

STATE OF KUWAIT

Law No. 10/2003 on Issuing the Unified Customs Law of GCC States

- After reviewing the Constitution,
- Based on Law No. 16 / 1960 on the issuance of the Criminal Law and its amending Codes ,
- With regard to the Law No.17 / 1960 on the issuance of Procedural and Criminal Procedure law and its amending Codes,
- According to the Amiri decree On Law No. 13 / 1980 concerning Customs,
- Pursuant to the Law No. 44/ 1981 on the Approval of AGCC Statute,
- Based on Law No. 26/ 1995 concerning Free Zones,
- With regard to Law No. 56/ 1996 on the issuance of the Industry law,
- Pursuant to Law No. 5/ 2003 on the Approval of the GCC Unified Economic Agreement,
- According to AGCC Supreme Council's decision taken at its 22nd Session held in Muskat, Oman between 30th –31st December 2001, regarding the Adoption of AGCC Unified Customs Law and its Explanatory Note,

- And based on AGCC Supreme Council's decision taken at its 23rd Session held in Doha, Qatar between 21st– 22nd December 2002, on declaring the Foundation of AGCC Customs Union, Therefore, the National Assembly has approved the following Law, as we thereafter endorse and issue:

Article 1

The Unified Customs Law of GCC States by its attached Text has been approved.

Article 2

All goods that enter Kuwait's territory shall submit to the levied customs duties and other charges at the rate of 5% of its value, in addition to CIF and other expenses set through the concerned Minister's decision until the port of arrival.

Some imported goods may be exempted from the levied customs duties through an Exclusion Amiri Decree. In addition, it is possible to lay down other categories of customs duties by an Amiri Decree that must not exceed the one levied in the AGCC States.

Article 3

After three months since the implementation of AGCC Unified Tariff and according to the measures agreed upon between the AGCC States and by an Amiri Decree, the Industrial Establishments shall be exempted from the levied customs duties on all their imports of machines, equipments, spare parts, primary and semi-manufactured raw materials, packing and packaging materials necessary for commencing the industrial production.

During the mentioned period of three months, the Industrial Establishments exemptions provided for in the provisions of Industry Law No. 56/ 1996 provisions shall be effective.

Article 4

The Amiri Decree on Law No. 13/ 1980 referred to shall be canceled, and the attached Unified Customs Law of GCC States shall be in force.

Moreover, and without prejudice to the provisions of the AGCC Unified Customs Law and its Rules of Implementation, and until the issuance of the Resolution applying it, the operated rules and regulations before it comes into force shall be effective.

Article 5

The Prime Minister and all Ministers, each in his field, must implement this Law, and shall be effective since the date of applying its Rules of Implementation.

The Amir of Kuwait

H.H. Sheikh Jaber Al-Ahmad Al-Subah

Issued at Bayan Palace,
On 22nd April 2003



Unified Customs Regulation "Law" of the GCC States

Rules of Implementation and

Explanatory Notes Thereof

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Explanatory Notes to the Unified Customs Regulation “Law”.

Introduction

The unification of the customs regulations and procedures in the GCC States is one of the most important objectives to be achieved by the customs administrations of the GCC member States among which is the adoption of “ a Unified Customs Regulation “Law” of the GCC States” that unifies the customs procedures in all the customs administrations of the GCC States and contributes to the enhancement of cooperation in the customs field among the Member States.

The efforts to achieve this objective had been made since 1992 and the technical committee, assigned by the directors general of customs, to do this task had held seventeen meetings for this purpose and concluded with the agreement on the Regulation “law” referred to above.

To ensure that this Regulation “Law” is in line with the provisions of the international organizations relating to customs, the Secretariat General had dispatched English versions of this Regulation to the World Trade Organization and the World Customs Organization for their comments and the Secretariat General received those comments which were passed to the competent technical committee for consideration and proposing appropriate action.

The Unified Customs Regulation “Law” of the GCC States was adopted in the 20th Session of the Supreme Council held in Riyadh during the period 27-29 November 1999 provided that it would be implemented as a reference regulation for one year from the date adopted by the Supreme Council and that it would be revised in the light of the comments received by the Secretariat General from the member States in an attempt to have it obligatorily implemented by all the Customs Administrations of the GCC States by 2002.

In order to complete the necessary implementation aspects of the Unified Customs Regulation “Law” in the customs administrations of the GCC States and to review the comments of the member States and finalize the preparation of the Rules of Implementation and the Explanatory Notes, the Supreme Council , in its 21st Session held in Manama, Bahrain 30-31 December 2000, decided to extend the reference implementation of the Unified Customs Regulation “Law” of the GCC States for one more year provided that it should be obligatorily implemented by all the Customs Administrations of the GCC States in January 2002 .

The said decision “resolution” of the Supreme Council was a step which had enabled the customs administrations and the ad hoc committees of the GCC States to complete all the aspects that would provide the factors of the proper implementation of this Regulation “Law” to achieve the objective for which it was made, that is the unification and facilitation of the customs procedures in the GCC States which would enhance the trade exchange among them and between the rest of the world countries, and lay down the firm foundations of the customs Union of the GCC States.

Pursuant to the recommendation of the Ministerial Council, in its 81st Preparatory Session, to adopt the recommendation of the Financial and Economic Cooperation Committee (The Ministers of Finance and Economy of the GCC States) in its 55th Meeting concerning the Unified Customs Regulation “Law” of the GCC States, the **Supreme Council**, in its 22nd Session held in Muscat on 30-31 December 2001, **resolved** as follows:

1. Approval of the amendments proposed to the Unified Customs Regulation “Law” of the GCC States and the Rules of Implementation and the Explanatory Notes thereof.
2. This Regulation “Law” shall come into force as of January 2002.
3. Implementation of Articles (9, 98) relating to the Unified Customs Tariff and the mechanism for the collection and distribution (allotment) of duties in the customs union of the GCC States shall coincide with the setting up of the customs union.
4. Article (97) relating to drawback “the refund of the customs taxes “duties” on the goods re-exported to outside of the GCC States” shall be implemented after the issuance of the rules of implementation thereof.
5. Provisions of Article (109) entitling the GCC nationals the right to practice the activity (profession) of customs clearance shall be implemented after the Financial and Economic Cooperation Committee has agreed to permit the GCC nationals to practice this activity “profession” in the GCC States.

The Supreme Council, in its 23rd Session held in Doha, Qatar 21-22 December 2002, approved the decisions of the Financial and Economic Cooperation Committee concerning the application of Article (9) relating to the application of the unified customs tariff, and Article (97) relating to Drawback, Article (98) relating to the goods exempted from the customs taxes “duties” and Article (109) permitting the GCC nationals to practice the activity of customs clearance.

This Regulation “law” falls in (17) sections comprising (178) Articles containing provisions regulating the customs work, the areas subject to customs control, the nature of the customs procedures at the land, sea , air and post customs offices that apply to the import and export operations, the application of the customs tariff and the collection of the customs duties on the imported goods, the stages of the customs clearance of the goods, the exemptions and temporary admission of goods, the documents to be produced to customs for the clearance of the goods, and the provisions for the establishment of free zones and duty-free shops and the regulation of the work of the customs brokers (clearing agents), the treatment of the customs offences and the smuggling cases and the rights and duties of the customs officers. Hence this regulation “law” is deemed the legal instrument regulating the customs procedures in the customs administrations of the GCC States and the

relationship between these administrations and the public of nationals, residents and importers so that the person dealing with the customs administrations would find no difference in the customs procedures applied in any of the GCC States. This regulation “law” does also regulate the relationship between these customs administrations and the government departments in each State.

When this regulation “law” had been prepared, it was taken into account that it would be utilized in the customs work for the time being and it would also prepare the customs administrations of the member States for the phase of the forthcoming customs union of the GCC States as it meets all requirements thereof.

Unified Customs Regulation (Law) of the Cooperation Council for the Arab States of the Gulf

Section I

General Provisions and Definitions

Article 1

This regulation (law) is called “The Unified Customs Regulation (Law) for the Arab States of the Gulf (GCC States)”.

Article 2

The following words and terms, wherever mentioned throughout this Regulation “ Law “ , its Explanatory Note and Rules of implementation, shall have the meanings hereby assigned for them, unless the context otherwise requires:

1. The term “**the Council** “means the Cooperation Council for the Arab States of the Gulf.
2. The term “**the Minister** “means the minister to whom the Customs Administration reports.
3. The term “**competent authority**” means the authority to which the customs administration reports.
4. The term “**the Director General** “means the Director General of Customs.

