

## CHAPTER XII

# CUSTOMS DUTY

### I. General Description

#### A. Customs Policies

In the last two decades, Customs revenues have fallen from the leading place to the second and then third place in the revenue system with the implementation by the government of various measures of economic liberalization and the reduction of tariff rates several times, and such revenues comprised 5.3% of tax revenue in 2013.

The average nominal rates on agricultural and industrial products in 2013 were 13.85% and 4.23%, respectively.

Table I: Duty Rate

Year Category	Average Nominal Rate (%)													
	ITA			2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
	1998/6	1999/1	2000/1											
Agricultural Products	20.02	20.02	20.02	13.63	13.60	13.46	13.31	13.16	13.16	13.73	13.88	13.88	13.88	13.85
Industrial Products	6.34	6.08	6.03	4.94	4.22	4.16	4.1	4.1	4.09	4.18	4.18	4.23	4.23	4.23
Total Products	8.25	8.22	8.20	6.32	5.74	5.67	5.60	5.57	5.56	5.71	5.85	5.89	5.89	5.88

Year Category	Average Effective Rate (%)										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Agricultural Products	8.83	8.69	9.64	9.48	8.67	7.97	8.16	7.94	7.25	7.44	7.82
Industrial Products	1.20	0.92	0.89	0.77	0.72	0.68	0.72	0.68	0.89	0.90	0.92
Total Products	1.55	1.22	1.24	1.2	1.14	1.07	1.2	1.13	1.16	1.19	1.23

The average effective duty rate is the ratio of tariff revenue to import value.

Year Category	Average Trade-Weighted Rate (%)										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Agricultural Products	8.66	8.83	9.48	9.45	8.66	8.35	8.37	8.30	7.89	7.97	8.45
Industrial Products	1.85	1.38	1.36	1.21	1.16	1.14	1.21	1.29	1.33	1.31	1.33
Total Products	2.16	1.64	1.67	1.48	1.42	1.41	1.52	1.55	1.59	1.59	1.62

## B. Customs Laws

Broadly speaking, Customs laws include the Customs Act, the Enforcement Rules of the Customs Act, the Customs Import Tariffs of the ROC, and the Customs Anti-Smuggling Act. The Customs Act and its Enforcement Rules have been implemented since 1967 replacing “The Temporary Charter of the Import Tariff Schedule” of 1929, and prescribe the tariff collection, clearance procedures for the import and export duty drawback systems, and special duties. The Customs Import Tariff specifies the appropriate sections and applicable tariff rates for imported goods. Investigation and punishments for smuggling are in compliance with the related provisions of the Customs Anti-Smuggling Act. Additionally, the MOF, for the purpose of effectiveness and transparency in enforcement, issues administrative regulations and makes related administrative rulings based on the practical application of the laws described above. In 2001, the government revised the Customs Act to prepare for WTO accession and to comply with the Administrative Procedures Act.

In 2004, the government also reviewed the Customs Act to comply with the revised Kyoto Convention. In 2006 and 2007, the government respectively formulated and amended “The Standards Concerning Customs Offenses of a Minor Nature as Prescribed in Article 45-1 of the Customs Anti-Smuggling Act.” The government also amended the Customs Act to accord with relevant international norms in 2008. Then, to align with the implementation of the Customs-Port-Trade (CPT) Single Window system established by the Customs, which allows the submissions of the data required by regulations governing the matters of Customs, commercial ports, trade licensing, commodity inspection and quarantine to the competent authorities or the institutions entrusted by way of on-line transmission or via electronic data transmission, relevant articles of the Customs Act were amended accordingly in 2013.

## II. Collection of Customs Duties

### A. Scope of Collection

1. Dutiable objects: All imported goods except those exempted by the Customs Act and related laws are subject to customs duties.
2. Form of tariffs: In accordance with the Customs Act and the Customs Import Tariff, customs duties shall be collected on any of the following bases dependent upon the characteristics of the imported goods:
  - a. Specific duty: The duties may be levied on the basis of the weight, amount, or measurement of imported goods. For instance, the tariff on special quality beef is NT\$10 per kilogram.
  - b. *Ad valorem* duty: The term *ad valorem* duty means the tariff is levied according to the value of the goods. *ad valorem* duty is the most adopted term in the Customs Import Tariff. Currently, more than 98% of tariff lines are subject to *ad valorem* duties.
  - c. Compound duty: Compound duty refers to a tariff which is determined by the higher of the specific rate or *ad valorem* rate within the same tariff line. For example, the tariff on mixed metal scrap is NT\$750 per metric ton or 5% of its transaction value, whichever is higher.
  - d. In future reviews of our tariff system, we would prefer to adopt the *ad valorem* approach throughout the tariff in order to increase the predictability and transparency of the tariff regime.
3. Valuation

