office to which such customs officials belong.

Article 90 Deleted.

(Consultation with Councils)

- Article 91 When a request for review is made with respect to the disposition reached by the Minister of Finance or the Director General of Customs under the provision of this Act or other laws relating to customs duty, the Minister of Finance shall, except in the case that fall under any of the following items, consult with the Council, etc. (i.e., the organs provided for in Article 8 (Councils, etc.) of the National Government Organization Act (Act No. 120 of 1948)) to be prescribed by Cabinet Order:
- (i) where the requestor for review has presented the intention not to wish to have the request subject to such consultation (excluding the case where any intervenor (i.e., an intervenor provided for in paragraph (4) of Article 13 (Intervenors) of the Administrative Complaint Review Act) has raised an objection to such omission of consultation);
  - (ii) where the request for review is unlawful and the reviewing agency intends to dismiss it without prejudice;
  - (iii) where the disposition pertaining to review (excluding a disposition to dismiss with or without prejudice an application based on laws and regulations, and de facto acts) is wholly revoked pursuant to the provision of paragraph (1) of Article 46 (Upholding of Request for Review with Regard to Disposition) of the Administrative Complaint Review Act or where the de facto acts pertaining to the review are ordered to be wholly eliminated pursuant to the provision of item (i) or (ii) of Article 47 (Upholding of Request for Review with Regard to Disposition) of the Act or are to be eliminated (excluding the cases where a written opinion to oppose the revocation of the relevant disposition in full or the order or decision to eliminate the relevant de facto acts in full has been submitted and where an opinion to that effect has been stated on the occasion of stating an opinion orally);
  - (iv) where the measures specified in the items of paragraph (2) of Article 46 of

the Administrative Complaint Review Act (limited to ordering to uphold or deciding to uphold an application based on laws and regulations in full) are to be taken (excluding the cases where a written opinion oppose the upholding of the relevant application in full has been submitted and where an opinion to that effect has been stated on the occasion of stating an opinion orally).

Article 92 Deleted.

(Relation between Request for Review and Litigation)

Article 93 No action for revocation of disposition or notification set forth in the following may be filed until a determination is made on the request for review with respect to such disposition or notification:

- (i) disposition concerning determination or collection of customs duty or disposition of delinquency (i.e., disposition of delinquency in the case where customs duty is collected, using the same rule as national taxes);
- (ii) notification prescribed in paragraph (3) of Article 69-2 (Goods the Exportation of which is Prohibited) or paragraph (3) of Article 69-11 (Goods the Importation of which is Prohibited).

## **Chapter IX Miscellaneous Provisions**

(Maintenance of Books)

Article 94 (1) A person who imports, in the course of trade, goods to which the self-assessment system applies (excluding goods pertaining to a special declaration of an authorized importer; referred to as "general import goods" in paragraph (3)) shall, pursuant to the provision of Cabinet Order, maintain books stating the descriptions, quantities, prices and other necessary matters, of such goods and preserve these books and documents prepared or received in connection with transaction pertaining to such goods and such other documents as may be prescribed by Cabinet Order; provided, however, that this does not apply to documents submitted to the customs pursuant to the provision of Article 68 (Documents to be Submitted at the Time of Export or Import Declaration).

(2) The preceding paragraph applies mutatis mutandis to a person who exports goods in the course of trade (excluding goods exported as accompanied goods by a person upon his/her departure from Japan, postal items and specific export goods; referred to as "general export goods" in the next paragraph).

(3) Articles 4 to 10 (Preservation of Books and Documents Relating to National Taxes in Electronic or Magnetic Records; Preservation of Books and Documents Relating to National Taxes on Computer-Output Microfilms; Application for

Approval of Preservation in Electronic or Magnetic Records; Changes Pertaining to Approval of Preservation in Electronic or Magnetic Records; Revocation of Approval of Preservation in Electronic or Magnetic Records; Application mutatis mutandis to Approval of Preservation on Computer-Output Microfilms; Exclusion from Application of the Act on the Utilization of Information and Communications Technology in Administrative Procedures; Preservation of Electronic or Magnetic Records Pertaining to Information on Electronic Transaction) and paragraphs (1) and (2) of Article 11 (Application of Provisions of Other Laws Relating to National Taxes) of the Act concerning Preservation of Electronic Books applies mutatis mutandis to a person who, in the course of trade, imports general import goods or exports general export goods. In this case, the terms shown in the middle columns of the following table, which correspond to the provisions set forth in the left columns shall be replaced respectively by the terms shown in the right columns, and necessary technical replacement of terms shall be prescribed by Cabinet Order.

Provisions of the Act concerning Preservation of Electronic Books	Terms to be replaced	Terms to replace
Paragraph (1) of Article 4	all or part of the books relating to national taxes	the books required to be maintained and preserved pursuant to the provision of paragraph (1) of Article 94 (Maintenance of books) of the Customs Act (including the case where applied mutatis mutandis pursuant to paragraph (2) of the Article; the same applies in the next paragraph) (hereinafter referred to as "books relating to customs duty")



	the District Director of Tax Office having jurisdiction over the place of tax payment, etc. (in the case where Ministry of Finance Order so specifies, the Director General of Customs having jurisdiction over the place of tax payment, etc.; hereinafter referred to as "the competent District Director of Tax Office, etc.")	the Director General of Customs having jurisdiction over the place where general import goods (i.e., the general import goods provided for in paragraph (1) of the Article; the same applies in Article 10) are to be imported or the place where such general export goods (i.e., the general export goods provided for in paragraph (2) of Article 94 of the Act) are to be exported (hereinafter referred to as "the competent Director General of Customs")
Paragraph (2) of Article 4	all of the documents relating to national taxes	all of the documents required to be preserved under paragraph (1) of Article 94 of the Customs Act (hereinafter referred to as "documents relating to customs duty")
Paragraph (1) of Article 5	all or part of the books relating to national taxes	books relating to customs duty
Paragraph (3) of Article 5	of books or documents relating to national taxes	of books or documents relating to customs duty (i.e., books relating to customs duty or documents relating to customs duty; hereinafter the same applies)
Paragraph (1) of Article 6	the day of commencing maintenance of the books relating to national taxes ( when the days of commencing maintenance of two or more books relating to national taxes, if any, are different, then the earliest day of commencing the maintenance; the same applies in item (i) of paragraph (5))	the day of commencing maintenance of books relating to customs duty

	the kinds of books relating to national taxes, such books relating to national taxes	books relating to customs duty
	all or part of the books relating to national taxes	books relating to customs duty
Paragraph (6) of Article 6	the District Director of Tax Office (hereinafter in this paragraph referred to as "the District Director of Tax Office not having jurisdiction over the areas")	the Director General of Customs (hereinafter in this paragraph referred to as "the Director General of Customs not having jurisdiction over the areas")
Article 9	the date to replace (where there are two or more books relating to national taxes, if the days on which such books are replaced are different, an earlier day on which such books are replaced; the same applies in item (i) of paragraph (5))	the date to replace
Article 10	the person responsible for preservation, pertaining to income tax (excluding withholding income tax) and corporation tax	the person engaged in importing general import goods in the course of trade or the person engaged in exporting general export goods in the course of trade

(Agent for Managing Customs Matters)

Article 95 (1) In the case where a declarant, etc. who is an individual (i.e., a person who is to proceed with the customs procedures; hereinafter the same applies in this Article) does not have or ceases to have his/her domicile and residence in Japan (excluding the office and place of business) or a declarant, etc. who is a juridical person having no headquarters or main office in Japan does not have or ceases to have its office or place of business in Japan, if the customs procedures and matters relating to such procedures (hereinafter in this paragraph and paragraph (3) referred to as "customs procedures, etc.") need to be managed, the declarant, etc. shall, for the purpose of managing such customs procedures, etc., appoint an agent for managing customs matters from among those having domicile or residence (in the case of a juridical person, the

headquarters or main office) in Japan and providing services for managing such customs procedures, etc.

- (2) A declarant, etc. shall, when the declarant, etc. appoints an agent for managing customs matters under the preceding paragraph, notify, pursuant to the provision of Cabinet Order, such appointment to the Director General of Customs pertaining to the customs procedures managed by that agent. The same applies when the declarant, etc. dismisses the agent.
- (3) An agent for managing customs matters who manages customs procedures, etc. shall, when it is requested by the Director General of Customs to present books and documents which are required to be preserved by the declarant, etc. pertaining to such customs procedures, etc. pursuant to the provision of paragraph (1) of Article 7-9, paragraph (1) of Article 67-8 (Maintenance of Books) and paragraph (1) of the preceding Article (including the case where applied *mutatis mutandis* pursuant to paragraph (2) of the Article), present such books and documents to the Director General of Customs. In this case, the declarant, etc. shall provide the agent necessary support for presenting such books and documents.
- (4) The term "customs procedures" as used in paragraphs (1) and (2) means procedures for import declaration and other procedures based on the provisions of this Act, the Customs Tariff Act or other laws relating to customs duty (excluding those procedures which are taken by a person who enters, or departs from Japan, upon his/her entry into, or departure from Japan and such other procedures as may be prescribed by Cabinet Order).

(Port Area of Open Port and Customs Airport)

Article 96 The port area of an open port shall, except as provided for by Cabinet Order, be the area of port as provided for by the Act on Port Regulations (Act No. 174 of 1948), whereas the port area of a customs airport shall be the area to be prescribed by Cabinet Order.

(Notification by Police Officers)

- Article 97 (1) Any police officer shall, if he/she receives a notification prescribed in paragraph (2) of Article 20 (Entry into or Departure from Closed Port), Article 21 (Temporary Landing of Foreign Goods), the proviso to paragraph (2) of Article 23 (Loading of Vessel's or Aircraft's Stores) or the proviso to paragraph (1) of Article 64 (Transportation of Wreckage), immediately notify the customs of that fact.
- (2) In the case where a mayor of municipality sells goods at public auction, approves a sale of goods or delivers goods, pursuant to the provision of the Sea Casualties Rescue Act (Act No. 95 of 1899), where a chief of a police station returns or sells goods or allows goods to be retrieved, pursuant to the provision

of the Lost Property Act (Act No. 73 of 2006) or the Act for Controlling the Possession of Firearms or Swords and Other Such Weapons or where a public official other than a customs official disposes of goods, he/she shall in advance notify the customs of that fact if foreign goods are found among the goods so disposed.

- (3) In the case referred to in the preceding paragraph, in addition to the case where paragraph (5) of Article 118 (Collection of Customs Duty on Goods Pertaining to Criminal Offenses) or paragraph (6) of Article 134 (Collection from the Proceeds of Realization of Retained Goods) applies, customs duty pertaining to foreign goods shall immediately be collected from a person who acquires such goods as a result of the disposition referred to in the preceding paragraph (excluding such persons as may be prescribed by Cabinet Order).
- (4) In the case referred to in the preceding paragraph, customs duty pertaining to foreign goods referred to in the paragraph shall be collected pursuant to the provision of the paragraph at or after the time when such foreign goods are possessed by a person who is to make a disposition referred to in the paragraph, inclusive of the case where customs duty should have been paid for the reason that such foreign goods were imported. In this case, if procedures for determination of customs duty prescribed in paragraph (2) of Article 7-16 (Determination) or other procedures for determination of customs duty have been performed, such procedures shall be deemed not to have been performed.

(Request for Customs Services Out of the Official Office Hours)

Article 98 (1) A person who requests the customs to provide such customs services as may be prescribed by Cabinet Order outside the official office hours of customs offices shall notify its request to the Director General of Customs in advance.