5. The term “the **Director** “means the director of a Customs office.
6. The term “the **Administration** “means the Customs Administration.
7. The term “**Customs office** “ means the sector, designated by the Minister, at each seaport, airport, land port or at any other place where there is a branch office of the Administration authorized to complete all or some of the customs procedures.
8. The term “**Regulation / law** “means the rules and provisions governing customs work, and any other supplementing or amending rules or provisions.
9. the term “ **customs zone** “ means that part of the lands or seas subject to the customs control and procedures set forth herein which is of two kinds:
 - (i). Sea customs zone: Which includes that part of the sea located between the shores and the end boundary of the territorial waters.
 - (ii) Land customs zone: which covers the lands located between the land boundaries or shores, on the one hand, and the internal line on the other hand, to be prescribed by a resolution by the Minister or the competent authority?
10. The term “**customs line** “means that line conforming to the political boundaries (borders) separating between the country and the adjacent countries and the seashores surrounding that country.
11. The term “ **customs tariff** “ means the nomenclature containing the descriptions of the goods and the respective taxes and customs duties as well as the rules and notes of the kinds and types of commodities.
12. The term “**customs taxes (duties)** “means the amounts levied on the goods according to the provisions of this Regulation.
13. The term “**fees/charges** “means the amounts collected by customs for the services rendered.
14. The term “**goods** “means any natural, material or animal, agricultural, industrial or intellectual product.
15. The term “**type of goods** “means the description mentioned in the customs tariff nomenclature.

16. The term “**the price actually paid or payable**” means the total amount paid to the seller, directly or indirectly, for the goods imported by the buyer or for his favor.
17. The term “**the imported goods being valued**” means the goods being valued for customs purposes.
18. The term “**identical goods**” means goods that are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical.
19. The term “**similar goods**” means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.
20. The term “**sales commission**” means the commission paid to the seller’s agent who is related to the seller or the factory, governed by or acting for its favor or on its behalf.
21. The term “**packing costs**” means the cost of all packing and coverings (excluding instruments of international traffic” whether for the labor or the materials used for placing the goods in packings suitable for shipping to the GCC states.
22. The term “**unit price at the greatest total quantity**” means the unit price at which certain goods are sold to unrelated persons, at the first commercial level after importation in its state when imported or after further preparation or processing, if the importer so requested.
23. The term “**related persons**” means persons who are:
 - (a). legally recognized partners in business,
 - (b). officers or directors of one another’s business,
 - (c). employer and employee,
 - (d). any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock shares of both of them,
 - (e). one of them directly or indirectly controls the other,
 - (f). both of them are directly or indirectly controlled by a third person,
 - (g). together they directly or indirectly control a third person,
 - (h). members of the same family.
24. The term “**Valuation Agreement**” means the Agreement on Implementation of Article VII of the GATT 1994.

25. The term “**origin of the goods**” means the producing country, whether these goods are natural resources, agricultural crops or animal or industrial products.
26. The term “ **prohibited goods** “ means any goods the import or export of which is prohibited under the provisions of this Regulation “ Law “ or any other regulation “ law “.
27. The term “ **restricted goods** “ means those goods the import or export of which is restricted under the provisions of this regulation “law “ or any other regulation “ law “.
28. The term “**source** “means the country from which the goods is imported.
29. The term “**importer** “means the natural or legal person importing the goods.
30. The term “**exporter** “means the natural or legal person exporting the goods.
31. The term “ **manifest** “ means the document containing a full description of the goods carried on the various means of transport.
32. The term “ **free zone** “ means a part of the state’s territories in which commercial or industrial activities are exercised under the respective laws of that state. Any goods entering that zone are considered to be outside the customs zone and shall not be subject to the usual customs control and procedures.
33. The term “**duty-free shop**” means that licensed building or place wherein goods are placed free of customs duties (taxes) for purposes of display or sale.
34. The term “ **customs declaration** “ means the goods declaration or the declaration submitted by the importer or his representative describing the elements identifying the declared goods and quantity thereof in details according to the provisions of this regulation “ law “ .
35. The term “**storehouse**” means that building or place intended for the temporary storage of goods pending their withdrawal under one of the customs procedures whether such place/building is directly administered by the Administration or by the official public agencies or the investors.
36. The term “ **warehouse** “ means the place or facility wherein the goods are deposited under supervision of the Administration free of customs duties (taxes) according to the provisions herein.
37. The term“**carrier** “means the owner of a means of transportation or his authorized representative (under an official authorization).

38. The terms “**specified routes**” means the routes specified by the minister for the carriage of the imported or exported goods into/from the country or the goods in transit under a resolution.
39. The term “**Treasury**” means the public treasury.
40. The term “**Customs Clearance**” means documentation of the customs declarations for the imported, exported and transit goods according to the procedures provided for herein.
41. The term “**Customs broker**” means any legal or natural person licensed to undertake customs clearance for the account of the others.
42. The term “**representative of the customs broker**” means any legal or natural person licensed to follow up customs procedures.

Article 3

The provisions of this regulation “law” apply to the sovereign territories and territorial waters of the country. Notwithstanding, free zones, totally or partially excluded from customs provisions, may be established in such territories.

Article 4

Any goods crossing the customs line, at importation or exportation, shall be subject to the provisions of this regulation (law).

Article 5

The Administration shall perform its duty at the customs office or customs zone and May also exercise its powers within the extent of the country’s territories and territorial waters under the conditions set forth herein.

Article 6

Customs offices are established and canceled by a resolution of the minister or the competent authority.

Article 7

Competencies and work hours of the customs offices are specified by a resolution of the minister or the competent authority.

Article 8

Subject to the provisions of the articles relating to the inspection of goods, customs procedures shall only be conducted at the designated customs offices as set forth in article 7.

Section II

Principles of application of the Customs tariff

Article 9

Goods imported into the country are subject to the customs taxes “duties” specified in the customs tariff, and the other applicable fees, excluding those exempted under the provisions of this regulation “ law “or under the Unified Economic Agreement of the GCC Arab states or any other international agreement within the framework of the Council.

Article 10

The duty rate of the customs tariff shall be either ***ad Valorem*** (percentage of the value of goods) or ***specific*** (an amount levied on each unit of the goods), or both.

Article 11

Customs taxes” duties” are levied, amended and abandoned by the legal instrument applicable in each Member State subject to the respective resolutions issued by the Council and the provisions of the international agreements in force.

Article 12

Resolutions amending the customs taxes “duties” shall specify the date at which such amended taxes “duties” shall be effective.

Article 13

Imported goods are subject to the customs taxes “duties” applicable at the date of registering the customs declaration with the customs offices unless otherwise provided for in the text of the resolutions amending the customs tariff.

Article 14

When custom taxes “duties” are to be levied on the goods deposited at the warehouse due to the expiry of the warehousing period, such goods shall be subject to the tariff provisions applicable at the date of registering the customs declaration.

Article 15

Goods taken out from the free zones and duty-free shops into the local markets are subject to the customs tariff effective at that time.

Article 16

Smuggled goods (contrabands) or the like are subject to the customs tariff prevailing at the time of the detection or occurrence of smuggling, if applicable, whichever is higher.

Article 17

The customs tariff effective on the sale day shall apply to the goods sold by the customs office according to the provisions provided for herein.

Article 18

Damaged goods shall be subject to the customs tariff based on their value at the date of registering the customs declaration.

Section III

Prohibition and Restriction

Article 19

A customs declaration shall be produced for any goods entering or leaving the country; the goods are then presented to the customs authorities at the nearest customs office.

Article 20

Marine means of transport entering the country, irrespective of their load capacity, are prohibited from anchoring in any seaports (harbors) other than those designated for receiving them, excluding the case of sea emergency or force majeure wherein the shipmaster shall immediately notify nearest customs office or security point of such occurrence.

Article 21

Vessels, loaded with prohibited or restricted goods or goods subject to high rates of duty, of a loading capacity less than two hundred marine tons may not enter or get involved in the shipping activity within the marine customs zone except in circumstances arising from sea emergency or force majeure, in which case the shipmaster shall promptly notify the nearest customs office or security point of such occurrence, excluding goods transported within the local seaports of the country whose customs procedures have been finalized.

Article 22

Aircraft departing or arriving in the country may not take off or land at the airports where no customs offices exist unless in cases of force majeure in which case the shipmaster shall promptly notify nearest customs office or security point of such occurrence and submit a report, approved by the customs office notified of that occurrence, unless otherwise provided for in any other regulation (law) or resolution.

Article 23

Land means of transport may not enter or leave the country through the areas where no customs offices exist.

Article 24

By virtue of the provisions of this regulation (law) or any other regulation (law) or resolution, the Customs Administration prohibits admission, transit or exit of the prohibited goods or infringing goods as well as the entry, transit or exit of any restricted goods except under approval from the competent authorities in the country.

Section IV

Distinguishing Elements of the Goods

(Origin, Value, type)

Article 25

Imported goods are subject to the proof of origin according to the rules of origin adopted within the framework of the international and regional economic agreements in force.

Article 26

The value for customs purposes shall be calculated according to the rules and principles set forth in the rules of implementation.

Article 27

Acceptance of the value as a distinctive element of the goods requires the following:

1. Any customs declaration shall be accompanied by a detail original invoice and the director general or his representative may allow finalization of the clearance procedures without presentation of the authenticated original invoices and the required documents against an undertaking to produce them within a period not to exceed 90 days from the date of undertaking.
2. The value of the goods shall be proved by producing all original invoices and documents reflecting the value according to the rules set forth in Article 26.
3. The customs office may require all documents, contracts, correspondence and other relevant documents without having to accept all that is stated in them or in the invoices themselves.
4. The Administration may request Arabic translation of the invoices issued in a foreign language showing details of the goods in accordance with the customs tariff as well as the other documents, if so required.