Based on the Customs Act first enacted in 1967, the Customs value of imported goods was calculated upon their market price at the port of entry. In 1974, through the amendment of the Customs Act, the Customs value was then calculated based upon the real CIF. Later on, in order to conform with the general application of the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade (1979 GATT Customs Valuation Code), the Customs Act was amended again in 1986 to the effect that the transaction value was adopted as the basis for Customs valuation.

In 1997 and 2001, the MOF amended the Customs Act in accordance with the Uruguay Ministerial Decisions and Declaration and with the WTO Customs Valuation Agreement, respectively. The first paragraph of Article 29 of the Customs Act provides that the Customs value of imported goods liable to *ad valorem* duty shall be determined and calculated on the basis of the transaction value. The term “transaction value” means the price actually paid or payable for the goods when sold from the exporting country to the ROC. The following expenses shall be added into the calculation of the Customs value, provided that such an amount is not already included in the price actually paid or payable for the imported goods:

- a. Commissions, brokerages, the cost of containers, and the cost of packing incurred by the buyer;
- b. The following items, the amortized value of which is based on an appropriate method, directly or indirectly offered to the seller with or at an allowance to the buyer for use in connection with the production or sale of the imported goods:
  - (1) Materials, components, parts and similar items incorporated into the imported goods;
  - (2) Tools, dies, molds and similar items used in the production of the imported goods;
  - (3) Materials consumed in the production of the imported goods; and
  - (4) Engineering, development, artwork, design work, plans, and similar items undertaken elsewhere than in the ROC and necessary for the production of the imported goods;
- c. Royalties and license fees that the buyer must pay as a condition of the sale of the goods being valued;
- d. The amount paid or payable to the seller from the proceeds of any subsequent use or disposal of the imported goods;
- e. The cost of the transport of the imported goods to the port or place of importation, and the loading, unloading and handling charges associated with the transport; and
- f. The cost of insurance.

If the Customs value of the imported goods cannot be determined by the transaction value, the Customs value shall be determined according to the following priorities:

- (1) The transaction value of identical goods exported to the ROC at the time of exporting or either before or after the exportation of such goods. A reasonable adjustment shall also be made to take account of the factors affecting the value, such as commercial levels, quantity levels, cost of transport, etc.
- (2) The transaction value of similar goods; a reasonable adjustment shall also be applied.
- (3) The deductive value means the Customs value to be calculated based on the unit price at which goods, the identical goods or similar goods are imported to ROC and sold in the condition as imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the sellers at the first commercial level, subject to certain deductions.
- (4) The computed value means the sum of the costs and expenses employed in producing the imported goods, reasonable profits and general expenses in sales, the cost of transport, loading, unloading and handling charges, and the cost of

insurance associated with the transport to the port or place of importation.

- (5) The price determined by Customs using reasonable means on the basis of information acquired through proper investigation.

Prior to importation, the duty-payer or the duty-payer's agent may apply to the Directorate General of Customs, MOF (was recognized and became Customs Administration, MOF in 1<sup>st</sup> January, 2013), for an advance ruling on Customs valuation related to the matter of whether the expenses paid or payable for the imported goods under Paragraph 3 of Article 29 of this Act or other expenses should be added into the calculation of the Customs value and Customs shall reply in writing.

The Customs value of special goods shall be determined in accordance with the following circumstances:

- (1) In the event of the re-importation of machinery, apparatus or appliances which have been sent abroad for repair or assembly, the actual cost of repair or assembly shall be adopted as the basis for calculating the Customs value.
- (2) For goods re-imported after processing abroad, the discrepancy between the Customs value of the goods at the time of re-import and that of goods similar to such goods in their original condition at the time of export shall be adopted as the basis for calculating the Customs value.
- (3) In the case of imported goods on which only a rental or royalty has been incurred without a transfer of ownership, the Customs value shall be determined on the basis of the amount of the rental or amount of royalty plus the transportation fee and insurance fee.