- (2) In the case referred to in the preceding paragraph, the Director General of Customs shall, if he/she finds that it will not cause any problem in providing customs services, provide the services pertaining to the notification referred to in the paragraph.

(Criteria for Approval or Permission)

Article 99 If it is found that it will not cause any problem in ensuring the enforcement of this Act, approval referred to in paragraph (2) of Article 59 (Use of Domestic Goods) (including the case where applied mutatis mutandis pursuant to Article 62-15), paragraph (1) of Article 63 (Customs Transportation), paragraph (1) of Article 64 (Transportation of Wreckage) or paragraph (1) of Article 66 (Transportation of Domestic Goods), or permission referred to in the proviso to paragraph (3) of Article 16 (Loading or Unloading of Goods), paragraph (1) of Article 20 (Entry into or Departure from Closed

Port), Article 24 (Travel between Vessels or Aircraft and Land), item (ii) of paragraph (1) of Article 30 (Restrictions on Places for Storage of Foreign Goods) or Article 32 (Temporary Taking out of Samples) (including the case where applied mutatis mutandis pursuant to Article 36), shall be given.

(Fees)

Article 100 A person who obtains permission set forth in the following items shall, pursuant to the provision of Cabinet Order, pay the customs a fee in an amount to be prescribed by Cabinet Order on the basis of the matters specified in the items:

- (i) permission referred to in paragraph (1) of Article 20 (Entry into or Departure from Closed Port): net tonnage of a vessel engaged in foreign trade or deadweight of an aircraft engaged in foreign trade;
- (ii) permission referred to in paragraph (1) of Article 42 (Permission of a Customs Warehouse), paragraph (1) of Article 56 (Permission of a Customs Factory), paragraph (1) of Article 62-2 (Permission of a Customs Display Area) or paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area): the type, total floor space and validity period of permission of a customs warehouse, customs factory, customs display area or integrated bonded area pertaining to the permission, and the kinds of customs services to be provided in such customs warehouse, customs factory, customs display area or integrated bonded area;
- (iii) permission referred to in paragraph (2) of Article 69 (Place for Inspection of Goods) (including the case where applied mutatis mutandis pursuant to Article 75): the time required for inspection pertaining to such permission.

(Reduction of or Exemption from Fees)

- Article 101 (1) The Director General of Customs may, if it is considered particularly necessary for promoting use of a designated bonded area or for contributing to the promotion of trade or international cultural exchange, reduce, pursuant to the provision of Cabinet Order, the fees to be paid pursuant to the provision of the preceding paragraph by a person who has obtained permission referred to in paragraph (1) of Article 42 (Customs Warehouse), paragraph (1) of Article 56 (Customs Factory), paragraph (1) of Article 62-2 (Customs Display Area) or paragraph (1) of Article 62-8 (Integrated Bonded Area), or such fees may be exempted.
- (2) The Director General of Customs may, when a person who has obtained permission referred to in paragraph (1) of Article 42, paragraph (1) of Article 56, paragraph (1) of Article 62-2 or paragraph (1) of Article 62-8 notifies suspension of its business pursuant to the provision of Article 46 (Notification of Suspension or Discontinuance of Business) (including the case where applied

mutatis mutandis pursuant to Article 61-4, Article 62-7 and Article 62-15), pursuant to the provision of Cabinet Order, exempt the person from the fees to be paid under the preceding Article.

- (3) The Director General of Customs may, when a vessel engaged in foreign trade enters the same closed port four times or more in one year, pursuant to the provision of Cabinet Order, reduce, or exempt from permission fees set forth in item (i) of the preceding Article for the fourth and any subsequent entry.
- (4) The initial date for calculating the period referred to in the preceding paragraph shall be the first day of January.

(Delivery of Certificates and Inspection of Statistics)

Article 102 (1) The customs shall, pursuant to the provision of Cabinet Order, deliver certificates concerning customs services if any person requests such certificates to be delivered, and shall prepare statistics concerning the following matters and make such statistics available to any person for inspection if so requested:

- (i) goods exported or reshipped, or imported;
- (ii) vessels engaged in foreign trade, etc. which entered, or departed from ports;
- (iii) in addition to those set forth in the preceding two items, such other matters concerning foreign trade as may be prescribed by Cabinet Order.

- (2) A person who requests delivery of certificates referred to in the preceding paragraph shall, pursuant to the provision of Cabinet Order, pay fees fixed on the basis of the number of sheets of paper used for the certificates.
- (3) The Minister of Finance shall prepare the statistics referred to in paragraph (1) and shall, pursuant to the provision of Cabinet Order, make them publicly available at regular intervals.
- (4) The Minister of Finance shall, when any person wishes to inspect the statistics prepared under the preceding paragraph, pursuant to the provision of Cabinet Order, make the statistics available to that person for inspection, and when any person requests recording of such statistics on the tape by providing magnetic tape for an computer or such other recording medium as may be prescribed by Cabinet Order (hereinafter in this paragraph and in the next paragraph referred to as "magnetic tape, etc."), the Minister of Finance shall record the statistics on the magnetic tape, etc. and deliver it to that person.
- (5) Paragraph (2) applies mutatis mutandis to a person who requests recording of statistics on magnetic tapes, etc. In this case, the term "the number of sheets of paper used for certificates" in the paragraph shall be deemed to be replaced with "the number of magnetic tapes, etc."

(Refund of, Reduction of or Exemption from Fees due to Disaster)

Article 102-2 (1) The Director General of Customs may, with respect to the fees

paid pursuant to the provision of item (iii) of Article 100 (Fees) by a person who has obtained permission referred to in paragraph (2) of Article 69 (Place for Inspection of Goods) (including the case where applied *mutatis mutandis* pursuant to Article 75; the same applies in the next paragraph) pertaining to goods set forth in the following, if it is considered necessary, refund, pursuant to the provision of Cabinet Order, the amount equivalent to that of the fees paid:

- (i) goods which fall under the supplies donated for relief purposes as prescribed in item (iii) of paragraph (1) of Article 15 (Exemption from Customs Duty for Specific Use) of the Customs Tariff Act and which are intended for supporting victims of a designated disaster;
  - (ii) goods which are stored in a bonded area located in a designated area (including a place pertaining to goods which have been permitted by the Director General of Customs pursuant to the provision of item (ii) of paragraph (1) of Article 30 (Restriction on Places for Storage of Foreign Goods); hereinafter the same applies in this item and in item (ii) of paragraph (3)) at the time of occurrence of a designated disaster in that designated area, and which need to be urgently removed from that bonded area for preservation or for other reason, or any other goods recognized as equivalent to such goods by the Director General of Customs.
- (2) The Director General of Customs may, with respect to the fees to be paid pursuant to the provision of item (iii) of Article 100 by a person who obtains permission referred to in paragraph (2) of Article 69 pertaining to goods set forth in the items of the preceding paragraph, if it is considered necessary at the time of giving such permission, exempt, pursuant to the provision of Cabinet Order, that person from the fees.
- (3) The Director General of Customs may, with respect to the fees paid pursuant to the provision of paragraph (2) of the preceding Article by a person who requests delivery of the following certificates which fall under those provided for in paragraph (1) of the Article, if it is considered necessary, refund, pursuant to the provision of Cabinet Order, the amount equivalent to that of the fees:
- (i) a certificate pertaining to goods set forth in item (i) of paragraph (1);
  - (ii) a certificate pertaining to damage caused by a designated disaster in a designated area to goods stored in a bonded area located in the designated area at the time of occurrence of the designated disaster;
  - (iii) in cases where a certificate or a document notifying an administrative disposition of the Director General of Customs issued to a victim of a designated disaster in a designated area before the occurrence of the designated disaster was lost, burnt or significantly damaged due to the designated disaster, a certificate of the same contents as those of such

certificate or document certifying such administrative disposition if the victim needs such certificate.

(4) The Director General of Customs may, with respect to the fees to be paid pursuant to the provision of paragraph (2) of the preceding Article by a person who requests delivery of the certificates set forth in the items of the preceding paragraph, if it is considered necessary at the time of delivering such certificate, exempt, pursuant to the provision of Cabinet Order, the person from the fees.

(5) The Director General of Customs may, when it is considered that the facilities set forth in the left columns of the table shown below, which are located in a designated area, cause difficulty in improving the services due to the damage to the facilities caused due to a designated disaster pertaining to the designated area, pursuant to the provision of Cabinet Order and according to the extent of the damage, refund wholly or partly the amount of money equivalent to that of the fees paid, pursuant to the provisions shown in the right columns of the table, by the person who received the administrative disposition shown in the middle columns of the table relating to the facilities set forth in the left columns, or reduce the fees to be paid by the person pursuant to the provisions shown in the right columns of the table, or exempt the person from the fees.

(i) customs warehouse	permission under paragraph (1) of Article 42	item (ii) of Article 100
(ii) customs factory	permission under paragraph (1) of Article 56	item (ii) of Article 100
(iii) customs display area	permission under paragraph (1) of Article 62-2	item (ii) of Article 100
(iv) integrated bonded area	permission under paragraph (1) of Article 62-8	item (ii) of Article 100
(v) the facilities prescribed by Cabinet Order, which are established under the laws relating to customs duty	the administrative disposition prescribed by Cabinet Order, which is given under the provisions of the law relating to customs duty pertaining to such facilities	the provisions of the law relating to customs duty, which order the payment of fees for such disposition and are prescribed by Cabinet Order

(Limitation of Purchasers)

Article 103 The securities for customs duty, goods taken into custody, retained



or confiscated, or detained goods or seized goods, if they are offered for public auction or for sale under negotiated contracts by the customs, may by no means be purchased by any customs official or their owner.

(Carrying and Using Weapons)

Article 104 (1) Customs officials may, pursuant to the provision of this Act, customs control over exportation or importation of goods or investigation of criminal case, when it is considered particularly necessary, until otherwise provided for by law, carry small weapons..

(2) When customs officials conduct customs control or investigation referred to in the preceding paragraph, if there are adequate grounds to believe that it is unavoidably necessary for the purpose of protecting their own or any other person's life or body or suppressing resistance against performing official duty, the customs officials may use the weapons referred to in the preceding paragraph to the extent considered reasonably necessary under the circumstances.