Article 28

The value of the exported goods is that indicated in the customs declaration plus all the costs until arrival of the goods at the customs office.

Article 29

Goods not mentioned in the customs tariff (Harmonized System) and the explanatory notes are to be classified according to the classification advice given by the World Customs Organization. Goods that fall under national subheadings in the customs tariff are to be classified within the context of the Unified Customs Tariff of the member States of the Council.

SECTION V

Importation and exportation

Chapter I: Importation

1. Sea transportation

Article 30

a) Any goods imported into the country by sea shall be registered in the manifest.

b) A single manifest for the whole load signed by the shipmaster shall be made which shall contain the following information:

i. Name and nationality of the ship and its registered load.

ii. Types of the goods, total weight thereof and the weight of bulk goods , if any .If goods are prohibited, their actual description shall be mentioned.

iii. Number of packages and pieces, description of packing, marks and numbers thereof.

iv. Names of the consignor and consignee.

v. The seaports where the goods are shipped from (ports of loading).

c) When entering the customs zone, the shipmaster shall produce the original manifest to the competent authorities.

d) When the ship enters the harbor, the shipmaster shall submit to the customs office the following:

1. The cargo manifest

2. The manifest of the ship's supplies (logistics) and the crew's baggage and belongings.
3. A list of the passengers' names.
4. A list of the goods to be unloaded at this port.
5. All the shipping documents which the customs office may require for application of the customs regulations.

e) Manifests and documents shall be submitted within sixty-three hours from the time the ship enters the seaport, excluding official holidays.

Article 31

If the manifest belongs to a ship (vessel) that does not make regular voyages or that does not have a forwarder at the port, or if it is a sail ship, then the manifest must be endorsed by the customs authorities at the shipping port.

Article 32

a) Cargo of the ships and all other marine means of transportation may be unloaded only within the customs zone at the port. Any shipment may be unloaded or transhipped only under supervision of the customs office.

b) Unloading and transshipment shall be completed according to the conditions laid down by the director general.

Article 33

Shipmaster, forwarder or his representative shall be held responsible for any shortage in the number of pieces or packages or the amount of the bulk goods until delivery of the goods to the customs warehouses or acceptance of the goods by the owners, if so allowed, subject to provisions of Article 54 herein.

Article 34

If a shortage in the number of unloaded pieces or packages or in the amount of bulk goods, compared to those mentioned in the manifest, is found out, the shipmaster or his representative shall justify such shortage and prove that it has occurred outside the marine customs zone. If documents cannot be

submitted at once, a time period not exceeding six months may be given to submit the same against a guarantee ensuring the Administration's rights.

2. Land transportation

Article 35

Customs procedures of the goods imported by land should be completed at the first customs office and may be referred to another inland customs office, When necessary, under a resolution by the director general.

Article 36

a) A manifest of the total cargo of the land means of transportation shall be prepared and signed by the carrier or his representative and shall contain adequate information on the means of transportation, its cargo and all other details according to the conditions prescribed by the director general.

b) Carriers or their representatives shall submit the manifest to the port immediately upon arrival therein to.

3. Air transportation

Article 37

Subject to the provisions of Article 22 herein, aircraft crossing the country borders shall follow the specified routes and shall land only at the airports where customs offices exist.

Article 38

A manifest of the airplane's cargo shall be prepared and signed by the captain according to the conditions set forth in paragraphs a, b, c, d, of Article 30 herein.

Article 39

The captain or his representative shall submit the manifest and the lists mentioned in Article 38 herein to the customs officers and shall deliver these documents to the customs office upon arrival of the aircraft.

Article 40

Goods may not be unloaded or dropped out of the aircraft during flight unless it is necessary to do so for safety purposes, provided that the customs office shall be notified of the same, subject to the provisions set forth in the other relevant regulations.

Chapter II: Exportation

Article 41

Owners of the means of transportation of goods, loaded or unloaded, shall-when leaving the country- submit to the customs office the manifest according to the provisions of Section 1 of this Chapter and shall obtain exit permission. However, the Director General, may, in certain cases, make an exception to this condition.

Article 42

Exporters of goods shall proceed with the goods to be exported to the competent customs office and declare them in detail. Carriers towards land borders may not overpass the customs offices.

Chapter III: Postal traffic

Article 43

Goods are imported or exported by mail according to the provisions of this regulation (law) and subject the other applicable international postal agreements and local regulations in force.

Chapter IV: Common provisions

Article 44

a) Several sealed packages, assembled in any way whatsoever, may not be stated in the manifest as a single package. Containers, palettes and trailers are subject to the instructions given by the director general.

b) A single consignment may not be split. However, for acceptable reasons, the director general may allow such splitting, provided that such splitting shall not result in a loss to the treasury.

Article 45

Provisions of Articles 32, 33, and 34 herein shall apply to the land and air transport in respect to the unloading and transshipment of goods. Drivers,

captains of aircraft and carriers shall be responsible for any shortage in case of land and air transport.

Article 46

The Administration may use Electronic Data Interchange (EDI) in customs clearance.

SECTION VI

Stages of customs clearance

Chapter I: Customs declarations

Article 47

When clearing any goods , even if exempted from customs taxes and duties, a detailed customs declaration, conforming to the forms approved within the framework of the GCC states, shall be submitted to the customs office containing all the information that enable application of the customs regulations and levying applicable customs taxes and duties and for statistical purposes.

Article 48

Subject to the provisions of para. (1) of Article 27 herein, The director general shall specify the documents to be attached with the customs declarations and the information to be contained therein and shall allow the completion of the clearance procedures in the absence of any of the required documents against cash or bank guarantees or a written undertaking to submit such documents according to the stipulated conditions.

Article 49

Contents of the customs declarations may not be modified after registration; however, the applicant may apply in writing to the customs office for correction before the customs declaration is referred to inspection.

Article 50

Owners of the goods or their representatives may check their goods before submitting the customs declaration and may take samples thereof, when necessary, after obtaining permission from the Director and under supervision of the customs office. Such samples shall be subject to the applicable customs taxes “duties”.

Article 51

No parties other than the owners of the goods or their representatives may have access to the customs declarations excluding competent judicial or official entities.

Chapter II: Examination (Inspection) of goods

Article 52

The designated customs officer shall examine the goods wholly or partially after registering the customs declarations according to the instructions of the director general.

Article 53

a) Examination of goods shall take place at the customs office; however in certain cases such examination may be conducted outside the customs office according to the rules laid down by the director general.

b) Transferring the goods to the place of examination and the unpacking and repacking of packages and all the other works required for examination shall be at the expense of the owner of the goods who will be held responsible until arrival of the goods at the place of examination.

c) Goods placed in the customs warehouses or at the places intended for examination may not be removed without approval of the customs office

d) The individuals carrying the goods and presenting them for examination shall be acceptable to the customs office.

e) Access to the stores, customs warehouses, hangars, sheds and yards intended for the storage or deposit of goods and to the places allocated for examination may not be authorized to any person without approval of the customs office.

Article 54

Examination shall be conducted only in the presence of the owner of the goods or his representative. Should a shortage in the contents of the packages develop, responsibility for such shortage is determined as follows:

1. If the goods had been placed in the customs warehouses in packages that are in an apparently proper condition from which it can be ascertained that the shortage in their contents had occurred at the exporting country prior to shipping, then such shortage shall be disregarded.

2. If the goods entering the customs warehouses or stores are in packages that are not in an apparently proper condition, the entity in charge of these warehouses or stores shall, together with the carrier, record this occurrence in the acceptance report and verify the weight, contents and number of packages. It shall also take the necessary precautions to ensure safety of the goods. In this case the carrier shall be held responsible unless a reservation is indicated on the manifest and endorsed by the customs office of the exporting country in which case the shortage will be disregarded and the pursuit shall be discontinued.
3. If the goods have been admitted into the customs warehouses and stores in packages that are in an apparently proper condition then they became subject of suspicion, the entity in charge of the warehouses shall be responsible for any shortage or switching, if any.

Article 55

When the customs office suspects the presence of prohibited or illegal, it shall have the right to open the packages for inspection. Such opening of packages may be authorized in the absence of the owner of the goods or his representative, if he refrains from attending the inspection at the specified time notified to him.

When necessary, the customs office may inspect the goods before notifying the owner of the goods or his representative. Such inspection may be conducted by a committee formed, for this purpose, by a decision of the director general and a report of the findings of inspection shall be made.