## B. Duty Obligations

### 1. Duty obligations

Customs duty obligations shall include the following:

- a. Declaration: Declaration of imported goods must be made to Customs by the duty-payer within fifteen days following the date of the arrival of the means of transportation on which the goods were carried. Pre-arrival declarations are also acceptable for such goods as are to be imported.
- b. Payment: Customs duty shall be paid within fourteen days following the date of receipt of the duty memo. In cases where the goods imported are under duty reduction or exemption with a subsequent deviation from duty reduction or exemption conditions on account of a transfer of ownership or a change in their use, the original duty-payer or the present holder of such goods shall be required to pay duty to Customs at the port of importation, within thirty days following the date of the transfer of ownership or the change in the use of the goods imported; the import

duty levied shall be according to the value and tariff rate applicable at the time when such a transfer or change occurred.

- c. Examination: With regard to import or export goods, Customs may examine or exempt examination either by its own authority or upon request. Customs may, if necessary, take samples. The quantity of the sample(s) to be taken shall be limited to the quantity required for examination.

The method, time and location of the examination, the withdrawal of samples, and the scope of exemption referred to in the preceding paragraph shall be prescribed by the MOF.

When the goods are examined pursuant to Paragraph 1 above, it shall be the responsibility of the duty-payer or the exporter to attend to the transportation, unpacking or the opening of the cases, as well as the restoration of such packages to their original form or condition, with all expenses thus incurred being borne by him or her.

- d. Investigation: For the purpose of ascertaining the correct customs value, Customs may investigate pertinent account books, vouchers, and other information. Duty-payers who refuse an investigation without just cause are subject to a fine in accordance with the law.
- e. Return: When goods which are not permissible for importation arrive at a port of the ROC, Customs shall order the duty-payer to return such goods abroad within a prescribed period. If the duty-payer abandons the goods in writing or fails to return the goods abroad within the prescribed period, the goods may be disposed of by Customs. If there is a sales surplus after deducting the customs duty leviable and any necessary expenses, it shall be surrendered to the government treasury.

## 2. Duty-payer

The duty-payer of customs duty shall be the consignee of the imported goods, or the bearer of the bill of lading, or the holder of the imported goods, as the case may be. The responsible person of any means of transportation refers to the captain of a vessel or an airplane, the master of a train, or the controller of any other means of transportation.

When a duty-payer, who is a legal person, partnership or a non-legal body, is to be dissolved or liquidated, the liquidator shall, prior to the allocation of the remaining assets, pay any customs duty, delinquent fees and fines owed sequentially according to the law.

Any liquidator who violates the provisions of the preceding paragraph shall be liable for payment of the outstanding amount.

## 3. Collection period

The customs duty, delinquent fee or fine, levied in accordance with the provisions of the law, but not collected within five years of the date on which such collection was finally determined, shall no longer be collected. However, this stipulation shall not apply to a case which has been referred to the court for enforced payment prior to the expiration of the five-year period and whose proceedings have yet to have been concluded.

Where installment or deferred payments are approved after the collection has been finally determined, the aforesaid five-year period shall commence on the day following the expiration of the installment or deferred payments period. This collection period shall apply *mutatis mutandis* to all charges leviable under the Customs Act.

### C. Customs Import Tariff and Duty Rates

In August 1971, the ROC adopted the Customs Cooperation Council Nomenclature (CCCN) for the levying of customs duties on an *ad valorem* basis. In March, 1977, to simplify collection, the government changed the form of the tariff for some goods whose quality was difficult to examine or grade from that of *ad valorem* duty to specific duty. In August 1980, to assist the promotion of trade and to provide a basis to negotiate for reciprocal treatment with trade partners, the government implemented a double (two columns) tariff system. In July 1982, the ROC changed its tariffs, and some specific duties were modified to compound duties. Then, in 1989, the nomenclature was changed to the Harmonized Commodity Description and Coding System (H.S.).

In 1999, in order to help importers confirm the tariff classification of a product and to reduce disputes over the classification of imported goods, the ROC established the program of the tariff classification advance ruling system where duty-payers or their agent may apply for an advance tariff classification ruling on the goods prior to their importation while Customs shall reply in writing within a specific period of time.