(Authority of Customs Officials)

Article 105 (1) The customs officials may, when it is necessary for performing their official duties prescribed by Cabinet Order under the provisions of this Act (except Chapter 11 (Investigation and Disposition of Criminal Cases)), the Customs Tariff Act or other laws relating to customs duty, perform the acts set forth in the following to the extent considered necessary:

- (i) with respect to a vessel engaged in foreign trade, etc. or a vessel, aircraft or a vehicle other than a vessel engaged in foreign trade, etc., which carry on board foreign goods, goods loaded thereon, goods stored in, or brought into or removed from, a bonded area, or foreign goods other than those specified above, to question the owner, possessor, administrator, master of a vessel, captain of aircraft, carrier or any other person concerned, to inspect such vessels, aircraft, vehicles or goods, or to have, instead of taking such actions, such persons present or submit relevant documents (including electronic or magnetic records in the case where such records are prepared or preserved in lieu of such documents);
- (ii) to inspect books and documents concerning goods set forth in the preceding item (including electronic or magnetic records, if such records are prepared or preserved in lieu of preparing or preserving books or documents; the same applies in items (iv-2) to (vi) and Article 105-3) or to seal such goods or the place where they are stored;
- (iii) to take samples or to require samples to be provided, at the time of inspection prescribed in Article 43-4 (Inspection at the Time of Approval for Storage of Foreign Goods) (including the case where applied mutatis

- mutandis pursuant to Articles 61-4 (Application mutatis mutandis of the Provisions Concerning Customs Warehouses) and 62-15 (Application mutatis mutandis of the Provisions Concerning Customs Warehouses, Customs Factories and Customs Display Areas)), paragraph (3) of Article 61 (Work Using Customs Manufacturing Procedures, Performed Outside a Customs Factory) (including the case where applied mutatis mutandis pursuant to Article 62-7 (Application mutatis mutandis of the Provisions Concerning Customs Warehouses and Customs Factories) or Article 62-15), paragraph (2) of Article 62-3 (Procedures Pertaining to Foreign Goods to be Brought into a Customs Display Area), paragraph (2) of Article 63 (Customs Transportation), Article 67 (Permission of Exportation or Importation) (including the case where applied mutatis mutandis pursuant to Article 75), paragraph (3) of Article 67-4 (Revocation of Export Permission), or the proviso to paragraph (1) of Article 76 (Simplified Procedures for Exportation and Importation of Postal Items);
- (iv) to board a vessel engaged in foreign trade, etc. or a vessel or aircraft other than a vessel engaged in foreign trade, etc., which loads or is to load foreign goods on board, or to require any vehicle entering, or departing from a bonded area to temporarily halt;
- (iv)-2 to question an exporter of exported goods, a customs broker who provided customs clearance services pertaining to the exportation, an entruster of such exportation or other persons concerned (referred to as "exporter, etc." in the next paragraph), to inspect books and documents concerning such goods and any other materials, or to request to present or submit such books, documents and other materials (including their copies);
- (v) to inspect goods for which customs duty is reduced or exempted pursuant to the provision of paragraph (1) of Article 13 (Reduction of, or Exemption from Customs Duty on Raw Materials for Manufacture) or paragraph (1) of Article 19 (Reduction of, Exemption from or Refund of Customs Duty on Raw Materials for Manufacture of Goods for Export) of the Customs Tariff Act, goods pertaining to refund of customs duty prescribed in paragraph (1) of Article 19, goods pertaining to deduction of customs duty prescribed in paragraph (6) of Article 19, products manufactured from such goods, machineries and equipments used for such manufacture, or books and documents relating thereto;
- (vi) to question an importer of imported goods, a customs broker who provided customs clearance services pertaining to the importation, an entruster of such importation, or a person who sold in Japan goods that have been dumped in the sense as provided for in paragraph (1) of Article 8 (Anti-Dumping Duty) of the Customs Tariff Act (including importation of goods which are deemed to be dumped goods pursuant to the provision of

- paragraph (36) of the Article) or other persons concerned (referred to as "importers, etc." in the next paragraph), to inspect such goods, books and documents or other materials concerning such goods, or to request to present or submit such books, documents and other materials (including their copies).
- (2) Customs officials may, in cases where the customs officials request exporters, etc. or importers, etc. to submit materials pursuant to the provision of item (iv-2) or (vi) of the preceding paragraph, if it is considered necessary, retain the materials so submitted.
- (3) Customs officials shall, when the customs officials perform their official duties pursuant to the provision of paragraph (1), pursuant to the provision of Ministry of Finance Order, wear a uniform, carry their certificate of identification, and, if requested by any person concerned, present the certificate to that person.
- (4) The authority to question or inspect as prescribed in paragraphs (1) and (2) shall not be construed as being approved for criminal investigation.
- (5) In addition to the matters provided for in the preceding paragraph, necessary matters concerning application of paragraph (2) shall be prescribed by Cabinet Order.

(Prior Notice of Examination to Importers)

Article 105-2 Articles 74-9 (excluding paragraphs (3), (5) and (6)) to 74-11 (excluding paragraphs (4) and (5)) (Prior Notice of Examination to a Person Liable to Pay Taxes; Cases where Prior Notice is not Required; Procedures for Terminating Examination) of the Act on General Rules for National Taxes applies mutatis mutandis to the cases where the Director General of Customs requires customs officials to ask importers questions, to conduct inspection or to request importers to present or submit books and documents, as provided for in item (vi) of paragraph (1) of the preceding Article. In this case, the terms shown in the middle columns of the following table, which correspond to the provisions set forth in the left columns shall be replaced respectively by the terms shown in the right columns, and necessary technical replacement of terms shall be prescribed by Cabinet Order.

Provisions of the Act on General Rules for National Taxes	Terms to be replaced	Terms to replace
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Paragraph (1) of Article 74-9	the District Director of Tax Office, etc. (i.e., the Commissioner of National Tax Agency, the Directors of the Regional Taxation Bureau, the District Director of Tax Office or the Director General of Customs; hereinafter the same applies in this Article to Article 74-11 (Procedures at the Time of Completion of Examination))	the Director General of Customs
	the National Tax Agency, etc. or the customs	the customs
	(hereinafter the Article	(hereinafter Article 74-11
	to the taxpayer	to the importer
	examination (in the case of examination conducted by such customs officials, limited to the examination carried out after the items on which consumption tax, etc. is chargeable are withdrawn from bonded areas or examination conducted with respect to international tourist tax; hereinafter the same applies in this Article to the Article	examination
	Articles 74-2 to 74-6 (Right of Inquiries and Inspection of Officials)	item (vi) of paragraph (1) of Article 105 of the Customs Act (Authorities of Customs Officials)
	taxpayer (in cases where a tax agent acts on behalf of such taxpayer, including the tax agent)	importer
Paragraph (2) of Article 74-9	the District Director of Tax Office, etc.	the Director General of Customs
	taxpayer	importer
Article 74-10	the District Director of Tax Office, etc.	the Director General of Customs

	the taxpayer set forth in item (i) of paragraph (3) of the Article	the importer
	the National Tax Agency or the customs	the customs
	to national taxes	to customs duty
Paragraph (1) of Article 74-11	the District Director of Tax Office, etc.	the Director General of Customs
	national taxes	customs duty
	reassessment or determination, etc. (including the notice of tax due provided for in paragraph (1) of Article 36 (Notice of Tax Due) (limited to the notice pertaining to item (ii) of the paragraph); hereinafter the same applies in this Article)	reassessment, determination or determination for official assessment (hereinafter referred to as "reassessment or determination, etc." in this Article)
	taxpayer (i.e., taxpayer set forth in item (i) of paragraph (3) of Article 74-9 (Prior notice of examination to a taxpayer); hereinafter the same applies in this Article)	importer
Paragraph (2) of Article 74-11	national taxes	customs duty
	taxpayer	importer
Paragraph (3) of Article 74-11	taxpayer	importer
	return filed after the due date	special declaration after time-limit prescribed in paragraph (1) of Article 7-4 (Special Declaration after Time-Limit) of the Customs Act
	tax return	declaration form pertaining to such declaration
Paragraph (6) of Article 74-11	taxpayer	importer
	filing of a return form after due date or payment of withholding income tax	filing of a special declaration form after time-limit as provided for in paragraph (2) of Article 7-4 of the Customs Act

	Articles 74-2 to 74-6 (Right of Inquiries and Inspection of Officials)	item (vi) of paragraph (1) of Article 105 (Authorities of Customs Officials) of the Customs Act
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(Request to Public Agency for Cooperation)

Article 105-3 Customs officials may, when it is necessary for performing their official duties pursuant to the provisions of this Act, the Customs Tariff Act or other laws relating to customs duty, request the public agency or Government-affiliated agencies to enable them to inspect, or to provide them with books and documents or other materials used as reference for performing their duties, or to extend other forms of cooperation.

(Authority of the Director General of Customs in Special Cases)

Article 106 The Director General of Customs may, if there are adequate grounds to believe that it is unavoidably necessary for ensuring the enforcement of this Act, perform the acts set forth in the following items:

- (i) to suspend temporarily the loading of goods onto, or unloading of goods from, a vessel engaged in foreign trade, etc. or a vessel or aircraft other than a vessel engaged in foreign trade, etc., which carries foreign goods on board, or temporary suspension of handling of goods stored in a bonded area, or to require any goods to be removed from a bonded area within a period to be specified;
- (ii) to postpone temporarily the departure of a vessel or aircraft or to suspend temporarily its navigation.

(Delegation of Authority of the Director General of Customs)

Article 107 The Director General of Customs may, pursuant to the provision of Cabinet Order, delegate part of his/her authority to the chief of customs branch or of other customs office.

(Territory Deemed to be Foreign Country)

Article 108 For the purpose of application of this Act, the territory of Japan prescribed by Cabinet Order, until otherwise provided for by law, shall be deemed to be a foreign country.

(Provision of Information)

Article 108-2 (1) The Minister of Finance may provide the authorities that enforce foreign laws and regulations (hereinafter referred to as "foreign customs authorities" in this Article and the next Article) equivalent to this Act,

the Customs Tariff Act and other laws relating to customs duty (hereinafter referred to as "customs laws and regulations" in this Article and the next Article) with information which, it is considered, contributes to the execution of their official duties (limited to the official duties equivalent to those of the customs as prescribed by the customs laws and regulations; hereinafter the same applies in this Article and the next Article); provided, however, that this does not apply to the case where it is found that provision of such information is likely to cause difficulty in properly enforcing the customs laws and regulations or otherwise to infringe on the interests of Japan.

- (2) The Minister of Finance shall, at the time of providing information provided for in the preceding paragraph to foreign customs authorities, confirm the following matters:
  - (i) that the foreign customs authorities are authorized to provide the customs authorities of Japan with information equivalent to the information provided for in the preceding paragraph;
  - (ii) that maintenance of confidentiality is secured under the laws and regulations of the foreign countries at the level equivalent to that of Japan with respect to the information provided pursuant to the provision of the preceding paragraph as confidential information;
  - (iii) that the information provided pursuant to the provision of the preceding paragraph is not used by the foreign customs authorities for the purposes other than those contributing to the execution of their official duties.
- (3) Appropriate measures shall be taken with respect to the information provided pursuant to the provision of paragraph (1) so that the information may not be used in criminal proceedings executed by a foreign court or judge (referred to simply as "criminal proceedings" in the next paragraph) without the consent prescribed in the next paragraph.
- (4) The Minister of Finance may, if requested by any foreign customs authorities, except in the case falling under any of the following items, give consent to the use of the information provided pursuant to the provision of paragraph (1) for criminal proceedings pertaining to such request:
  - (i) when the crime subject to the criminal proceedings pertaining to such request is a political crime or when such request is found to have been made for the purpose of conducting the criminal proceedings for a political crime;
  - (ii) when the act pertaining to the offence which is subject to criminal proceedings pertaining to such request would not constitute a crime under the laws and regulations of Japan had such act been committed in Japan;
  - (iii) when the foreign country which makes the request does not assure that it will accept a similar request from Japan.
- (5) The Minister of Finance shall, when giving the consent referred to in the preceding paragraph, obtain in advance confirmation of the Minister of Justice

that items (i) and (ii) of the paragraph are not applicable or confirmation of the Minister of Foreign Affairs that item (iii) of the paragraph is not applicable.

(Attendance)

Article 108-3 (1) The Minister of Finance may, in the case where any foreign customs authority requests approval of attendance of their officials at the time when Japanese customs officials make inquiries based on the customs laws and regulations, on the grounds that such officials' attendance is necessary for the execution of their official duties, if it is considered appropriate to accept such request, approve such attendance; provided, however, that this does not apply to the case where it is found that approval of such attendance is likely to cause difficulty in properly enforcing the customs laws and regulations or otherwise to infringe on the interests of Japan or where no consent is obtained from the person to be inquired under Article 105 (Authority of Customs Officials) (including the case where applied *mutatis mutandis* pursuant to other laws relating to customs duty).