Article 56

- a) The customs office may have the goods analyzed by specialized agencies to verify the kind and specifications of the goods or their conformity to the regulations and laws.
- b) Goods requiring the availability of certain conditions and specifications to be released shall be subject to analysis (testing) and inspection; however the director may release them against an appropriate undertaking ensuring that they are not to be disposed of until the analysis result has come out.
- c) The director general may order that the goods, proved through inspection or analysis to be harmful or not conforming to the approved specifications, be destroyed at the expense and in presence of their owners or their representatives. When necessary, such goods shall be re-exported to the source country in which case a report of the same shall be made.

Article 57

Customs taxes “duties” shall be levied according to the contents of the customs declaration. Should physical inspection result in a difference (discrepancy) between the goods and what is stated in the customs declaration, customs taxes and duties shall be levied on the basis of this finding without prejudice to the customs’ right to levy the applicable fines, when necessary, under the provisions herein?

Article 58

If the customs office cannot verify the contents of the customs declaration through inspection of the goods or the documents submitted, it may suspend inspection and request necessary supporting documents.

Article 59

The customs office may re-inspect the goods under the provisions of Articles 51 - 56 herein.

Chapter III: Provisions relating to passengers

Article 60

Items or belongings accompanying the passengers shall be declared and inspected at the competent customs offices according to the rules and practices laid down by the director general.

Chapter IV: Adjustment of the value

Article 61

A valuation committee composed of officers from the administration shall be established by a resolution of the director general to settle the disputes arising between the customs office and the persons concerned about the value of the imported goods. Such committee may seek assistance of experts at its discretion.

Without prejudice to the importer's right to appeal to court, the importer may appeal before the valuation committee against the decisions of increased value within fifteen days following the registration of the customs declaration or from the date of the valuation notice sent to him by registered mail. Decisions of this committee shall be taken by majority and shall be effective once approved by the director general. The importer shall be informed in writing of the decision taken by the committee concerning his complaint. Such decision shall be reasonable.

Article 62

a) Should a dispute arise between the competent customs officer and the owner of the goods about the value of the goods due to discrepancy in description, origin or any other reason, the matter shall be referred to the director for settlement. If the director approves the opinion of the customs officer but the owner of the goods does not accept such opinion, the matter shall be referred to the director general for settlement of dispute or for referral to the valuation committee.

b) The director may release the goods in dispute, if not prohibited, after collecting a deposit in an amount equivalent to the sum of the customs duties and taxes determined by the customs office. Samples of the goods shall be temporarily maintained for reference when necessary; such samples shall be returned to the owner of the goods unless they are consumed for inspection and analysis purposes.

Chapter V

Payment of customs taxes "duties" and other charges and the Release of goods

Article 63

- (a) Goods shall be subject to customs taxes "duties" and may not be released unless after completion of their customs procedures and payment of customs duties and taxes according to the provisions herein.
- (b) Goods shall be delivered to the owners or their duly authorized representatives according to the procedures prescribed by the director general.

Article 64

The customs officers assigned to collect customs duties and taxes shall execute an official receipt in the form prescribed by the minister or the competent authority.

Article 65

When a state of emergency is declared, precautions may be taken for removing the goods against special guarantees and conditions prescribed by the minister or the competent authority.

Article 66

According to the rules and conditions prescribed by the director general, goods may be released prior to payment of the customs duties and taxes and after completion of the customs procedures against bank, monetary or documentary guarantees.

SECTION VII

Cases where customs taxes “duties” are suspended and Drawback

Chapter I: General Provisions

Article 67

Goods may be admitted and transported to any other place within the country without payment of the customs taxes “duties” against submission of a bail or bank guarantee equivalent to the amount of the customs taxes “duties” payable according to the instructions given by the director general.

Article 68

Bails, bank guarantees and securities shall be released under discharge certificates according to the conditions prescribed by the director general.

Chapter II: Goods in Transit

Article 69

Subject to Article 67 herein and the provisions of the Unified Economic Agreement of the GCC Arab States, goods are allowed to transit the territories of the Council states according to the applicable provisions and regulations and the international agreements force.

Article 70

Transit operations can be completed only at the authorized customs offices.

Article 71

Subject to the provisions of the applicable regional and international agreements transit goods are transported through the specified routes by the various means of transport at the carrier's responsibility according to the instructions of the director general. The routes for the transit transportation and the conditions thereof are to be specified by a resolution of the minister or the competent authority.

Article 72

In the event goods are transported from one customs office to another, the persons concerned may be exempted from submitting a detail declaration at the port of entry and the referral shall be according to the documents and conditions prescribed by the director general.

Article 73

The minister or the competent authority shall issue the necessary resolutions governing the suspension of the customs duties and taxes applicable to all other kinds of transit transport.

Chapter III: Warehouses

Article 74

Warehouses inside or outside the customs office shall be established by a resolution of the minister or the competent authority; the rules and conditions controlling such warehouses shall be laid down by the director general.

Article 75

Goods may be deposited with the warehouses inside or outside the customs office without payment of customs duties and taxes according to the rules and conditions prescribed by the director general.

Article 76

The Administration is entitled to supervise and control the warehouses, managed by other agencies, under the provisions of this regulation” law” and the other regulations (laws)in force.

Chapter IV: Free zones and duty-free shops

Article 77

Free zones are established by the legal instrument of each State; the rules and conditions thereof are laid down by a resolution of the minister or the competent authority.

Article 78

(a). Subject to the provisions of Articles 79 and 80 herein, all foreign goods of whatever kind or origin may be brought into the free zones and duty-free shops , and taken out from them to outside the country or to other free zone and duty-free shops , without being subject to customs duties or taxes.

(b). Subject to the export restrictions and customs procedures applicable to re-exportation, the foreign goods re-exported from inside the country may be admitted into the free zones and duty-free shops.

(c). Goods in the free zones and duty-free shops shall not be subject to any restriction in respect to the period they can remain therein.

Article 79

The imported goods, stated in the cargo manifest, may not be transferred or admitted into the free zones and duty-free shops unless by approval of the director general and under the conditions and controls prescribed by him.

Article 80

The following goods may not be admitted into the free zones and duty-free shops:

1. Flammable goods, excluding the fuels necessary for the operation allowed by the authority supervising free zones and duty-free shops under the conditions prescribed by the competent authority.
2. Radioactive materials
3. Arms, ammunition and explosives, of any kind, except those licensed by the competent authorities.
4. Goods infringing the laws relating to commercial and industrial property rights and copyright protection in respect of which resolutions have been issued by the competent authorities.
5. All kinds of narcotic drugs and derivatives thereof.
6. Goods originated in an economically boycotted country.
7. Goods prohibited from entering the country; a list of such goods shall be made by each State.

Article 81

The customs office may carry out inspection works in the free zones and duty-free shops for detection of prohibited goods, and it may also review the documents and examine the goods when smuggling operations are being suspected.

Article 82

The management of the free zones and duty-free shops shall submit to the Administration, if so requested, a list of all the goods brought into or taken out from them.

Article 83

Goods placed at the free zones and duty-free shops may not be transferred to other free zones and duty-free shops, stores or warehouses unless according to the securities, undertakings and procedures prescribed by the director general.

Article 84

Goods shall be withdrawn from the free zones and duty-free shops into the country according to the provisions of applicable regulations and as instructed by the director general.

Article 85

Goods taken out from the free zones into the customs office are treated as foreign goods even if incorporating local raw materials or articles on which customs duties and taxes have been collected prior to their admission into the free zones.

Article 86

National and foreign vessels shall be permitted to obtain all necessary marine equipment from the free zones.

Article 87

The administration of the free zones and duty-free shops shall be held responsible for all the offences committed by its officers and for the goods illegally taken out from them. All regulations and instructions relating to security, public health, smuggling and fraud control shall remain effective in these free zones and duty-free shops.

Article 88

The goods imported from the free zones and duty-free shops into or out of the country shall be treated as foreign goods.

Chapter V

Temporary Admission

Article 89

Subject to the provisions provided for in this chapter and in the Unified Economic Agreement of the Council countries and the other international applicable agreements, goods shall be temporarily admitted without collection of customs duties and taxes according to the conditions set forth in the Rules of Implementation

Article 90

The director general may grant temporary admission to the following:

1. Heavy machinery and equipment for completion of projects or for conducting the experiments and tests relating to such projects.
2. Foreign goods imported for completion of processing.
3. Items temporarily imported for playgrounds, theatres, exhibitions and like events.
4. Machinery and equipment imported into the country for repair.
5. Containers and packing imported for refilling.
6. Animals admitted in for grazing.
7. Commercial samples for exhibition.
8. The other cases so requiring.

The items provided for herein shall be re-exported or deposited with the free zone, customs offices or warehouses during the temporary admission period prescribed by the Rules of Implementation.

Article 91

Provisions of the Unified Economic Agreement of the GCC states and the other international applicable agreements governing the temporary admission of vehicles shall be observed according to the instructions prescribed by the Rules of Implementation

Article 92

The materials and articles released by temporary admission may not be used, allocated or disposed of for purposes and objectives other than those for which they were imported and declared in the submitted declarations.

Article 93

Any shortage develops in the goods released by temporary admission when taken out shall be subject to the customs duties “ taxes “ applicable at the time of admission.