In 2003, in order to implement FTA agreements and give certain trade preferences to imports from Least Developed Countries (LDCs), the government effected a change to the tariff system whereby the tariff rates of the ROC are divided into three columns as follows: the rates in the first column apply to goods imported from WTO members or countries and areas that have a reciprocal agreement with the ROC; the rates in the second column are preferential rates, levied on goods imported from countries which have negotiated a Free Trade Agreement with the ROC or from LDCs; and the rates in the third column apply to goods imported from other countries and areas.

### D. Special Duties

In order to provide a fair and competitive market for domestic industries and to accommodate special economic situations occurring in our country or abroad, the MOF has enacted special duty clauses in the Customs Act, notably countervailing duty, anti-dumping duty, and temporary duty.

#### 1. Countervailing duty

When a subsidy has been granted, either directly or indirectly for manufacture, production, or export by the country of origin or exportation, thereby causing injury to the industry of the ROC, a countervailing duty, not in excess of the amount equal to the subsidy received for the imported goods shall be levied in addition to the customs duty leviable under the Customs Import Tariff. The producer of the like product or related commercial, industrial, labor, or agricultural associations or other legal organizations that are able to identify their representative of the industry, may apply for the imposition of a countervailing duty against the imported product on behalf of the like-product industry. The imposition of the countervailing duty shall be approved and publicized following investigation and examination by the MOF.

## 2. Anti-dumping duty

When imported goods are found to have been dumped at a price less than the normal price of goods of the same kind, thereby causing injury to the industry of the ROC, an appropriate anti-dumping duty, not greater in amount than the margin of dumping, shall be levied on such goods in addition to the customs duty leviable under the Customs Import Tariff.

A total amount of NT\$194,630,000 in anti-dumping duties was collected in 2013 on five products imported from China, including towel products, footwear, benzoyl peroxide (BPO) products, sodium formaldehyde sulfoxylate (SFS) and Type I and Type II of Portland Cement and of its Clinker.

## 3. Retaliatory duty

When goods exported from the ROC or carried by any carrier of the ROC are given discriminatory treatment by an importing country thereby making the goods of the ROC inferior to those of other countries in the market of the importing country, an appropriate retaliatory duty may, in addition to the customs duty leviable in accordance with the Customs Import Tariff, be levied on the goods shipped from that country to the ROC or carried by any carrier of that country. In determining the imposition of retaliatory duty, the MOF shall consult with other relevant authorities and refer to the Executive Yuan for approval.

## 4. Temporary adjustment of customs duty

In order to deal with an extraordinary domestic and/or international economic situation, or a situation to accommodate the supply of goods, or to provide a reasonable operational environment, the government may reduce or increase the duty rates of designated imported goods within a 50% range under the Customs Import Tariff. However, when the price of staple food fluctuates dramatically, the tariff rates of these imported goods may be reduced within a 100% range.

# III. Customs Procedures

## A. Imported Goods

To enable the rapid completion of clearance operations, enforce trade regulations, and prevent smuggling so as to facilitate international trade and assure security and economic order, the Customs enacted “The Rules on Regulating Storage for Import and Export,” “The Rules on Regulating Containers,” and “The Rules Governing the Establishment and Control of Bonded Warehouses” to provide five major clearance procedures for all imported goods as following:

1. Application for import: When applying for import of goods, the applicant is required to fill out and submit a declaration.
2. Examination: An application for examination of the imported goods shall be filed within ten days from the date of application for import. Where an application has been made, after the expiration of the prescribed period, Customs may directly conduct the examination along with the administrator of the warehouse.
3. Classification and valuation
4. Payment
5. Release: In order to accelerate the customs clearance process, Customs may, by collecting a tariff based on the heading and customs value reported by the duty-payer, examine and release the imported goods in advance. Through this practice, importers may complete their clearance procedures and have their imported goods released within a few working hours.

#### B. Exported Goods

The exporter shall declare export goods to Customs within the prescribed period, before the clearance or departure of the means of transportation carrying such goods. Rules governing declaration, examination, and release shall be prescribed by the MOF.

The exporter shall first file an application for export, pass examination by Customs, and submit pertinent documents so as to complete the export clearance procedures.