- (2) The Minister of Finance shall, at the time of approval of attendance of officials of foreign customs authorities as prescribed in the preceding paragraph, confirm the following matters:
- (i) that the foreign customs authorities may approve such attendance of the officials of the customs authorities of Japan as is equivalent to the attendance prescribed in the preceding paragraph;
  - (ii) that the maintenance of confidentiality is secured at the same level as that of Japan under the laws and regulations of the foreign country concerned with respect to the information obtained under the attendance provided for in the preceding paragraph (excluding information already made publicly available).

## **Chapter X Penal Provisions**

Article 108-4 (1) A person who exports goods set forth in item (i) of paragraph (1) of Article 69-2 (Goods the Exportation of which is Prohibited) (including a person who reships (excluding reshipment ordered to be made pursuant to the provision of paragraph (2) of Article 69-11 (Goods the Importation of which is Prohibited)) foreign goods (excluding goods temporarily landed) from Japan to a foreign country) shall be punished by imprisonment with work for not more than ten years or a fine of not more than thirty million yen, or both.

(2) A person who exports goods set forth in items (ii) to (iv) of paragraph (1) of Article 69-2 (including a person who reships (excluding reshipment made by a person who may, under other laws and regulations, reship goods set forth in items (iii) and (iv) of the paragraph pursuant to the provision of such other



laws and regulations and reshipment ordered to be made pursuant to the provision of paragraph (2) of Article 69-11) foreign goods (excluding goods temporarily landed) from Japan to a foreign country) shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both.

- (3) The preceding two paragraphs shall also apply to a person who commences any of the offences referred to in the two paragraphs without completing it.
- (4) A person who prepares with the intention of committing the offence referred to in paragraph (1) shall be punished by imprisonment with work for not more than five years or a fine of not more than thirty million yen, or both.
- (5) A person who prepares with the intention of committing the offence referred to in paragraph (2) shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.

Article 109 (1) A person who imports goods set forth in items (i) to (vi) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) shall be punished by imprisonment with work for not more than ten years or a fine of not more than thirty million yen, or both.

- (2) A person who imports goods set forth in items (vii) to (x) of paragraph (1) of Article 69-11 shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both.
- (3) The preceding two paragraphs shall also apply to a person who commences any of the offences referred to in the two paragraphs without completing it.
- (4) A person who prepares with the intention of committing the offence referred to in paragraph (1) shall be punished by imprisonment with work for not more than five years or a fine not more than thirty million yen, or both.
- (5) A person who prepares with the intention of committing the offence referred to in paragraph (2) shall be punished by imprisonment with work for not more than five years or a fine not more than five million yen, or both.

Article 109-2 (1) A person who stores goods (limited to those goods arrived in Japan for purposes other than for importation) set forth in items (i) to (iv), (v-2) and (vi) of paragraph (1) of Article 69-11 (Goods the Importation of which is Prohibited) in a bonded area in violation of paragraph (2) of Article 30 (Restriction on Places for Storage of Foreign Goods) or transports such goods as foreign goods in violation of Article 65-3 (Goods the Transportation of which is not Permitted under Customs Transportation) shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both.

- (2) A person who stores goods set forth in items (viii) to (x) of paragraph (1) of Article 69-11 (limited to those goods arrived in Japan for purposes other than

for importation; in the case of goods set forth in item (ix) of the paragraph, those which infringe solely layout-design exploitation right are excluded) in a bonded area in violation of paragraph (2) of Article 30 or a person who transports such goods as foreign goods in violation of Article 65-3 shall be punished by imprisonment with work for not more than ten years or a fine of not more than seven million yen, or both.

- (3) The preceding two paragraphs shall also apply to a person who commences any of the offences referred to in the two paragraphs without completing it.
- (4) A person who prepares with the intention of committing the offence referred to in paragraph (1) shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.
- (5) A person who prepares with the intention of committing the offence referred to in paragraph (2) shall be punished by imprisonment with work for not more than five years or a fine of not more than three million yen, or both.

Article 110 (1) A person who falls under any of the following items shall be punished by imprisonment with work for not more than ten years or a fine of not more than ten million yen, or both:

- (i) a person who, by deception or other wrongful act, evades payment of customs duty or receives refund of customs duty;
  - (ii) a person who imports goods for which customs duty is to be paid without paying customs duty by deception or other wrongful act.
- (2) In the case where, through deception or other wrongful act of a customs broker, customs duty is evaded or refunded, or goods for which customs duty is to be paid are imported without paying customs duty, the preceding paragraph shall also apply to the customs broker who has committed such act.
  - (3) The preceding two paragraphs shall also apply to a person who commences any of the offences referred to in the two paragraphs without completing it.
  - (4) In the case where ten times the amount of customs duty or the amount of refund of customs duty, pertaining to the offence referred to in the preceding three paragraphs exceeds ten million yen, the fine referred to in the preceding three paragraphs may, in the light of circumstances, be more than ten million yen, but not more than the amount equivalent to ten times the amount of the customs duty or the amount of refund of customs duty.
  - (5) A person who prepares with the intention of committing the offence referred to in paragraph (1) or (2) shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.
  - (6) In the case where ten times the amount of customs duty or the amount of refund of customs duty, pertaining to the offence referred to in the preceding paragraph exceeds five million yen, the fine prescribed in the preceding paragraph may, in the light of circumstances, be more than five million yen,

but not more than the amount equivalent to ten times the amount of the customs duty or the amount of refund of customs duty.

Article 111 (1) A person who falls under any of the following items shall be punished by imprisonment with work for not more than five years or a fine of not more than ten million yen, or both; provided, however, that in the case where five times the value of goods pertaining to such offence exceeds ten million yen, the fine shall not be more than five times such value:

- (i) a person who, without permission, exports (including reshipment of foreign goods (excluding goods temporarily landed) from Japan to a foreign country; the same applies in the next item and the next paragraph) or imports goods which require permission referred to in Article 67 (Permission of Exportation or Importation) (including the case where applied *mutatis mutandis* pursuant to Article 75 (Reshipment of Foreign Goods); the same applies in the next item and the next paragraph);
- (ii) a person who exports or imports goods by making a false declaration or a false certification or by submitting false documents, at the time of declaration or inspection referred to in Article 67.

(2) In the case where goods are exported or imported, based on a false declaration or a false certification made, or false documents submitted by a customs broker at the time of declaration or inspection referred to in Article 67, the preceding paragraph shall also apply to the customs broker.

(3) The preceding two paragraphs shall also apply to a person who commences the offence referred to in the two paragraphs without completing it.

(4) A person who prepares with the intention of committing the offence referred to in paragraph (1) or (2) shall be punished by imprisonment with work for not more than three years or a fine of not more than five million yen, or both; provided, however, that in the case where five times the value of goods pertaining to such offence exceeds five million yen, the fine shall not be more than five times such value.

Article 112 (1) A person who knowingly transports, retains, acquires with or without compensation or, mediates or arranges disposal of (hereinafter these acts are referred to as "transportation, etc." in this Article) goods pertaining to the offence referred to in paragraph (1) or (2) of Article 108-4 (Offence to Export Goods the Exportation of which is Prohibited), paragraph (1) or (2) of Article 109 (Offence to Import Goods the Importation of which is Prohibited), paragraph (1) or (2) of Article 109-2 (Offence to Store Goods the Importation of which is Prohibited in Bonded Area) or paragraph (1) of Article 110 (Offence to Evade Customs Duty) shall be punished by imprisonment with work for not more than five years or a fine of not more than five million yen, or both.

- (2) In the case where five times the amount of customs duty or the amount of refund of customs duty, pertaining to the offence referred to in paragraph (1) of Article 110, with respect to the goods pertaining to the offence referred to in the preceding paragraph exceeds five million yen, the fine referred to in the preceding paragraph may, in the light of circumstances, be more than five million yen, but not more than the amount equivalent to five times such amount of the customs duty or amount of refund of customs duty.
- (3) A person who knowingly carries out transportation, etc. of goods pertaining to the offence referred to in paragraph (1) of the preceding Article shall be punished by imprisonment with work for not more than three years or a fine of not more than five million yen, or both; provided, however, that in the case where three times the value of goods pertaining to such offence exceeds five million yen, the fine shall not be more than three times such value.

Article 112-2 A person who violates paragraph (6) of Article 13 (Uses for Purposes other than for Those Intended) of the Customs Tariff Act (including the cases where applied mutatis mutandis pursuant to paragraph (2) of Article 19 of the Act) or paragraph (2) of Article 20-2 (Uses for Purposes other than for Those Intended) of the Act, shall be punished by imprisonment with work for not more than one year or a fine of not more than two million yen.

Article 113 A master or a captain (including a person acting for a master or captain; hereinafter the same applies in paragraph (1) of Article 114 and paragraph (1) of Article 115 (Offence to Fail to Make Report)) who brings a vessel engaged in foreign trade, etc. into or out of a closed port in violation of paragraph (1) of Article 20 (Entry into Departure from Closed Port) shall be punished by imprisonment with work for not more than three years or a fine of not more than three million yen.

Article 113-2 A person who fails to file a special declaration form within the time-limit for filing without justifiable grounds shall be punished by imprisonment with work for not more than one year or a fine of not more than two million yen; provided, however, that the person may be exculpated from the punishment, in the light of circumstances.

Article 114 (1) A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than five hundred thousand yen:

- (i) a master or a captain who brings a vessel or aircraft into a port without making a report prescribed in paragraph (1), (4) or (9) of Article 15 (Procedures for Entry into Port) or by making a false report;

- (ii) a master or a captain who fails to submit documents prescribed in paragraph (2), (5) or (10) of Article 15 or submits false documents;
- (iii) a master who fails to submit an entrance notice or vessel's stores manifest provided for in paragraph (3) of Article 15 in violation of the paragraph or submits a false entrance notice or a false vessel's store manifest;
- (iv) a master who fails to present, in violation of paragraph (3) of Article 15, a certificate of vessel's nationality or a document in lieu thereof, as provided for in the paragraph;
- (v) a captain who, in violation of paragraph (11) of Article 15, fails to submit an entrance notice provided for in the paragraph or submits a false entrance notice;
- (vi) a master or a captain who brings a vessel or aircraft out of an open port or a customs airport without permission prescribed in the first sentence of paragraph (1) of Article 17 (Procedures for Departure from Port);
- (vii) a master or a captain who does not submit documents in response to the request prescribed in the second sentence of paragraph (1) of Article 17 or submits false documents;
- (viii) a master who brings a vessel out of a port without submitting an entrance notice provided for in paragraph (2) of Article 18 (Simplified Procedures for Entry into or Departure from Port) in violation of the paragraph or submits a false entrance notice, or a captain of aircraft who, in violation of paragraph (4) of the Article, brings aircraft out of an airport without issuing a notification prescribed in the paragraph or issues a false notification;
- (ix) a captain who brings aircraft into an airport without making a report prescribed in the proviso to paragraph (3) of Article 18 or by making a false report;
- (x) a captain who fails to submit documents prescribed in the proviso to paragraph (3) or paragraph (4) of Article 18, or submits false documents;
- (xi) a master or a captain who fails to issue a notification prescribed in paragraph (2) of Article 20 (Entry into or Departure from Closed Port);
- (xii) a master or a captain who fails to issue a notification prescribed in Article 21 (Temporary Landing of Foreign Goods) or issues a false notification;
- (xiii) a master or a captain who fails to issue a notification prescribed in Article 22 (Notification of Call at Foreign Port for Coasting Vessel, etc.) or fails to submit a manifest provided for in the Article;
- (xiv) a master or a captain who fails to issue a notification or issues a false notification in violation of paragraph (1) of Article 25 (Change in the Status of Vessel or Aircraft) and uses a vessel or aircraft other than a vessel engaged in foreign trade, etc. as a vessel engaged in foreign trade, etc., or uses a vessel engaged in foreign trade, etc. as a vessel or aircraft other than a vessel engaged in foreign trade, etc.