Article 94

The Rules of Implementation shall prescribe the conditions for practical application of the temporary admission and the guarantees to be produced.

Chapter VI

Re-exportation

Article 95

The goods imported into the country, on which customs duties “taxes” were not collected, may be re-exported outside the country or to the free zone according to the procedures and guarantees prescribed by the Rules of Implementation.

Article 96

In certain cases, permission may be given for transshipment of the goods or withdrawal of the goods that were not placed into the customs warehouses,

from the wharves to the ships under the conditions prescribed by the director general.

Chapter VII

Drawback

Article 97

Customs duties “taxes” collected on the foreign goods shall be totally or partially refunded at re-exportation according to the practices and conditions set forth by the Rules of Implementation.

Section VIII

Exemptions

Chapter I

Goods exempted from customs duties “taxes”

Article 98

The goods agreed to be exempted from customs duties and taxes in the unified customs tariff of the GCC states shall be exempted from customs duties and taxes.

Chapter II

Diplomatic exemptions

Article 99

Imports of the diplomatic corps, consulates, international organizations and the members of the diplomatic and consular corps accredited by the government shall be exempted from customs taxes “ duties “ on reciprocity basis according to the international agreements , laws and orders in force.

Article 100

a) The goods exempted under Article (99) herein may not be disposed of or abandoned for a purpose other than that for which they have been exempted ,unless after notifying the Administration of the payment of the due customs taxes “ duties “ .

b) Customs taxes” duties” are not to be levied if the beneficiary has disposed of the goods, exempted under Article (99) herein, after three years from the date released by the customs office provided that reciprocity basis is available.

c) Exempted vehicles “ cars “ may not be disposed of before the elapse of three years following the exemption date excluding the following cases:

- Termination of the mission of the diplomatic or consular member benefiting from exemption in the country.
- The occurrence of an accident to the exempted car which makes it unfit for the use of the diplomatic or consular member based on a joint recommendation by both the Traffic Department and the Administration.
- The sale by one diplomatic or consular member to another member provided that the assignee shall be entitled to the right of exemption.

Article 101

The right of exemption for the individuals benefiting from it under Article (99) herein shall begin from the date of commencing their jobs at their official places of work in the country.

Chapter III

Military exemptions

Article 102

Imports for all sectors of the military forces and internal security forces, such as ammunitions, arms, equipment, military means of transport and parts thereof and any other materials, shall be exempted from customs taxes

“duties” by a resolution of the Council of Ministers or the authorized authority in each State.

Chapter IV

Personal effects and household items

Article 103

(a). To be exempted from customs taxes “duties” are the personal effects and used household items brought into the country by the nationals residing abroad or the foreigners coming for the first time for residence in the country, subject to the conditions and controls prescribed by the director general.

(b) To be exempted from customs taxes “duties” are the personal effects and gifts in possession of passengers provided that such items are not of a commercial nature and shall be conforming to the conditions and controls prescribed by the Rules of Implementation.

Chapter V

Imports of the Philanthropic Societies “Charities”

Article 104

Imports of the Philanthropic Societies “Charities” shall be exempted from customs taxes “duties” according to the conditions and controls prescribed by the Rules of Implementation.

Chapter VI

Returned goods

Article 105

The following goods shall be exempted from customs taxes and duties:

1. Returned goods of national origin that were previously exported.
2. Returned foreign goods that are proved to have been previously re-exported to the outside the country, if returned within one year from the date of re-exportation.
3. Goods that have been temporarily exported for finishing or repair shall be subject to the customs taxes “duties” in an amount equivalent to the addition resulting from such finishing or repair according to the decision of the director general.

The minister or the competent authority shall prescribe the conditions to be satisfied for benefiting from the provisions of this article.

Chapter VII

Common provisions

Article 106

(a) The provisions of the exemptions set forth in this chapter apply to the goods covered by exemption, whether directly or indirectly imported or bought from the customs warehouses and free zones subject to the requirements prescribed by the Administration.

(b) Should a dispute arise on whether the goods provided for in this chapter are subject to or exempted from customs taxes and duties, the director general shall settle such dispute.

Section IX

Service charges

Article 107

- a. Goods placed in the yards and warehouses of the customs office are subject to the storage, handling and insurance charges and the other services required for the storage and inspection of goods at the applicable rates. However, storage charges shall not, in any way, exceed 50 per cent of the estimated value of the goods. In the event such warehouses are administered by other entities, they may collect such charges according to the provisions and rates specified in this connection.
- b. Goods may be subject to the charges of stowage, sealing, analysis and all services rendered.
- c. The services and charges mentioned in this Article and the levying conditions shall be determined by a resolution issued by the minister or the competent authority.

Section X

Customs brokers

Article 108

A customs broker is any legal or natural person engaged in the preparation of the customs declarations, signing them, submitting them to the customs office

and completion of the customs procedures for clearing the goods for the others' account.

Article 109

Citizens of the GCC Arab States (natural or legal) have the right to exercise the profession of customs clearance upon obtaining a license from the Administration.

Article 110

Declaration of the goods at the customs office and the completion of their customs procedures, whether for importation, exportation or transit, shall be accepted from:

1. The owners of the goods or their authorized representatives satisfying the requirements prescribed by the director general including the authorization conditions.
2. Licensed customs brokers.

Article 111

Endorsement of the delivery order for the name of the customs broker or the representatives of the owners of the goods shall be deemed as an authorization for finalization of the customs procedures without any liability on the part of the customs office for delivering the goods to the endorsee.

Article 112

The customs broker shall be held responsible for his acts and those of his employees vis-à-vis the importers, exporters and the Administration under the provisions herein.

Article 113

The director general may issue the directions concerning the following:

1. Licensing requirements for customs brokers,
2. Licensing requirements for the representative of the customs broker,
3. Licensing procedures for customs procedures and their representatives,
4. Obligations of the customs broker and his representative,

5. Requirements for opening the customs clearance offices,
6. The number of customs brokers and their representatives authorized to exercise the profession at the customs offices,
7. The customs office (s) wherein the customs brokers are authorized to work,
8. Procedures of dispensing with the customs brokers and their representatives,
9. Procedures of transfer (movement) of the representatives of customs brokers among the customs clearance offices,
10. Procedures of withdrawing the licenses of the customs brokers and their representatives,
11. Cases of deletion of the licence from the Administration's register.

Article 114

Subject to the provision of Article 140 herein and without prejudice to any civil or penal liability set forth herein or in any other regulation (law), the director general may impose on the customs broker and his representative any of the following penalties commensurable with the offence committed:

1. Notice (warning).
2. A fine not to exceed SR 5000 or its equivalent in the currencies of the other Council Member States.
3. Suspension of activity for a period not to exceed two years.
4. Cancellation of the license and final prevention from exercising the profession.

An appeal against the imposition of these penalties may be made before the minister or the competent authority within thirty y days from the date of notification. The resolution (judgment) of the minister or the competent authority shall be final.

Article 115

The customs broker shall keep a register wherein he records a summary of the customs transactions he has completed for the account of others according to the conditions stipulated by the customs office. This register shall contain the amount of duties paid to the customs office, the fees paid to the broker and any other expenses relating to the transactions. The director or his authorized representative shall have absolute power to have access at any time to these registers (records) without objection by the broker.

Section XI

Rights and duties of the customs officers

Article 116

- a. The customs officers, when performing their duties, shall be deemed as judicial officers within the limits of their competencies.
- b. The customs officers, when appointed, are given identification cards indicating the nature of their jobs, to be presented upon request.
- c. The customs officers shall put on the specified official uniform when performing their duties if the nature of their job so requires.

Article 117

Civil and military authorities and internal security forces shall render to the customs officers every assistance for the performance of their duties once requested and the customs office shall cooperate with the other official entities.

Article 118

Customs officers, whose nature of job so requires, are allowed to carry guns. Such officers are designated by a resolution of the minister or the competent authority.

Article 119

Any customs officer, whose services are terminated for any reason whatsoever, shall return the items in his custody to his immediate supervisor.

Article 120

The incentives and allowances granted to the customs officers are determined by a decision of the minister or the competent authority based on a proposal from the director general according to the nature of their jobs. Such incentives and allowances shall be effective once approved by the competent authorities.

Section XII

Customs zone

Article 120

Prohibited goods, restricted goods and goods subject to higher customs taxes “duties” as well as the other goods designated by a decision of the director general shall be subject to the provisions of the customs zone. The Rules of Implementation shall specify the conditions of transportation within this zone and the necessary documents and procedures.

Section XIII

Customs matters

Chapter I: Investigation of smuggling

Article 122

- a). Customs officers shall combat smuggling. To this effect, they are authorized to inspect the goods and the means of transport and to search persons under the provisions herein and the other applicable regulations (laws).
- b) The body search of women shall be conducted only by a female inspector.
- c). In the event there are adequate evidences of the presence of contraband and after obtaining permission from the competent authority, customs officers shall be entitled to inspect any house, store or shop according to the applicable regulations (laws).
- d). Customs officers shall not be held responsible for the damages resulting from the proper performance of their jobs.