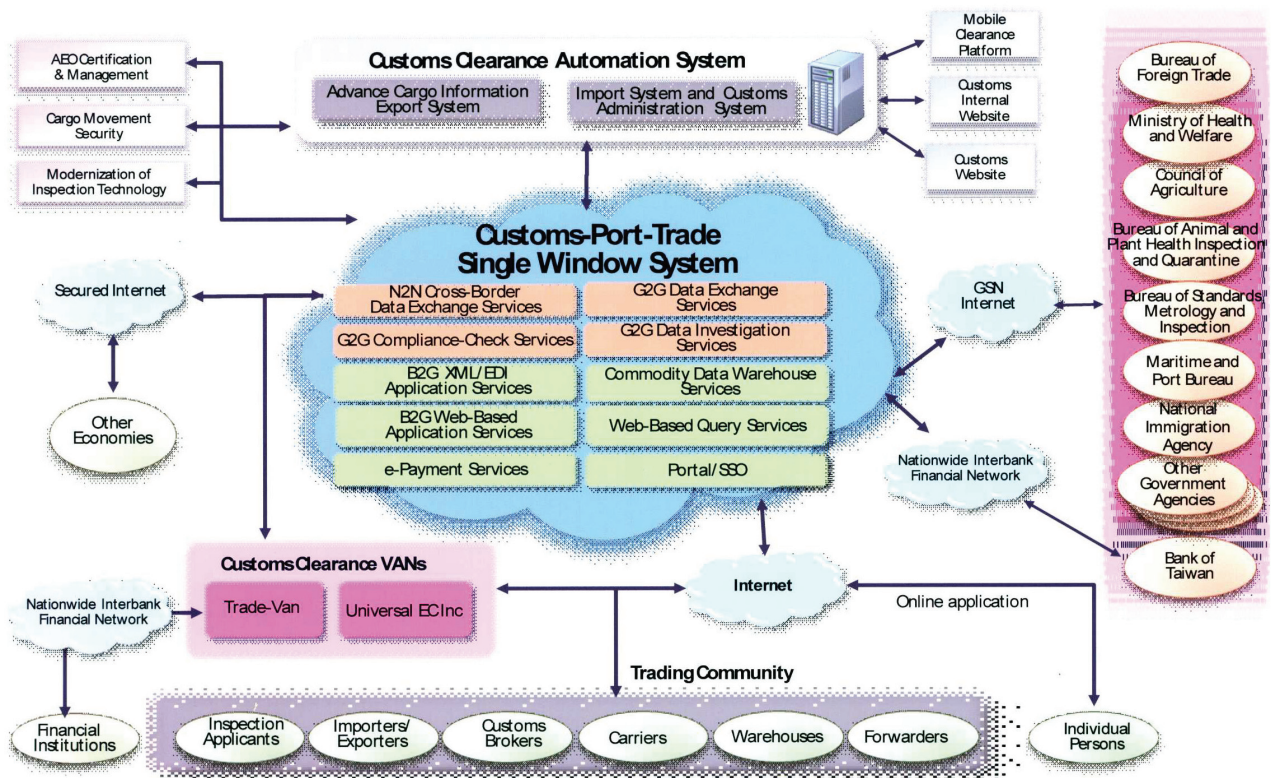
#### C. e-Customs Environment

To promote the efficiency and effectiveness of Customs clearance, the ROC has been working hard on cargo clearance automation and modernization over the years. Since 1992, the Customs has adopted the UN/EDIFACT EDI message standard to establish the Customs Clearance Automation System and the Customs Clearance Value-Added Network (VAN) to provide 24/7 services for related stakeholders. Nowadays, 99.9% of import, export or transit declarations are processed via these systems. Furthermore, since 1997, the Customs has developed various internet-based services such as the G2G Customs Electronic Gateway (in 2003), the Import and Export Internet Clearance System (in 2004), the e-Payment System (in 2006) and the Mobile Clearance System (in 2007) to enhance Customs services.