- (2) In the case where the act to be performed by a master or captain of a vessel engaged in foreign trade, etc. pursuant to the provision of Article 26 (Acting for Captain or Master) is performed by an owner, etc. of such vessel, etc. (i.e., an owner, etc. provided for in the Article), if such owner, etc. falls under any of the following items, he/she shall be punished by imprisonment with work for not more than one year or a fine of not more than five hundred thousand yen:
- (i) an owner, etc. who makes a false report with respect to a report prescribed in paragraph (1), (4) or (9) of Article 15 (limited to the case where a vessel engaged in foreign trade, etc. pertaining to that report enters an open port or a customs airport);
  - (ii) an owner, etc. who submits false documents with respect to documents prescribed in paragraph (2), (5) or (10) of Article 15;
  - (iii) an owner, etc. who submits a false entrance notice or a false vessel's stores manifest with respect to an entrance notice or a vessel's stores manifest provided for in paragraph (3) of Article 15;
  - (iv) an owner, etc. who submits a false entrance notice with respect to an entrance notice provided for in paragraph (11) of Article 15;
  - (v) an owner, etc. who submits false documents with respect to documents prescribed in the second sentence of paragraph (1) of Article 17;
  - (vi) an owner, etc. who submits a false entrance notice with respect to an entrance notice provided for in paragraph (2) of Article 18 or issues a false notification with respect to a notification prescribed in paragraph (4) of the Article;
  - (vii) an owner, etc. who makes a false report with respect to a report prescribed in the proviso to paragraph (3) of Article 18 (limited to the case where aircraft engaged in foreign trade pertaining to such report enters a customs airport);
  - (viii) an owner, etc. who submits false documents with respect to documents prescribed in the proviso to paragraph (3) or paragraph (4) of Article 18;
  - (ix) an owner, etc. who issues a false notification with respect to a notification prescribed in Article 21;
  - (x) an owner, etc. who issues a false notification with respect to a notification prescribed in paragraph (1) of Article 25 (limited to the case where a vessel or aircraft other than a vessel engaged in foreign trade, etc. pertaining to that notification is used as a vessel engaged in foreign trade, etc. or a vessel engaged in foreign trade, etc., pertaining to that notification is used as a vessel or aircraft other than a vessel engaged in foreign trade, etc.).

Article 114-2 A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than five hundred thousand yen:

- (i) a person who fails to make a report prescribed in paragraph (7), (8) or (13) of Article 15 (Procedures for Entry into Port) or makes a false report;
- (ii) a person who fails to make a report prescribed in paragraph (2) of Article 15-2 (Reporting on Matters Pertaining to Cargo) or makes a false report;
- (iii) a person who loads or unloads goods without making a report prescribed in paragraph (1) of Article 16 (Loading or Unloading of Goods) and without submitting documents, or by making a false report or submitting false documents, or a person who loads or unloads goods without submitting documents prescribed in paragraph (2) of the Article or by presenting false documents;
- (iv) a person who, in violation of paragraph (3) of Article 16, unloads cargoes without obtaining permission prescribed in the proviso to the paragraph;
- (v) a person who fails to make a report prescribed in the first sentence of paragraph (4) of Article 17 (Procedures for Departure from Port) or makes a false report;
- (vi) a person who fails to make a report prescribed in the first sentence of paragraph (4) of Article 20 (Entry into or Departure from Closed Port) or makes a false report;
- (vii) a person who loads vessel's or aircraft's stores in violation of paragraph (1) or (2) of Article 23 (Loading of Vessel's or Aircraft's Stores);
- (viii) a person who fails to submit documents prescribed in the main clause of paragraph (5) of Article 23 or submits false documents;
- (ix) a person who travels, or loads or unloads goods in violation of paragraph (1), (2) or (4) of Article 24 (Travel between vessel or Aircraft and Land);
- (x) a person who transports foreign goods in violation of paragraph (1) or (3) of Article 63 (Customs Transportation), paragraph (1) or (2) of Article 63-2 (Special Provisions for Customs Transportation) or paragraph (1) or (2) of Article 63-9 (Customs Transportation of Postal Items);
- (xi) a person who fails to obtain verification prescribed in the main clause of paragraph (5) of Article 63, paragraph (3) of Article 63-2 or paragraph (3) of Article 63-9;
- (xii) a person who transports, in violation of paragraph (1) of Article 64 (Transportation of Wreckage), foreign goods set forth in the items of the paragraph, or a person who fails to submit documents in violation of paragraph (3) of the Article;
- (xiii) a person who transports domestic goods on board a vessel engaged in foreign trade, etc. from one place to another in Japan in violation of paragraph (1) of Article 66 (Transportation of Domestic Goods) or who fails to submit documents in violation of paragraph (2) of the Article;
- (xiv) a person who gives a false proof at the time of the inspection referred to in the proviso to paragraph (1) of Article 76 (Simplified Procedures for

- Exportation or Importation of Postal Items) or other customs inspection pertaining to postal items;
- (xv) a person who fails to make a report prescribed in paragraph (2) of Article 77-5 (Rectification of Illegal Acts) or makes a false report;
  - (xvi) a person who does not answer to questions of customs officials prescribed in paragraph (1) of Article 105 (Authority of Customs Officials) or makes a false statement, or refuses, interferes with or evades the execution of the official duties;
  - (xvii) a person who refuses, without justifiable grounds, the request to present or submit materials prescribed in item (iv-2) or (vi) of paragraph (1) of Article 105, or presents or submits books and documents or other materials (including copies thereof) containing false statements or records;
  - (xviii) a person who refuses, interferes with or evades the execution of disposition of the Director General of Customs prescribed in Article 106 (Authority of the Director General of Customs in Special Cases) (including a person to whom part of the authority is delegated pursuant to the provision of Article 107 (Delegation of Authority of the Director General of Customs)).

Article 115 (1) A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than three hundred thousand yen:

- (i) a master or a captain who brings a vessel or aircraft into a port, without making a report prescribed in paragraph (1) of Article 15-3 (Procedures for Entry into Port for Special Vessel, etc.) or by making a false report;
- (ii) a master or a captain who fails to submit documents prescribed in paragraph (2) of Article 15-3 or submits false documents;
- (iii) a master or a captain who, in violation of paragraph (3) of Article 15-3, fails to submit an entrance notice provided for in the paragraph or submits a false entrance notice;
- (iv) a master or a captain who, in violation of the first sentence of paragraph (1) of Article 17-2 (Procedures for Departure from Port for Special Vessel, etc.), brings a vessel or aircraft out of a port without submitting a clearance notice provided for in the paragraph or by submitting a false clearance notice;
- (v) a master or a captain who does not respond to the request for submitting a document prescribed in the second sentence of paragraph (1) of Article 17-2 or who submits a false document;
- (vi) a master or a captain who brings a vessel or aircraft into a port, without making a report prescribed in the proviso to paragraph (1) or the proviso to paragraph (3) of Article 18-2 (Simplified Procedures for Entry into or Departure from Port for Special Vessel, etc.) or by making a false report;



- (vii) a master or a captain who fails to submit documents prescribed in the proviso to paragraph (1), paragraph (2), the proviso to paragraph (3) or paragraph (4) of Article 18-2 or who submits false documents;
  - (viii) a master who, in violation of paragraph (2) of Article 18-2, brings a vessel out of a port without submitting an entrance notice provided for in that paragraph or submits a false entrance notice, or a captain who, in violation of paragraph (4) of the Article, brings aircraft out of an airport without issuing a notification prescribed in the paragraph or by issuing a false notification;
  - (ix) a master or a captain who brings a vessel or aircraft into a port, without making a report prescribed in paragraph (1) of Article 20-2 (Entry into or Departure from Closed Port for Special Vessel, etc.) or by making a false report;
  - (x) a master or a captain who fails to submit documents prescribed in paragraph (2) of Article 20-2 or submits false documents;
  - (xi) a master or a captain who, in violation of paragraph (3) of Article 20-2, fails to submit an entrance notice provided for in that paragraph or submits a false entrance notice;
  - (xii) a master or a captain who, in violation of the first sentence of paragraph (4) of Article 20-2, brings a vessel or aircraft out of a port without submitting a clearance notice provided for in the paragraph or by submitting a false clearance notice;
  - (xiii) a master or a captain who does not respond to the request for submitting a document prescribed in the second sentence of paragraph (4) of Article 20-2 or who submits a false document;
  - (xiv) a master or a captain who uses a coasting vessel, etc. as a special vessel, etc. or uses a special vessel, etc. as a coasting vessel, etc. without issuing a notification in violation of paragraph (2) of Article 25 (Change in the Status of Vessels or Aircraft) or by issuing a false notification.
- (2) In the case where the acts which are required to be performed by a master or captain of a special vessel, etc. under Article 26 (Acting for Captain or Master) are performed by an owner, etc. of the special vessel, etc. (i.e., an owner, etc. as provided for in the Article), if such owner, etc. falls under any of the following items, he/she shall be punished by imprisonment with work for not more than one year or a fine of not more than three hundred thousand yen:
- (i) an owner, etc. who makes a false report with respect to a report prescribed in paragraph (1) of Article 15-3 (limited to the case where a special vessel, etc. pertaining to such report enters an open port or a customs airport);
  - (ii) an owner, etc. who submits false documents with respect to documents prescribed in paragraph (2) of Article 15-3;
  - (iii) an owner, etc. who submits a false entrance notice with respect to an

- entrance notice provided for in paragraph (3) of Article 15-3;
- (iv) an owner, etc. who submits a false clearance notice with respect to a clearance notice provided for in the first sentence of paragraph (1) of Article 17-2;
- (v) an owner, etc. who submits a false document with respect to a document provided for in the second sentence of paragraph (1) of Article 17-2;
- (vi) an owner, etc. who makes a false report with respect to a report prescribed in the proviso to paragraph (1) or the proviso to paragraph (3), of Article 18-2 (limited to the case where a special vessel, etc. pertaining to such report enters an open port or a customs airport);
- (vii) an owner, etc. who submits false documents with respect to documents prescribed in the proviso to paragraph (1), paragraph (2), the proviso to paragraph (3) or paragraph (4), of Article 18-2;
- (viii) an owner, etc. who submits a false entrance notice with respect to an entrance notice provided for in paragraph (2) of Article 18-2 or issues a false notification with respect to a notification prescribed in paragraph (4) of the Article;
- (ix) an owner, etc. who makes a false report with respect to a report prescribed in paragraph (1) of Article 20-2 (limited to the case where a special vessel, etc. pertaining to such report enters a closed port);
- (x) an owner, etc. who submits false documents with respect to documents prescribed in paragraph (2) of Article 20-2;
- (xi) an owner, etc. who submits a false entrance notice with respect to an entrance notice provided for in paragraph (3) of Article 20-2;
- (xii) an owner, etc. who submits a false clearance notice with respect to a clearance notice provided for in the first sentence of paragraph (4) of Article 20-2;
- (xiii) an owner, etc. who submits false documents with respect to documents prescribed in the second sentence of paragraph (4) of Article 20-2;
- (xiv) an owner, etc. who submits a false notification with respect to a notification prescribed in paragraph (2) of Article 25 (limited to the case where a coasting vessel, etc. is used as a special vessel, etc. or a special vessel, etc. is used as a coasting vessel, etc.).