Article 123

Authorized customs officers have the right to get aboard the vessels anchoring in the local ports or those entering or leaving such ports and to stay aboard until the cargo is unloaded and they may inspect all parts of the vessel.

Article 124

Authorized customs officers have the right to get aboard the vessels in the customs zone for inspection or presentation of the cargo manifest and the other required documents under the provisions herein; when refraining from producing such documents or in the absence of such documents and when contraband or prohibited goods are suspected to be concealed, customs officers may take all necessary measures to seize such goods and shall lead the vessel to the nearest customs office.

Article 125

The Administration may take appropriate actions for investigating (detecting) smuggling inside and outside the customs office according to the rules laid down by the minister or the competent authority.

Article 126

Investigation of smuggling, seizure of goods and proving customs offences may be conducted on all goods within the territories of the country in the following cases:

1. in both the land and maritime (sea) customs zones.
2. At the customs offices, seaports, airports and all the places subject to customs control.
3. Beyond the land and maritime (sea) zones when continuously tracking controlled deliveries of the goods that have been witnessed within the zone in a situation that obviously indicates that they are intended to be smuggled.

Article 127

Customs officers are entitled to have access to the papers, documents, records, correspondence, commercial contracts and instruments whatsoever, directly or indirectly relating to the customs operations, and to seize them when offences are found out which shall be done at the premises of the shipping and transportation companies and the natural and legal persons involved in customs operations.

Such companies and persons shall keep all the aforesaid documents for a period of five years from the date of completion of the customs operations.

Article 128

Customs officers may detain any person suspected to have committed or attempted to commit an offence or involved in committing any of the following offences:

- a). Smuggling
- b). Transporting or acquisition of contraband.

Chapter II: Seizure report

Article 129

The seizure report of the offences and crimes of customs smuggling shall be made according to the practices set forth in this Regulation "Law".

Article 130

When the offence/crime or smuggling is detected, a seizure report shall be promptly made by at least two customs officers and it may be made by one customs officer when necessary.

Article 131

The seizure report shall contain the following details:

1. The place, date and hour (in letters and figures) it is prepared.
2. Names of the customs officers who had detected the offence and those who had prepared the seizure report, their signatures and the nature of their jobs.
3. Names of the offenders or those responsible for smuggling, their nationalities, characteristics, occupations and detail addresses.
4. Seized goods, kinds and quantities thereof, their value and tariff heading.
5. Detailed facts, statements of the offenders or the individuals responsible for smuggling and statements of witnesses, if any.
6. An indication in the seizure report that it has been recited to the offenders or those involved in smuggling who had approved it by signing it or refused to do so.
7. All the other useful documents and the presence or absence of the offenders or those involved in smuggling when making inventory of the goods.
8. Referring samples of the seized contraband to the competent authorities for verification of prohibited materials.

9. Identifying the authority to which contraband has been delivered and taking an acknowledgement of receipt.
10. Identifying the security entity to which the smuggler(s) has been delivered and the hour and date of delivery.

Article 132

- a) The seizure report prepared according to Articles 130 and 131 herein is a proof of the material facts that have been seen by the customs officers who had prepared it, unless proved otherwise.
- b) The formal deficiency in the seizure report does not cause it to be null and may not be returned to the customs officers who had prepared it unless such deficiency is relating to material facts.

Article 133

The Customs office may seize the goods subject of offence or smuggling and the other items used for concealment as well as the means of transport whatsoever (i.e. boats, vehicles and animals) excluding vessels, aircraft and public buses intended for the transport of passengers, unless they are specially designed for smuggling purposes.

Article 134

Smuggled goods or those attempted to be smuggled such as narcotic drugs and the like shall be disposed of according to the regulations and laws in force in the State.

Chapter III: Precautionary measures

Part I: Precautionary seizure

Article 135

- a. Customs officers executing the seizure report may seize the goods - subject of smuggling or offence- and the means of concealment and transport thereof and seize all documents in order to prove the offences or smuggling and to secure the duties, taxes and fines.
- b. The director general may, when necessary, have an order issued by the competent authorities to effect provisional attachment on the properties

of the offenders and smugglers as a security of the payment of the customs duties and taxes and fines and implementation of the final decisions and awards issued in this respect.

Article 136

The director general may, when necessary and as a guarantee the public treasury's rights, impose a customs security on the property of the tax (duties) payers or their partners.

Article 137

Arrest may be authorized only in the following cases:

1. Smuggling offences in the act.
2. Resistance to customs officers or security officers that impedes seizure of smuggling cases or customs offences or the persons involved therein.
3. When the persons are likely to escape in order to avoid the fines, penalties or compensations that might be imposed.

The authorized customs officers or the security authorities shall issue the arrest order. The arrested person shall be presented to the competent court within 24 from the time of arrest.

Part II: Preventing the offenders and the persons accused of smuggling from leaving the country.

Article 138

The director general or his authorized representative may ask the competent authorities to prevent the offenders or the persons accused of smuggling from leaving the country, if the value of the seized goods is not sufficient to cover the taxes, duties and fines.

Such prevention order shall be cancelled if the offender or the person accused of smuggling has submitted a bail equivalent to the claimed amounts or if it is found out thereafter that the value of the seized goods is sufficient to cover the claimed amounts.

Chapter IV: Customs offences and penalties thereof

Article 139

The collected customs fines and seizures provided for herein are deemed as a civil compensation to the Administration and shall not be covered by the provisions of amnesty.

Article 140

In the even of multiple offences, fines shall be imposed on each offence separately and the severest fine will be sufficient to if the offences are so correlated and cannot be separated.

Article 141

Excluding the smuggling cases provided for in Article 142 herein and without prejudice to the international agreements in force, a fine shall be imposed on the following offences according to the rules of implementation of this regulation (law):

1. Offences of importation and exportation.
2. Offences of customs declarations.
3. Offences of goods in transit.
4. Offences of warehouses.
5. Offences of zones under control of customs.
6. Offences of temporary admission.
7. Offences of re-exportation.
8. Any other offences.

Chapter V: Smuggling and penalties thereof

Part I: Smuggling

Article 142

Smuggling is to bring or attempt to bring goods into or out of the country in contravention to the applicable laws without payment of the customs taxes

“duties, in whole or in part, or contrary to the provisions of prohibition or restriction provided for herein or in the other laws.

Article 143

The following actions are particularly deemed as smuggling:

1. Not proceeding with the goods to the first port of entry (customs office).
2. Not following the routes specified for getting the goods into or out of the country.
3. Unloading or loading the ships contrary to the regulations applicable at the customs office or unloading or loading the ships beyond the marine customs zone.
4. Illegal unloading or loading of aircraft cargo outside official airports or dropping goods during flight, subject to the provisions of Article (40) herein.
5. Not declaring at customs office the incoming or outgoing goods without a manifest including the goods accompanied by passengers, which have a commercial character.
6. When the goods surpass the customs office at entry or exit without being declared.
7. Discovering goods, not declared to a customs office, concealed in places or cavities not usually designed for containing such goods.
8. Increase, shortage or alteration in the number of the packages or the contents thereof in a situation suspending the duties provided for in Chapter VII herein discovered after the goods have left the customs office. This provision applies to the goods that have illegally transited the country or without finalization of their customs procedures in which case the carrier shall be held responsible.
9. Failure to produce the evidences prescribed by the Administration to justify suspensions of the customs taxes “duties”.
10. Taking the goods out of the free zones and duty-free shops, customs warehouses, stores or customs zones without finalization of their customs procedures.
11. Producing false, fraudulent or fabricated documents or lists or affixing false marks intended to evade the customs taxes “duties”, in whole or in part, or to avoid the provisions of prohibition and restriction.
12. Transporting or acquisition of prohibited or restricted goods without submitting evidences supporting their legal importation.
13. Transporting or acquisition of goods subject to customs authority within the customs zone without legal documents.
14. Not re-importation of the goods prohibited from exportation that were temporarily exported for any purpose whatsoever.

Part 2: Penal responsibility

Article 144

The penal responsibility for the smuggling offence requires the presence of intention. Determination of this responsibility takes into account the applicable penal provisions. The following are deemed to be penally responsible in particular:

1. Principal perpetrators (offenders).
2. Partners in the offence.
3. Inciters and interferes.
4. Possessors of contraband.
5. Owners of the means of transport used for smuggling, drivers and assistants who are proven to be involved in the contraband.
6. Owners or tenants of the shops and places where contraband are kept or the beneficiaries who are proved to be aware of the presence of contraband in their shops or places.