In order to align with the WCO SAFE Framework Initiative, the Customs implemented the Customs-Port-Trade (CPT) Single Window System in 2013, integrating the Customs

Clearance System, the Facile Trade Network and the Maritime Transport Network System with the aim of streamlining Customs and licensing business processes to provide one-stop services for all stakeholders (Customs, other government agencies and the trading community, etc.) as well as to conduct data sharing and import, export or transit business operations. Moreover, the Customs also implemented the Advance Cargo Information of Export System in the same year, with the adoption of an advance information declaration regime and the simplification of clearance procedures for traders, so as to offer related industries facilitated and secure clearance services. (Please see Chart E below)

Chart E: e-Customs Environment



#### D. Express Cargo Clearance

For the sake of the convenience afforded by express cargo clearance, the government enacted “The Regulations Governing the Import and Export Customs Clearance of Express Consignments” in 1995 to provide the following services:

1. 24-hour/365-day customs service;
2. X-ray examination;
3. Random cargo inspection based on importer/broker qualifications;
4. Paperless EDI transmission;
5. Consolidated clearance for low value shipments;

6. On-line payment;
7. Risk management; and
8. Acceptance of informal declarations of documents and low-value consignments.

#### E. Paperless Release

Since 1998, the government has adopted the APEC Blueprint for Modern Customs as a guide to reform of customs procedures. One of the most distinguished achievements is paperless release which includes:

1. C1 paperless release (all import and export cargo being selected for no paper examination/no physical inspection);
2. All import and export declarations and manifests being processed in express cargo handling units or air cargo transit centers;
3. Export cargo warehouse vouchers;
4. Import and export cargo release notices; and
5. Air cargo import and export manifests, sea cargo import and export manifests, general discharge permits, and special discharge permits.

The government will gradually expand paperless release to include:

1. C2 paperless release (all import and export cargo subject to the check of licensing paper);
2. Customs cargo inspection notices; and
3. Import cargo warehouse vouchers, and import cargo taken delivery vouchers.

#### IV. Preferences

##### A. Exemption

If they satisfy the Customs Act or relevant laws, certain imported goods may be exempted from customs duties.

1. The major exemptions in the Customs Act include:
  - a. Articles imported for official or personal use by diplomatic and consular officials of foreign embassies, legations and consulates stationed in the ROC, and articles imported by other organizations and personnel that are entitled to diplomatic privileges, provided that the foreign governments concerned are extending reciprocal privileges to the ROC;
  - b. Goods imported solely for military use;
  - c. Relief articles;
  - d. Articles necessary for educational, research, or experimental purposes;

- e. Decoration medals and insignia, official and private documents and the like, advertising materials and samples of no commercial value or within the limited value;
  - f. Personal effects of passengers and petty parcels imported by post;
  - g. Pharmaceutical products or medical apparatus imported for preventing epidemics;
  - h. Articles imported for emergency aid; and
  - i. Articles for personal use brought in by sailors of the ROC.
2. In accordance with the Atomic Energy Act, the customs duties of any equipment imported for the use of atomic research, development, exploration, production and protection, and pertinent generation equipment shall be exempt from duty.
  3. According to the Fishery Act, any articles or equipment for use in fishery production, research, and experiments are duty-free under certain circumstances.
  4. Imported machinery: Customs duties imposed on equipment and instruments used for drilling oil wells or exploring for oil, if they satisfy the pertinent provisions of the Statute for the Exploration of Oil in Seabeds, shall be exempted.

#### B. Duty Bonding

When goods arrive at a port of the ROC, the consignee may, prior to import declaration, apply to Customs for entry of the goods into a bonded warehouse. Within the time limit prescribed for the storage of goods in a bonded warehouse, the goods may be re-exported free of customs duty.

Export processing factories may be registered, with the approval of Customs, as bonded factories under Customs supervision. Some imported raw materials stored and used in such bonded factories for manufacturing or processing into products for export shall be exempt from customs duties.

Firms operating the storage, transportation and distribution business of bonded goods at the bonded location may apply to Customs for registration of their location as a logistics center. Exported goods stored in a logistics center which are re-exported in their original form, or after reconditioning or processing, shall be exempted from duty.

#### C. Duty Refunds

Customs duty paid on raw materials used in the manufacture of articles intended for export is refundable following exportation of the finished products according to the standards for the raw materials in the quantity required for normal production, unless the item of duty refund has been cancelled by the MOF by public notice or the amount of the refundable duty, or percentage of it in the FOB price of the finished products, is lower than 1%.

However, in order to cope with changes in the domestic and international economy, the MOF adjusted part of the rule in the preceding paragraph and promulgated that for

Customs duty paid on raw materials, where the amount of the refundable duty, or percentage of it in the FOB price of the finished products, is lower than 1%.