Article 115-2 A person who falls under any of the following items shall be punished by imprisonment with work for not more than one year or a fine of not more than three hundred thousand yen:

- (i) a person who, in violation of paragraph (1) of Article 7-9, paragraph (1) of Article 67-8 or paragraph (1) of Article 94 (including the case where applied *mutatis mutandis* pursuant to paragraph (2) of the Article) (Maintenance of Books), fails to state in books or makes a false statement in books, or

- conceals books;
- (ii) a person who fails to make a report provided for in paragraph (5) of Article 15-3 (Procedures for Entry into Port for Special Vessel, etc.) or makes a false report;
  - (iii) a person who does not make a report provided for in paragraph (3) of Article 17-2 (Procedures for Departure from Port for Special Vessel, etc.) or who makes a false report;
  - (iv) a person who, in violation of Article 19 (Loading or Unloading of Goods Out of Official Office Hours), fails to issue a notification, or loads or unloads cargoes by issuing a false notification;
  - (v) a person who fails to make a report provided for in paragraph (6) of Article 20-2 (Entry into or Departure from Closed Port for Special Vessel, etc.) or makes a false report;
  - (vi) a person who, in violation of Article 32 (Temporary Taking out of Samples) (including the case where applied mutatis mutandis pursuant to paragraph (1) of Article 36 (Application mutatis mutandis of the Provision Concerning Bonded Area)), temporarily brings out foreign goods as samples without permission;
  - (vii) a person who, in violation of Article 34-2 or Article 61-3 (Obligation of Record Keeping) (including the case where applied mutatis mutandis pursuant to Article 62-7 (Application mutatis mutandis of the Provision Concerning a Customs Warehouse and Customs Factory)), fails to state in books or makes a false statement in books, or conceals books;
  - (viii) a person who, in violation of paragraph (2) of Article 36, performs checking, repacking, sorting or other normal handling operations of goods;
  - (ix) a person who performs acts other than those permitted to be performed in a designated bonded area or a customs warehouse pursuant to the provision of paragraph (1) or (2) of Article 40 (Handling of Goods) (including the case where applied mutatis mutandis pursuant to Article 49 (Application mutatis mutandis of the Provision Concerning a Designated Bonded Area)) with respect to foreign goods or goods destined for export;
  - (x) a person who, in violation of paragraph (1) of Article 61 (Work Using Customs Manufacturing Procedures Performed Outside a Customs Factory) (including the case where applied mutatis mutandis pursuant to Article 62-15 (Application mutatis mutandis of the Provision Concerning a Customs Warehouse, Customs Factory and Customs Display Area)), brings, without permission, foreign goods out of a customs factory or an integrated bonded area for the work using customs manufacturing procedures;
  - (xi) a person who, in violation of paragraph (1) of Article 43-3 (Approval for Storage of Foreign Goods), as applied mutatis mutandis pursuant to Article 61-4 (Application mutatis mutandis of the Provision Concerning a Customs

- Warehouse) or Article 62-10 (Approval for Storage of Foreign Goods), uses foreign goods for work using customs manufacturing procedures or who performs the acts set forth in item (ii) or (iii) of paragraph (1) of Article 62-8 (Permission of an Integrated Bonded Area), without obtaining approval;
- (xii) a person who performs acts other than those permitted to be performed in a customs display area or an integrated bonded area with respect to foreign goods pursuant to the provision of paragraph (3) of Article 62-2 (Permission of a Customs Display Area) or paragraph (1) of Article 62-8;
- (xiii) a person who fails to make a declaration prescribed in paragraph (1) of Article 62-3 (Procedures Pertaining to Foreign Goods to be Brought into a customs display area) or makes a false declaration, or performs, without obtaining approval of the Director General of Customs referred to in the paragraph, acts referred to in paragraph (3) of Article 62-2 (excluding acts deemed to be permitted to be performed pursuant to the provision of paragraph (4) of Article 62-3);
- (xiv) a person who, in violation of paragraph (1) of Article 62-4 (Restrictions on Places for Storage of Goods for Sale) (including the case where applied *mutatis mutandis* pursuant to Article 62-15), stores goods referred to in that paragraph in a place other than restricted places, or fails to make a report in response to the request prescribed in the paragraph or makes a false report;
- (xv) a person who, in violation of Article 62-5 (Permission of Use Outside a Customs Display Area) (including the case where applied *mutatis mutandis* pursuant to Article 62-15), brings foreign goods out of a customs display area or an integrated bonded area for use at a place other than a customs display area or an integrated bonded area without obtaining permission;
- (xvi) a person who brings foreign goods provided for in Article 62-11 (Notification of Bringing Goods for Sale) into an integrated bonded area, without issuing a notification prescribed in the Article or by issuing a false notification.

Article 115-3 A person who divulges any secrecy in violation of paragraph (1) of Article 69-21 (Technical Advisers) shall be punished by imprisonment with work for not more than six months or a fine of not more than five hundred thousand yen.

Article 116 A person who, due to gross negligence, commits the offence prescribed in item (ii) of paragraph (1) of Article 111 (Offence of Exportation or Importation without Permission), Article 113 (Offence of Entering or Departing from Closed Port without Obtaining Permission), Article 114, Article 114-2 (excluding items (xvi) and (xvii)), Article 115 (Offence of Failure to Make Report) or Article 115-2 (excluding items (i), (vii) and (xvi)) (Offence of Failure

to State in Books) shall be punished by a fine prescribed respectively in the Articles.

Article 117 (1) When a representative of a juridical person or an agent, an employee or other worker of a juridical person or of an individual has, with respect to the business or property of the juridical person or individual, committed the offence falling under Articles 108-4 to 112 (Offence of Exporting Goods the Exportation of which is Prohibited; Offence of Importing Goods the Importation of which is Prohibited; Offence of Storing in Bonded Area Goods the Importation of which is Prohibited; Offence of Evading Customs Duty; Offence of Exporting or Importing Goods without Permission; Offence of Transporting Smuggled Goods), Article 112-2 (Offence of Using Goods for Purposes other than for Intended Purpose), Article 113-2 (Offence of Failure to File Special Declaration Form Before Time-Limit for Filing), Article 114-2 (Offence of Failure to Make Report), Article 115-2 (Offence of Failure to State in Books) or the preceding Article (excluding the offence pertaining to Article 113 (Offence of Entering or Departing from Closed Port without Permission), Articles 114 and 115 (Offence of Failure to Make Report)), not only is the offender punished, but also such juridical person or individual is punished by a fine prescribed respectively in the Articles.

(2) The period of prescription in cases where a fine is, pursuant to the provision of the preceding paragraph, imposed on a juridical person or an individual for having committed the offence referred to in Articles 108-4 to 109-2, paragraph (1) to (3) or (5) of Article 110 or paragraphs (1) to (3) of Article 111 or paragraph (1) of Article 112 shall be the period of prescription applicable to the offences referred to in these provisions.

(3) An association without legal personality, etc. (i.e., an association or foundation which is not a juridical person and has a provision for its representative or manager; the same applies in the next paragraph) is deemed to be a juridical person and the preceding two paragraphs apply accordingly.

(4) In the case where paragraph (1) applies to an association without legal personality, etc., its representative or manager shall represent the association without legal personality, etc. for its procedural acts, and the legal provisions concerning criminal procedures that are applicable in the case where a juridical person stands as the accused or suspect apply *mutatis mutandis*.

Article 118 (1) Goods pertaining to offences referred to in Articles 108-4 to 111 (Offence of Exporting Goods the Exportation of which is Prohibited; Offence of Importing Goods the Importation of which is Prohibited; Offence of Storing in Bonded Area Goods the Importation of which is Prohibited; Offence of Evading Customs Duty; Offence of Exportation or Importation without Permission) (in

the case of goods pertaining to the offence referred to in Article 110 or 111, limited to import-restricted goods, etc.), a vessel or aircraft used for such offence or goods pertaining to the offence referred to in Article 112 (Offence to Transport Smuggled Goods) (limited to goods pertaining to the offence referred to in Article 108-4 or 109 and import-restricted goods, etc.) (hereinafter in this Article referred to collectively as "goods pertaining to offence, etc.") shall be confiscated; provided, however, that this does not apply to the case where goods pertaining to offence, etc. are owned by a person who is not an offender and the person falls under any of the following items:

- (i) where it is found that the person has, without knowing in advance commitment of offence referred to in Articles 108-4 to 112, continuously possessed goods pertaining to offence, etc. since the offence was committed;
  - (ii) where it is found that the person unknowingly acquired goods pertaining to offence, etc. after the offence set forth in the preceding item was committed.
- (2) In the case where goods pertaining to offence, etc. (excluding a vessel or aircraft referred to in the preceding paragraph; hereinafter the same applies in this paragraph) which are to be confiscated pursuant to the provision of the preceding paragraph cannot be confiscated or where they are not confiscated pursuant to the provision of item (ii) of the paragraph (in both cases referred to herein, if the offence pertains to that referred to in Article 112 (Offence of Transporting Smuggled Goods), limited to the offence pertaining to acquisition of goods referred to in paragraph (1) or (3) of Article 112), an amount equivalent to the value of goods (i.e., the value at the time when the offence was committed) which cannot be confiscated or which are not confiscated shall be collected from the offender.
- (3) The term "import-restricted goods, etc." as used in paragraph (1) means goods pertaining to importation and falling under any one of the following items at the time when the offence referred to in the paragraph was committed with respect to such goods:
- (i) goods set forth in the following:
    - (a) liquors provided for in paragraph (1) of Article 2 (Definitions) of the Liquor Tax Act (Act No. 6 of 1953);
    - (b) manufactured tobacco provided for in item (iii) of Article 2 (Definitions) of the Tobacco Industry Act (Act No. 68 of 1984) (including substitutes for manufactured tobacco provided for in paragraph (2) of Article 38 (Substitutes for Manufactured Tobacco) of the Act);
    - (c) state monopoly goods;
  - (ii) except those goods falling under the preceding item, goods which fall under the category of non-liberalized import items (i.e., those items for which an import quota is required to be allocated pursuant to the provisions of the Foreign Exchange and Foreign Trade Act and the order based on the Act)

- (excluding goods to which an approval for importation referred to in Article 52 (Import Approval) of the Act is granted, goods which are permitted to be imported without such approval, goods imported as accompanied goods by a person upon his/her entry into Japan or imported, as unaccompanied goods, by such person pursuant to the provision of Cabinet Order and postal items).
- (4) In cases where goods pertaining to offence, etc. are confiscated or additional collection is made in lieu thereof pursuant to the provision of paragraphs (1) and (2), no customs duty shall be imposed on such goods.
- (5) In the case where goods pertaining to offence, etc. are not confiscated pursuant to the provision of item (i) of paragraph (1), if customs duty is to be collected, it shall immediately be collected from the owner of such goods; provided, however, that when they are brought into a bonded area as foreign goods within such period as may be specified by the Director General of Customs, their importation is deemed not to have taken place.
- (6) In the case where the offence referred to in Article 112 (Offence of Transporting Smuggled Goods) is committed with respect to goods for which customs duty is to be paid (limited to the case where paragraph (3) of Article 97 (Collection of Customs Duty on Lost Goods) or paragraphs (4) to (6) of Article 134 (Collection of Customs Duty on Retained Goods) are not applicable), if the goods pertaining to the offence do not fall under paragraph (2) and a person who imported such goods is unknown, the customs duty to be so paid shall immediately be collected from the offender pertaining to the offence.
- (7) Paragraph (4) of Article 97 (Adjustment of Procedures for Official Assessment) applies mutatis mutandis to the case of paragraph (5). In this case, the term "when such foreign goods are possessed by a person who is to make a disposition referred to in the paragraph" in paragraph (4) of the Article 97 shall be deemed to be replaced with "when such foreign goods are retained or seized."