Part 3: Penalties

Article 145

Without prejudice to any higher penalty provided for in other regulations applicable in the State, smuggling and like offences and the attempt to commit any of them shall be penalized as follows:

1. If the smuggled goods are subject to high customs taxes “duties”, the penalty shall be a fine not less than double the payable customs taxes “duties” and not more than double the value of the goods and imprisonment for not one month but not to exceed one year or either of them.
2. As for the other goods, the penalty shall be a fine not less than double the payable customs taxes “duties” and not more than the value of the goods and imprisonment for not less than one month but not to exceed one year or either of them.
3. If smuggled goods are exempted from customs taxes “duties”, the penalty shall be a fine of not less than ten percent of the value of the goods and not more than their value and imprisonment for not less than one month but not to exceed one year or either of them.
4. If smuggled goods are prohibited ones, the penalty shall be a fine not less than the value of the goods but not more than three times the value and imprisonment for not less than six months but not to exceed three years or either of them.
5. Confiscation of the smuggled goods or imposing a fine equivalent to the value thereof when the goods are not seized.

6. Confiscation of the means of transportation and the tools and materials used in smuggling, excluding public means of transportation such as ships, aircraft, trains and public vehicles, unless they are intended or hired for smuggling purposes, or imposing a fine equivalent to their value when goods are not seized.
7. The penalty may be doubled if the offence is repeated.

Article 146

The director general may hold the goods and the seized means of transport in case the smugglers have escaped or could not be caught and sell them according to the provisions of Section 14 herein and the proceeds of sale shall revert to the government upon the expiry of one year from the date of sale with the smugglers not being caught. Should the smugglers be caught or brought to court during this period and the goods have been ordered to be confiscated, the order of confiscation shall apply to the proceeds of sale.

Chapter VI: Prosecutions (Pursuits)

Part I: Administrative prosecutions (pursuits)

Article 147

- a) The director general may issue the necessary orders for collection of the payable customs taxes “duties” and fines, which the payer has not paid.
- b) Objection to the collection orders may be made to the Administration within fifteen days from notification date. Nevertheless, this shall not stay execution of the orders (Judgments) unless the claimed amounts are paid under deposit through a bank guarantee or in cash.

Article 148

- a) The fines provided for in chapter 5 of this section shall be imposed by a resolution of the director general or his authorized representative.
- b) The offender or his representative shall be notified of the imposed fine by a written notice through the competent authority. The offender shall pay the fines within fifteen days from the date of notification.

Article 149

The penalization orders (judgments) referred to in the preceding Article may be appealed before the minister or the competent authority during the same period and the minister or the competent authority has the right to confirm, amend or cancel the penalization order.

Part 2: Prosecution of the smuggling offences

Article 150

The action of smuggling offences may be reconsidered only upon written request from the director general.

Part 3: Conciliatory settlement (compromise)

Article 151

- a). The director general or his authorized representative may- upon a written request by the person concerned- make a compromise (conciliation), in the smuggling issues, whether prior to the bringing of the action or when the action is being tried and prior to the issuance of the first instant judgment which will be in lieu of all the customs penalties and fines provided for in article 145 herein.
- b). The Manual (directory) of the conciliatory settlements is issued by a resolution of the minister or the competent authority.

Article 152

Subject to the provisions of Article 150, the conciliatory settlement (Compromise) shall be as follows:

1. If contraband are goods that are subject to high customs taxes “duties”, the penalty shall be a fine not less than twice the amount of the customs taxes ‘ duties” and not exceeding double the value of the goods.

2. 2. As regards the other commodities, the penalty shall be a fine not less than the amount of the payable customs taxes ‘ duties’ and not exceeding 50% of the value of the goods.
3. If the smuggled goods are not subject to customs taxes “duties” (exempted), the penalty shall be a fine not less than 10% of the value of the goods and not more than 50% of their value.
4. If smuggled goods are prohibited ones, the penalty shall be a fine not less than the value of the goods and not more than three times their value.
5. Confiscation, release or re-exportation (wholly or partially) of the smuggled goods in question.
6. Confiscation of the means of transport together with the tools and Materials used for smuggling excluding the public means of transport such as vessels, aircraft and cars unless these are designed or rented for this purpose.

Article 153

The action shall be relinquished when a reconciliation is reached.

Chapter VII: Liability and Joint liability

Article 154

- a. The offence and the consequent civil liability in the smuggling offences arise when the material evidences thereof are available. *Good faith or ignorance shall* not be taken into account. However, the offender shall be *exonerated* from liability if he is proved to be a victim of a force majeure as well as he who proves that he has not committed any act of offence or smuggling or caused it to occur or be committed.
- b. Civil liability shall include, in addition to the offenders and smugglers, the partners, financiers, sponsors, beneficiaries, agents, clients, donators, carriers, possessors and consigners of the goods.

Article 155

Investors of private shops and premises wherein infringing or smuggled goods are kept shall be held responsible. Whereas investors and employees of public shops and premises as well as the owners, drivers and assistants of public means of transport shall be held responsible unless they prove their ignorance of the presence of such infringing or smuggled goods and that they have not a direct or indirect interest them.

Article 156

Guarantors (sponsors) shall be responsible, within the limits of their guarantees, for the payment of customs taxes “duties”, fines and the other amounts payable to the Administration by the principal payers.

Article 157

Customs brokers shall be fully responsible for the offences and smuggling offences they or their authorized employees commit in the customs declarations. But they will not be responsible for the undertakings submitted in the customs declarations unless such undertakings are made by them or they have guaranteed the undertakers.

Article 158

Owners of the goods, employers and carriers of goods shall be responsible for the acts of their employees and all the persons working for their account in respect to the duties and taxes collected by the customs office and the fines and confiscations provided for herein as a result of such acts.

Article 159

Heirs shall not be responsible for the payment- from their own shares of the heritage- of the fines payable by the dead offenders from unless they are partners in smuggling. The action (suit) shall be relinquished upon the death of the offender.

Article 160

Payable customs duties, taxes and fines shall be jointly paid by the offenders or the persons liable for smuggling according to the applicable practices for collecting the funds due to the State Treasury. The seized goods and means of transport, if any, shall be a security for the payment of the payable amounts.

Chapter VIII: Rules of Court Proceedings

Article 161

First instance customs courts may be established at both the Administration and the customs offices according to the legal instrument applicable in each state.

Article 162

The first instance customs court shall have the following jurisdictions:

1. Hearing all smuggling offences and the like.
2. Hearing all offences committed against the provisions of this regulation (law) and the Rules of Implementation thereof.
3. Hearing the objections to the collection orders under the provisions of Article 147 herein.
4. Considering the objections submitted against the penalization judgments under the provisions of Article 148 herein.
5. The court may request any person accused under this regulation (law) to bring a sponsor to guarantee his appearance before the court or it may decide to detain him until settlement of the issue.

Article 163

- a) Judgments of the first instance customs court may be appealed before an *ad hoc appeal* court formed under the legal instrument applicable in each State.
- b) This court shall try the actions brought to it and shall take its decisions by majority.
- c) The period of appeal shall be thirty days from the date of notification of the first instance judgment by default and from the date of pronouncement of the judgment in presence of the litigant.

Article 164

The judgments passed by the court of appeal shall be final.

Article 165

Collection and penalization orders and the judgments passed in the customs matters shall be carried out by all means of execution, after having the final status, on the movable and immovable property of the offenders.

The minister or the competent authority may have an order issued to attach a sufficient amount of such property to cover payment of the claimed amounts.

Section XIV

Sale of Goods

Article 166

a) The Administration has the right to sell the perishable seized goods and those subject to shortage or leakage or if the goods are in a condition that might endanger the safety of the other goods and the facilities therein.

b) Seized goods which are subject to a considerable depreciation may be sold by authorization from the director general or his representative. The sale of the goods shall be based on a report showing the condition of the goods and the justifications of sale without having to get an order from the competent court, provided that the owner of the goods shall be notified of such sale.

If a judgment (order) to return the goods to its owner is issued thereafter, then price of the sold goods shall be paid to the owner after deducting any payable duties or taxes.

Article 167

Upon expiry of the period specified by the minister or the competent authority, the Administration may sell the goods placed in the customs warehouses, those existing in the yards or wharves or left out goods at the customs offices.

Article 168

The Administration shall sell the following:

1. The goods and means of transport that have become property of the customs under a confiscation judgment, a compromise or a written waiver.

2. The goods not withdrawn from the customs warehouses within the legal period specified according to Article 75 herein.
3. The goods and items whose owners are unknown and which have not been claimed within the storage period specified by the director general or the competent authority.

Article 169

The Administration assumes no responsibility for any damage caused to the goods being sold under the provisions herein unless it is proved that the Administration had committed an obvious default in the procedures of the sale process.

Article 170

- a. The sales provided for in this Section shall be effected in an auction according to the rules and conditions prescribed by the minister or the competent authority.
- b. The goods, items and the modes of transport shall be sold without the customs taxes "duties" and other taxes excluding the commission that shall be borne by the buyer during the sale procedures.