Manufacturers may, within one year and six months from the date following the day on which the raw materials were released for importation, apply to Customs with the relevant export documents for duty refund or to offset the accounts for export products manufactured from imported raw materials. No application for duty refund or offsetting of the accounts shall be accepted after the expiry of such time limit.

For the purposes of improving the service quality and administrative effectiveness, Customs implemented the Electronic Processing of the Offsetting or Refund of Duties and Taxes on Raw Materials for Export Products System, which was officially launched in September, 2012.

#### D. Zoning Preference

##### 1. Export processing zones

Export processing zones are established to encourage investment, foster exports, and expand the exportation of products and services. Therefore, machinery, equipment, raw materials, fuel, and semi-finished products imported for their own use by export enterprises within these zones shall be entirely exempt from customs duties.

##### 2. The Hsinchu, Taichung, and Tainan Science-Based Industrial Parks

The science-based industrial parks in Hsinchu, Taichung, and Tainan were founded because of the importance of attracting high-grade industries and scientific and high-tech elite in order to stimulate research and innovation to improve domestic industries and promote the development of highly sophisticated technological industries. The machinery, equipment, raw materials, fuel, and semi-finished products imported by the enterprises within these parks for their own use shall be exempt from customs duties.

##### 3. The free trade zones

Free trade zones are established to develop the mode of operation suitable for a global logistics and management system and so thus to effect promotion of trade liberalization and internationalization, the facilitation of the smooth flow of personnel, goods, finance, and technology, the upgrading of national competitive power, and the furthering of national economic development.

Goods for its operations, machineries and equipment for its own use to be transported overseas to a free trade zone by a free trade zone enterprise shall be exempted from customs duty.

#### E. Duty-Free Goods to Penghu, Kinmen, and Matsu

The MOF issued the amendment of “The Regulations for the Implementation of the Duty Exemption on Goods Imported into Offshore Islands” and “Items Covered Under the Measures Governing the Import of Duty-Free Goods into Offshore Islands” on 22nd

October, 2010 (Decree Nos. 09905908900 and 09905908901). All licensed exporters/importers are eligible to import 320 items duty free if they are registered with the local business tax authority or if taxes are paid there. The duty-free goods include beer, alcohol, cosmetics, film, electric appliances, eyeglasses, cameras, toys, and other sundries.

In order to promote tourism on the offshore islands, the MOF stipulated and promulgated “The Regulations Governing the Establishment and Management of Offshore Island Duty-Free Shops” on 19<sup>th</sup> May, 2008 in accordance with Article 10-1 of the Offshore Development Act. People in the areas of Penghu, Kinmen, and Matsu may set up offshore duty-free shops upon receiving the permission of the local county authorities and by applying for the establishment of offshore duty-free shops at the local customs office. The promulgation of these regulations may serve to assist in the promotion of tourism on the offshore islands, to offer benefits to shoppers, and to enhance the development of the offshore islands in an effective manner.

#### V. Contraband

The following contraband shall be prohibited from importation:

- A. Counterfeit currency, negotiable securities, plates or dies for printing or casting counterfeit currencies;
- B. Articles infringing upon the rights of patents, trademarks and copyrights;
- C. Other contraband as specified in other laws.

#### VI. Penalties

There are two types of Customs Act violations: avoidance of duty and default of duty obligations. To penalize the former, the government may, in accordance with the Customs Anti-Smuggling Act, impose a fine or confiscate the goods. If any criminal offence is involved, Customs may bring such case to court for criminal punishment. To punish the latter, Customs may impose a daily late fee for belated reporting, delinquent fees, etc.

#### VII. Customs Fees

Customs may collect fees for special services rendered to transport and import or export goods as well as for the issuance of various certificates. The rules governing the collection of such charges shall be prescribed by the MOF.

#### VIII. Customs Preventive Measures

Due to the late enactment of the Customs Act on 8<sup>th</sup> August, 1967, the measures taken to investigate and prevent smuggling and duty avoidance should be in conformity with the Customs Anti-Smuggling Act which was first implemented in 1934. After the implementation of the Customs Anti-Smuggling Act, in line with government policies on trade control and the development of carriers, the government, with a view to strengthening anti-smuggling measures, effectively deterring smuggling, increasing fiscal revenues, and maintaining fair

competition, made seven revisions to the Act in 1973, 1978, 1983, 1995, 2001, 2005, 2007, 2010, and 2013.