## **Chapter XI Investigation and Disposition of Criminal Cases**

### **Section 1 Investigation of Criminal Cases**

(Questioning, Inspection or Retention)

- Article 119 (1) A customs official may, when it is necessary for investigating a criminal case, request appearance of a criminal suspect or a witness (hereinafter referred to as a "criminal suspect, etc." in this paragraph and paragraph (1) of Article 121 (On-Site Inspection Search or Seizure)), question a criminal suspect, etc., inspect any article possessed or abandoned by a criminal suspect, etc., or retain any article voluntarily submitted or abandoned by a criminal suspect, etc.
- (2) A customs official may request a public agency or a public or private

organization to report on necessary matters for investigating a criminal case.

(Request for Disclosure)

Article 120 A customs official may, when any person is considered to conceal around him/her any article sufficient to substantiate the fact of any criminal offense, request disclosure of such article.

(On-Site Inspection, Search or Seizure)

Article 121 (1) A customs official may, when it is necessary for investigating a criminal case, conduct an on-site inspection, a search of the body, articles, residence or any other place of a criminal suspect, etc., a seizure of articles of evidence or articles that are considered to be seized, or a seizure ordering records (which means the seizure of a recording medium onto which a person retaining or otherwise authorized to use electronic or magnetic records is ordered to record or print electronic or magnetic records as necessary; the same shall apply hereinafter) under a permit issued in advance by a judge of a district court or summary court having jurisdiction over the location of the office to which the customs official belongs; provided, however, that the body, articles, residence or any other place of a potential suspect may be searched when it is reasonably supposed that articles which should be seized exist.

(2) When an article to be seized is a computer and where a recording medium connected via a telecommunication line to the computer may be reasonably supposed to have been used to retain electronic or magnetic records, which have been created or altered using the computer or may be altered or erased using the computer, such computer or other recording media, after copying the electronic or magnetic records retained on the recording medium onto such computer or other recording medium, may be seized.

(3) In the case referred to in the preceding two paragraphs, in case of urgency, a customs official may make a disposition as referred to in any of the preceding two paragraphs under a permit issued in advance by a judge of a district court or summary court having jurisdiction over the article or place to be on-site inspected, the person, article or place to be searched, the article to be seized, or the address of a person to be ordered to record or print electronic or magnetic records.

(4) A customs official shall, when requesting a permit referred to in paragraph (1) or the preceding paragraph (hereinafter referred to as a "permit" except in Article 136 (Request for Expert Examination)), submit materials that confirm the existence of a criminal case.

(5) Where a request set forth in the preceding paragraph is made, a judge of the district court or summary court shall issue to the customs official a permit with the judge's name and seal affixed thereto, specifying the name of the criminal



suspect (when the suspect is a juridical person, the name of such person), the charged offence, and the article or place to be on-site inspected, the person, article or place to be searched, the article to be seized or the electronic or magnetic records for which recording or printing is ordered and the person ordered to record or print the same, and the government position and name of the requester, the valid period, the fact that after the valid period has elapsed, the execution shall not be started and the permit shall be returned, the date of issuance and the name of the court.

- (6) In the case referred to in paragraph (2), in addition to the items referred to in the preceding paragraph, the permit shall specify the scope of a recording medium connected via telecommunication lines to the computer to be seized of which electronic or magnetic records are to be copied.
- (7) A customs official may deliver a permit to any other customs official to have such other customs official conduct an on-site inspection, search, seizure or seizure ordering records.

(Seizure Against a Person Handling Communication Affairs)

Article 122 (1) A customs official may, when it is necessary for investigating a criminal case, after receipt of a permit, seize a postal item, correspondence, or a document related to telegrams sent by or to a criminal suspect and retained or possessed by a person handling communication affairs pursuant to the provisions of laws and regulations.

- (2) A customs official may, after receipt of a permit, seize a postal item, correspondence, or a document related to telegrams that does not fall under the preceding paragraph that is retained or possessed by a person handling communication affairs pursuant to the provisions of laws and regulations, only when it is reasonably supposed that the item or document is related to a criminal case.
- (3) A customs official shall, where a disposition pursuant to any of the preceding two paragraphs is imposed, notify the sender or the recipient of the disposition imposed; provided, however, that this does not apply when such notification is likely to hinder the investigation of the criminal case.

(Request for Preservation of Electronic or Magnetic Records of Communications History)

Article 123 (1) A customs official may, when it is necessary for conducting a seizure or seizure ordering records, specify the necessary scope of the electronic or magnetic records pertaining to the transmission source, the transmission destination, the date and time of the transmission and other communications history of the electronic communications which are recorded in the course of business and, specifying a period not exceeding thirty days, may request in

writing not to erase such history to the person engaged in the business of providing facilities operating electronic communications for the communications of other persons or the person having established facilities operating electronic communications capable of intermediating the transmissions of unspecified or many persons for the purpose of its own business. In such case when it is no longer deemed necessary to conduct a seizure or seizure ordering records with respect to such electronic or magnetic records, the customs official shall revoke such request.

- (2) The period during which the request is made not to erase such history as provided for in the preceding paragraph may be extended for a period not exceeding thirty days when it is considered particularly necessary; provided, however, that the total period during which the request is made not to erase such history may not exceed sixty days.
- (3) In the case of the request as provided for in paragraph (1), the customs official may, when necessary, request not to divulge any matters pertaining to such request without reason.

(On-Site Inspection, Search or Seizure at the Scene of Offense)

Article 124 (1) A customs official may, if a person is actually committing or has actually committed an offense and when it is required to gather what is supposed to be evidence of such offense and it is impossible to obtain a permit in case of urgency, conduct an on-site inspection, search or seizure pursuant to paragraph (1) of Article 121 (On-Site Inspection, Search or Seizure) at the scene of such offense.

- (2) A customs official may, if a person actually possesses any article used for or acquired from an offense, or is evidently considered, from evidence that clearly substantiates an offense, to have just committed such offense, and when it is required to gather what is supposed to be evidence of such offense and it is impossible to obtain a permit in case of urgency, conduct an on-site inspection, search or seizure pursuant to paragraph (1) of Article 121 against the article in the possession of such person.

(Disposition Taken in Lieu of Seizure of Recording Medium for Electronic or Magnetic Records)

Article 125 When an article to be seized is a recording medium pertaining to electronic or magnetic records, a customs official may make any of the following dispositions in lieu of a seizure of such item:

- (i) after copying, printing or transferring electronic or magnetic records contained in the recording medium to be seized onto other recording medium, seize such other recording medium;
- (ii) after causing a person subject to seizure to copy, print or transfer electronic

or magnetic records contained in the recording medium to be seized onto other recording medium, seize such other recording medium.

(Necessary Dispositions for On-Site Inspection, Search or Seizure)

Article 126 (1) A customs official may, when it is necessary for conducting an on-site inspection, search, seizure or seizure ordering records, release a lock, open a seal, and make any other necessary disposition.

(2) The dispositions referred to in the preceding paragraph may be made against articles under retention, seizure or seizure ordering records as well.

(Request for Cooperation from a Person Subject to Disposition)

Article 127 When an article to be on-site inspected or to be seized is a recording medium pertaining to electronic or magnetic records, a customs official may request a person subject to such on-site inspection, or search or seizure to operate a computer and provide any other necessary cooperation.

(Presentation of Permit)

Article 128 A permit for on-site inspection, search, seizure or seizure ordering records shall be presented to a person subject to such disposition.

(Proof of Identity)

Article 129 A customs official shall, when conducting a questioning, inspection, retention, on-site inspection, search, seizure or seizure ordering records, or requesting a disclosure pursuant to the provisions of this Section, carry his/her identification and present it when requested to do so by any person concerned.

(Assistance from Police officer)

Article 130 A customs official may, when it is necessary in the course of conducting an on-site inspection, search, seizure or seizure ordering records, request assistance from police officers or coast guard officials.

(Attendance of Owner)

Article 131 (1) A customs official shall, when conducting an on-site inspection, search, seizure or seizure ordering records at a person's residence, building or other place that a person watches over, or, on a vessel, airplane, vehicle, or in a warehouse or any other place, cause its owner or administrator (including its representative or agent, or any other person who can act on their behalf), or their employee or cohabiting adult relative to attend such on-site inspection, search or seizure.

(2) When in the case referred to in the preceding paragraph, such person referred to in the paragraph is not available for attendance, the customs official shall

cause an adult neighbor, or a police officer or a official of local public entity of the relevant jurisdiction to attend such on-site inspection, search or seizure.

- (3) If on-site inspection, search or seizure as provided for in Article 124 (On-Site Inspection, Search or Seizure at the Scene of Offense) is conducted in case of urgency, it may not be subject to the provisions of the preceding two paragraphs.
- (4) When searching the body of a female, a customs official shall cause a female adult to attend the search; provided, however, that this shall not apply in case of urgency.

#### (Preparation of Retention Inventory)

Article 132 A customs official shall, when conducting a retention, seizure or seizure ordering records, prepare an inventory and deliver a certified copy thereof to a person who owns, possesses or retains the articles under retention, seizure or seizure ordering records (including a person who has received such disposition referred to in Article 125 (Disposition Taken in Lieu of Seizure of Recording Medium for Electronic or Magnetic Records)), or to a person acting on their behalf.

#### (Handling of Articles under Retention)

- Article 133 (1) With respect to articles under retention, seizure or seizure ordering records that are unfit for transportation or storage, a customs official may, with the consent of the owner or possessor of the articles or other person that the customs official considers appropriate, have such person store the articles after collecting a storage certificate.
- (2) The Director General of Customs may, when any retained or seized article spoils or deteriorates, or is likely to spoil or deteriorate, pursuant to the provisions of Cabinet Order, offer for public auction after a public notice, and store the proceeds from such auction.
  - (3) Paragraphs (3) and (4) of Article 84 (Public Auction or Sale of Goods Kept in Custody), and paragraph (5) of the Article shall apply mutatis mutandis to such public auction referred to in the preceding paragraph, and to any retained or seized article, respectively.

#### (Return of Articles under Retention)

- Article 134 (1) A customs official shall, when it is no longer necessary to keep an article under retention, seizure or seizure ordering records, return the article to the person that should receive the article.
- (2) The Director General of Customs shall, if it is unable to return an article under retention, seizure or seizure ordering records referred to in the preceding paragraph because the address or residence of the person that

should receive the article is unknown or for any other reason, give public notice thereof.

- (3) When no request is made for the return of the article under retention, seizure or seizure ordering records pertaining to the public notice referred to in the preceding paragraph after six months have elapsed since the day of the public notice, the article vests in the National Treasury.
- (4) When in the case of paragraph (1) customs duty has not been paid for a retained or seized article referred to in the paragraph, such customs duty shall immediately be collected from a person that should receive the article (excluding a person that is considered to have come to possess such article without knowledge of the fact that customs duty has not been paid; the same shall apply hereafter in this Article).
- (5) If proceeds from any retained or seized article offered for public auction as provided in paragraph (2) of the preceding Article, or sold as provided in paragraph (3) of Article 84 (Public Auction or Sale of Goods Kept in Custody), which is applied mutatis mutandis as referred to in paragraph (3) of the preceding Article, are returned to a person that should receive the return as provided in paragraph (1), and when a customs duty or any other national tax has not been paid for such article, such customs duty and other national tax shall immediately be collected. In such case the proceeds shall be applied to such customs duty and other national tax.
- (6) The Director General of Customs shall, if those proceeds from a retained or seized article offered for public auction as provided in paragraph (2) of the preceding Article that is succeeded by a public prosecutor as provided in Article 148 (Succession to Public Prosecutor), or proceeds from foreign goods sold pursuant to the provisions of the Code of Criminal Procedure are returned to a person that should receive the proceeds as provided in the Code, and when a customs duty has not been paid for such article or goods, immediately collect such customs duty from the person that should receive the proceeds.
- (7) Paragraph (4) of Article 97 (Notification by Police officers) shall apply mutatis mutandis to the cases referred to in the preceding three paragraphs. In such case "when such foreign goods are possessed by a person who is to make a disposition referred to in the paragraph" in paragraph (4) of the Article shall be deemed to be replaced with "when such foreign goods are retained or seized."

(Delivery of Recording Medium Seized After Transfer)

Article 135 (1) A customs official shall, when it is no longer necessary to keep a recording medium seized after being transferred or being caused to be transferred as provided in Article 125 (Disposition Taken in Lieu of Seizure of Recording Medium for Electronic or Magnetic Records), and when the person

subject to seizure is different from the person that owns, possesses or retains the recording medium, deliver such recording medium to the person subject to seizure, or allow the person subject to seizure to copy the electronic or magnetic records.

- (2) Paragraph (2) of the preceding Article shall apply mutatis mutandis to any such delivery or copying as provided in the preceding paragraph.
- (3) When no request is made for such delivery or copying as referred to in the preceding paragraph after six months have elapsed since the day of such public notice as provided in paragraph (2) of the preceding Article, which is applied mutatis mutandis pursuant to the preceding paragraph, such delivery or copying may not be required.

(Request for Expert Examination)

- Article 136 (1) A customs official may, when it is necessary for investigating a criminal case, request to a person with academic background and experience for an expert examination for articles under retention, seizure or seizure ordering records, or request for interpretation or translation.
- (2) A person that has received a request for an expert examination as provided in the preceding Article (referred to as an "expert" in paragraphs (4) and (5)) may, upon permission by a judge of a district court or summary court having jurisdiction over the location of the office to which such customs official belongs as referred to in the preceding paragraph, destroy an article for which the expert examination is provided.
  - (3) A request for such permission as referred to in the preceding paragraph shall be made by a customs official.
  - (4) In the case of such request as referred to in the preceding paragraph, when such request is considered sufficient, the judge shall issue to the customs official a permit with the judge's name and seal affixed thereto, specifying the name of the criminal suspect (or when the suspect is a juridical person, the name of such person), the charged offense, the article to be destroyed, the name of the expert, and the government position and name of the requester, the valid period, the fact that after the valid period has elapsed, the execution shall not be started and the permit shall be returned, the date of issuance and the name of the court.
  - (5) An expert shall present such permit as referred to in the preceding paragraph to a person subject to the disposition referred to in paragraph (2).

(Restrictions on Execution of On-Site Inspection, Search or Seizure at Night)

- Article 137 (1) Any on-site inspection, search, seizure or seizure ordering records shall not be executed between sunset and sunrise unless a permit specifies that it may be executed at night; provided, however, that the same shall not apply if

such disposition is made against a hotel, a restaurant or any other place accessible by the public at night during business hours thereof, or if such disposition is made as provided in Article 124 (On-Site Inspection, Search or Seizure at the Scene of Offense).

- (2) An on-site inspection, search, seizure or seizure ordering records that starts before sunset may, when it is considered necessary, continue after sunset.

(Prohibition on Entering or Leaving during Disposition)

Article 138 A customs official may, while conducting a questioning, inspection, retention, on-site inspection, search, seizure or seizure ordering records, or requests for disclosure as provided in this Section, prohibit any person from entering or leaving, without permission, the place subject to such disposition during such disposition.

(Disposition in the Case of Suspension of Execution)

Article 139 When it is necessary in suspending execution of a permit for on-site inspection, search, seizure or seizure ordering records, the place subject to execution may be closed up, or have a guard in place until the execution is completed.

(Issuance of Search Certificate)

Article 140 In the case of a search, there is not any article of evidence or article to be seized, a certificate to that effect shall be delivered upon request by a person subject to the search.

(Preparation of Record)

Article 141 (1) A customs official shall, when conducting a questioning pursuant to the provisions of this Section, prepare a record of the questioning, and cause the person questioned to inspect it, or read it out to that person, ask the person whether it contains any errors, and when the person requests for any addition, removal or alteration to the record, the customs official shall contain the person's statement in that record, and have the record signed and sealed by himself/herself and the person questioned; provided, however, that when the person questioned fails to, or is unable to sign and seal the record, it is sufficient to append a note of this.

- (2) A customs official shall, when conducting an inspection or retention pursuant to the provisions of this Section, prepare a record thereof, and sign and seal it.
- (3) A customs official shall, when conducting an on-site inspection, search, seizure or seizure ordering records pursuant to the provisions of this Section, prepare a record thereof, and present such record to, and have the record signed and sealed by himself/herself and a person in attendance; provided,

however, that when the person in attendance fails to, or is unable to sign and seal the record, it is sufficient to append a note of this.

(Execution of Official Duties Outside Jurisdictional district)

Article 142 A customs official may, when it is necessary for investigating a criminal case, perform its official duties outside the jurisdictional district of the customs to which the customs official belongs.

(Notification by Public Official other than Customs Official)

Article 143 Any public official other than a customs official shall, when detecting or investigating any suspected criminal case, notify the customs immediately thereof.

## **Section 2 Disposition of Criminal Cases**

(Accusation of Criminal Case related to Customs Duty pertaining to Goods to which Self-Assessment System Applies)

Article 144 A customs official shall immediately file an accusation with a public prosecutor when the customs official considers that there exists a criminal offense through investigating a criminal case related to customs duty pertaining to goods to which the self-assessment system applies (limited to that pertaining to any such offense as referred to in paragraph (1) of Article 110 (Offence of Evading Customs Duty) (limited to that pertaining to any person who evades such customs duty as provided in item (i) of the paragraph, and including that pertaining to a person who commences to commit without completing it, such offense and to whom paragraph (1) of the Article shall apply as provided in paragraph (3) of the Article), and including any case pertaining to such offense as referred to in item (ii) of paragraph (1) of Article 111 (Offense to Export or Import without Obtaining Permission) where any such deception or other wrongful act as provided in item (i) of paragraph (1) of Article 110 (limited to that pertaining to any person who evades such customs duty as provided in the item) constitutes such offense as referred to in item (ii) of paragraph (1) of Article 111; referred to as a "criminal case related to customs duty to which the self-assessment system applies" in the following Article).

(Reporting or Accusation by Customs Official)

Article 145 A customs official shall, upon completion of the investigation of a criminal case (excluding a criminal case related to customs duty to which the self-assessment system applies; the same shall apply hereinafter), report the result of the investigation to the Director General of Customs; provided,



however, that an accusation shall immediately be filed with a public prosecutor if any of the situations as set forth in the following occurs:

- (i) when the residence of the criminal suspect is unknown;
- (ii) when the criminal suspect is likely to escape;
- (iii) when any item deemed as evidence is likely to be concealed or destroyed.

(Notified Administrative Disposition by the Director General of Customs)

Article 146 (1) The Director General of Customs shall, when convinced as a result of the investigation of a criminal case that any offense is committed, specify the reason therefor, and shall notify in writing that the amount of money equivalent to a fine, any articles subject to confiscation, the amount of money equivalent to a surcharge, and any expenses required for service of any documents and for transportation and storage of any articles subject to seizure or seizure ordering records shall be delivered to the customs. In such case, with respect to any article subject to confiscation, it may be notified that an application for delivery shall only be made.

(2) In the case referred to in the preceding paragraph, when it is considered that any of the following items applies, the Director General of Customs shall, notwithstanding the provision of paragraph, file an accusation immediately with a public prosecutor:

- (i) when the circumstances warrants that imprisonment with work shall be imposed;
- (ii) when the offender does not have financial resources sufficient to comply with such notified disposition.

(3) When there is any miscalculation, clerical error or other similar clear error with respect to such notification as referred to in paragraph (1), the Director General Customs may, by its own authority, correct the notification before the offender complies with the notified disposition, or an accusation is filed as provided in the preceding paragraph or the following Article.

(4) When such notification as provided in paragraph (1) is made, the statute of limitations for prosecution shall be suspended, and shall resume after a period of twenty days elapses from the day following the day on which the offender is so notified.

(5) If an offender complies with such notified disposition as referred to in paragraph (1) (or in the case of such correction as provided in paragraph (3), the notified disposition as so corrected; the same shall apply in the following paragraph and paragraph (1) of the following Article), prosecution shall never be instituted with respect to the same case.

(6) If an offender complies with such notified disposition as referred to in the second sentence of paragraph (1), the offender shall, when any article subject to confiscation is in the possession of the offender, have the obligation to store

the same until public auction or any other necessary disposition takes place; provided, however, that any expenses as may be necessary for such storage may not be demanded.

(Non-Compliance with Notified Administrative Disposition and Accusation)

Article 147 (1) When upon an offender's receipt of such notification as referred to in paragraph (1) of the preceding Article (or in the case of such correction as provided in paragraph (3) of the Article, such correction; hereafter referred to as "notification, etc." in this Article), the offender fails to comply with the notified disposition within twenty days from the day following the date of receipt of such notification, etc., the Director General of Customs shall file an accusation with a public prosecutor; provided, however, that this does not apply despite the expiration of such period if the offender complies with the notified disposition before the filing of the accusation.

(2) When notification, etc. cannot be provided because the residence of an offender is unknown or the offender refuses to receive any document relating to notification, etc., or for any other reason, the preceding paragraph shall also apply.

(Succession to Public Prosecutor)

Article 148 (1) A criminal case shall not be subject to criminal proceedings until an accusation is filed by a customs official as provided in the proviso of Article 145 (Reporting or Accusation by Customs Official), or until an accusation is filed by the Director General of Customs as provided in paragraph (2) of Article 146 (Notified Administrative Disposition by the Director General of Customs) or the preceding Article.

(2) Such accusation as provided in Article 144 (Accusation of Criminal Case related to Customs Duty pertaining to Goods to which Self-Assessment System Applies), or such accusation as provided in the preceding paragraph shall be in writing, accompanied by such record as provided in each paragraph of Article 141 (Preparation of Record), and when there is any article under retention, seizure or seizure ordering records, shall be transferred to the public prosecutor together with an inventory for retention, an inventory for seizure or an inventory for seizure ordering records..

(3) If any article under retention, seizure or seizure ordering records as referred to in the preceding paragraph is stored as provided in paragraph (1) of Article 133 (Handling of Articles under Retention), such article shall be transferred to the prosecutor, using a certificate of custody as referred to in the paragraph, and the person who is caused to store the same as provided in the paragraph shall be so notified.

(4) When any article under retention, seizure or seizure ordering records is

transferred as provided in any of the preceding two paragraphs, such article shall be deemed to be seized by a public prosecutor as provided by the Code of Criminal Procedure.

(5) Any such accusation as referred to in paragraph (1) may not be revoked.

(Notice if not Convinced about Criminal Offense)

Article 149 The Director General of Customs shall, if not convinced as a result of the investigation of a criminal case that any criminal offense is committed, notify the criminal suspect thereof. In such case, the retention, seizure or seizure ordering records of articles, if any, shall be ordered to be released.