The existing Customs Anti-Smuggling Act focuses its attention on cases involving the avoidance of inspection, evasion of Customs duties, escape from Customs control, and the transport of goods into or out of the territory without application to Customs. To cope with attempts at Customs evasion, Customs is equipped with boats and other necessary equipment. The legislation also delegates adequate authority, equivalent to that of the police in investigating a crime, to Customs officers carrying out their assignment to prevent smuggling. Therefore, Customs officers may examine and search places concerned and detain smuggled goods and carriers.

There are stringent penalties prescribed in the current Customs Anti-Smuggling Act on the smuggling of goods into or out of the territory and for trading in smuggled goods. Whenever an untoward situation develops, such as a carrier declining to obey an injunction order issued by Customs or failing to load or unload goods in conformity with the pertinent regulations, or a duty-payer making a false statement on his or her application to import goods or applying some other undue means to achieve duty exemption or reduction, Customs may impose a comparable fine.

## IX. Administrative Remedies

The Customs Act and Customs Anti-Smuggling Act provide special regulations for administrative remedies.

### A. Customs Duty

Any duty-payer who is not satisfied with a determination of Customs regarding the tariff classification, customs value, supplementary duty, or special duty for imported goods, may within thirty days from the date of receiving the duty memo, submit a written protest in conformity with the prescribed form to Customs for a review. Pending a final decision on the review, the imported goods should be released to the duty-payer against the payment of customs duty in full amount or adequate security conditional on the approval of Customs. Customs shall review its determination and make a decision within two months after receipt of the protest. The duty-payer, if not satisfied with the said decision made by Customs, may file an administrative appeal to the higher authorities and then file an administrative lawsuit in accordance with the laws.

### B. Customs Anti-Smuggling Act

Any person who is not satisfied with a disposition made by Customs in accordance with the Customs Anti-Smuggling Act may submit a written protest to Customs for a review within thirty days following the date of receipt of the disposition. If there is no seizure or the seizure is not sufficient to pay the fines, duty, and charges, Customs may order the protestor to deposit an amount equal to one half of the original determination or the deficiency of the guarantee or furnish adequate security. In the case that the duty-payer fails to make the payment or furnish the security and then protests, no protest shall be

accepted. After receiving the protest, Customs shall review the case. If the protest is sustained, Customs shall reverse the original disposition and make a new one; otherwise, Customs shall maintain the original disposition and send a written notice to the protestor. The protestor, if not satisfied with the result of the Customs review, may file an appeal to the MOF and then file an administrative lawsuit with the Administrative Court.

## X. Future Plans

### A. Promotion of the Modernization of the Legal Regime of the Customs

1. Revision of Customs regulations to facilitate trade and Customs procedures.
2. Amendment of Customs rules and regulations in accordance with the Revised Kyoto Convention (RKC).
3. The government signed the Agreement between Singapore and the Separate Customs Territory of TPMM on Economic Partnership (ASTEP) with Singapore on 7th November, 2013. The tariff amendment is expected to come into force in 2014.
4. Harmonization of Customs clearance practices in different tax bonded areas.

### B. Enhancement of International Cooperation in Customs Affairs

1. Active promotion of the signing of agreements for mutual assistance with other countries to strengthen international Customs cooperation.
2. Continuous enhancement of the cooperation with China Customs based on the Cross-Straits Customs Cooperation Agreement.
3. Establishment of bilateral relationships by exchanging information, taking actions against Customs offenses, etc., with a view to building close ties to resolve Customs issues.
4. Active participation in the activities of international organizations such as the WTO, WCO, and APEC, to collect information about the latest developments in international rules and standards and to strengthen bilateral and multilateral cooperation.
5. Establishment of bilateral cooperation in matters related to the Authorized Economic Operator (AEO) system by the signing of mutual recognition arrangements with other Customs administrations.

### C. Capacity Building and Expertise of Customs Personnel

1. Collection and study of international rules and standards concerning trade facilitation and security.
2. Undertaking of Supply Chain Security Specialist training programs and Joint Validation for local Customs officers under the AEO Program.
3. Hosting of training programs at the Training Institute, MOF for staff to upgrade Customs expertise.