Article 171

- a). The proceeds of sale shall be distributed as follows:
 1. Customs taxes "duties".
 2. The costs of the sale process.
 3. The expenses incurred by the Administration whatsoever.
 4. Transportation charges, when necessary.
 5. Any other charges.
- b) The balance remaining from the proceeds of selling the goods, the importation of which is permitted on the day of sale, after deducting the sums provided for in paragraph (a) herein, shall be deposited with the Administration as a deposit. The persons concerned may claim refund within one year from the sale date otherwise such balance will be transferred to the treasury.
- c) As for the goods that are prohibited or not allowed to be imported on the day of sale, the remaining balance shall be property of the Treasury.
- d) As for the goods that are prohibited, restricted or not allowed to be imported and those sold under a compromise, penal order or a court judgment (relating to smuggling), the remaining balance shall be distributed according to the provisions of article 172 herein after deducting the taxes ,duties and costs.

Article 172

The share of the treasury from the proceeds (amounts) of the customs fines and the value of the seized or abandoned goods and means of transport are determined at 50% after deducting the customs duties taxes “duties” and costs. The remaining portion of the balance shall be deposited with the customs rewards fund or with any other account in favour of the customs, to be paid to the individuals who had discovered and seized the offences and their assistants. The rules for distributing such rewards shall be laid down by the minister or the competent authority upon a proposal from the director general.

Section XV

Privilege of the Customs Administration

Article 173

For the purpose of collecting the customs taxes “duties” and the other fees and taxes to be collected as well as the fines, compensations, confiscations and refunds, the Administration shall have a general privilege over the movable and immovable property of the tax payers and offenders, even in the case of bankruptcy, and shall also have precedence over all debts except for the judicial expenses.

Section XVI

Prescription

Article 174

Any claim or action for refunding the customs taxes “duties” paid since over three years shall not be accepted.

Article 175

The Administration may destroy the records, receipts, declarations and the other customs documents upon the expiry of five years following finalization of the customs procedures. The Administration shall not be bound to present such documents or give copy thereof to any entity upon the elapse of that period.

Article 176

Without prejudice to the other regulations and laws in force in the State, prescription period for the Customs Administration, if not prosecuted, shall be as follows:

15 years for the following two cases:

- a) Acts of smuggling and the like effective from the date of committing the offence.
- b) Execution of the smuggling judgments and the like effective from the date of passing the judgment.

5 years for the following cases, if not claimed:

- a) Investigation of the offences from the date occurred.
- b) Collection of the fines and the confiscations imposed on the offences with effect from the issuance of the penalization order.
- c) Collection of the customs taxes” duties” and the other charges that have not been collected due to a mistake by the customs office effective from the date of lodgment of the customs declaration .

Section XVII

Final Provisions

Article 177

- a) The director general may exclude the ministries, government departments and the official public organizations from certain procedures to facilitate their duties.
- b). The director general may sell the confiscated or abandoned goods and materials to the interested ministries, government departments and official public organizations, if they express their need for them, at the prices he deems appropriate, or may abandon them free of charge by a resolution by the minister or the competent authority .

Article 178

The Financial and Economic Cooperation Committee of the GCC States shall approve the Rules of implementation of this regulation “law’ which will be issued according to the legal instrument of each State.

Article 179

The Unified Customs Regulation (law) of the GCC States shall, when implemented, supersede the customs regulations and laws in force in the Member States within the limits of the constitutional rules and regulations and the basic laws in force in each State without contradiction therewith.

Explanatory Notes To the Common Customs Law Of the Cooperation Council for the Arab States of the Gulf

The GCC Common Customs Law, which was prepared by a technical committee of the GCC Member States, has been designed to meet the provisions relating to the customs affairs and regulate the relationship between customs and the public. The CCL contains provisions and procedures for the importation, exportation and transit of goods across the territories of the GCC Member States. This CCL also prescribes the rights of the employees of those administrations.

The CCL aims at protecting the society through the control of the entry and exit of individuals, goods and means of transport.

This CCL falls into 17 sections comprising 179 articles and is deemed the legal instrument regulating the duties of the customs offices and specifying the

areas subject to customs control, the nature of the customs procedures at the land, marine and air ports and the postal customs offices as well applied to the various customs transactions such as importation, exportation, temporary admission, re-exportation and transit. It is the instrument by which the customs tariff is applied and the customs taxes “duties” are levied on the imported goods. All these regulations support the trend to make the GCC Member States an international market, encourage their national industries and projects and extend the scope of their transactions and increase their exports.

This CCL also contains provisions specifying the stages of the clearance of the goods, exemption from customs taxes “duties”, conditions of the temporary admission of the goods without payment of the customs taxes “duties”, the documents to be produced to customs for the clearance of the goods in addition to the provisions governing the establishment of the free zones and duty-free shops and controlling the activity of the customs clearing agents (brokers) and the conditions of obtaining the licences for practising the customs clearance job and treatment of the customs offences and smuggling matters.

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This CCL employs the latest customs regulations and laws of the GCC States and the Arab States in addition to the practice of the GCC Member States and the nature of the role of customs therein, and the WTO Agreement as well as the WCO Conventions.

The CCL was adopted at the 20th Session of the Supreme Council held in Riyadh, Kingdom of Saudi Arabia in December 1999 and it was agreed to implement it as a reference Regulation “Law” for one year from the date adopted and that it would be reviewed in the light of the comments received by the Secretariat General from the Member States in an attempt to have it obligatorily implemented by all customs administrations of the Member States by 2000.

Due to the completion of the requirements of implementation and the review of

the comments of the Member States and finalizing the preparation of the explanatory notes and Rules of Implementation thereof, the Secretariat General proposed at the 21st Session of the Supreme Council that the reference implementation should be extended for one more year and the Supreme Council, at its 21st Session held in Manama, Bahrain in December 2000, decided to extend the reference implementation for one more year provided that it would be obligatorily implemented by all customs administrations of the GCC Member States in January 2002.

Having a Common Customs Law of the GCC Member States aims at unification of the customs procedures in all customs administrations of the GCC Member States and the enhancement of cooperation in the customs field and regulation of the relationship between these administrations and the community of traders in the GCC Member States so as to ensure unification of

the customs procedures in all the GCC Member States. This Law regulates the relationship between the customs administrations and the other governmental administrations in the Member States and enhances Intra-GCC trade and foreign trade, which is one of the pillars of the customs union of the GCC Member States.

Chapter (I)

Definitions and General Provisions

This Section deals with the definition of this regulation as the “Common Customs Law of the Cooperation Council for the Arab States of the Gulf” and contains definitions of the terms provided for therein. It provides that the provisions of this Law shall apply to the territories subject to the sovereignty of the State and its territorial waters and allows the establishment of free zones thereon and that all goods entering or leaving the State shall be subject to the provisions of this Law.

Article (5) entitles the customs administration to exercise its powers in the customs offices and the customs zone and within the extent of its lands and territorial waters subject to the conditions set forth in this Law.

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As regards the setting up and the cancellation of the customs offices, this shall be issued by a decision of the competent minister to whom the customs administration reports, and the same applies to the designation of the competences and office hours of the customs offices.

Article (8) provides that customs procedures shall be carried out only in the customs offices; these procedures mean those applied when the goods enter the customs office. This Article excludes the cases prescribed by the director general through application of the provision of Article (53) of the unified Law.

Chapter (II)

Provisions for Application of the Customs tariff

This Chapter contains the principles of application of the customs tariff as follows:

Article (9) provides that goods entering the State shall be subject to the taxes “duties” stated in the customs tariff and to the other taxes and fees excluding those goods excluded under the provisions of this Law or under the GCC Unified Economic Agreement or any other international agreement through mutual coordination among the GCC Member States.

The objective of limiting the exclusion from the customs Taxes “duties” to the cases covered by this Article is the setting up of the customs union among the GCC Member States which is based on a single point of entry and the common collection of the customs Taxes “duties” vis-à-vis the external world. Article (10) provides for the bases for levying the taxes “duties” which could be

ad valorem (a percentage of the value of the goods for customs purposes) or *specific* (a lump sum for each unit of the goods such as weight, number, volume, measurement or the other specifications of the goods).

This Article also provides that the customs taxes “duties” could be *ad valorem* and *specific* at one time which is based on combining both the *ad valorem* and

specific categories for one type of goods.

Article (11) provides that the imposition, amendment or cancellation of the customs taxes “duties” shall be made according to the legal instrument and the legal and constitutional practices of each State subject to the resolutions issued by the Council in this connection and to the provisions of the international agreements in force.

The other Articles of this Section deal with the subjection of the goods to the customs taxes “duties” from the registration date of the customs declaration and the provisions of the customs taxes “duties” relating to the clearance of the goods whose deposit period at the warehouses has elapsed and taking

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out these goods from the free zones and duty-free shops and the tariff to be applied to the smuggled goods or those damaged.

Chapter III

Prohibition and Restriction

This Chapter requires the importers to submit a customs declaration for any goods imported into or exported from the country. This declaration shall be the

official document produced to the customs along with all the other documents relating to the goods provided that the declared goods shall be presented to the nearest customs office at the point of entry (land, sea or air). The Section also provides that anchorage of the marine means of carriage shall be according to the conditions and situations set forth in Articles (20, 21).

Article (22) deals with the arriving and departing aircrafts and the conditions of landing and takeoff according to the provisions of this Article.

Article (23) limits the entry or exit of the land means of transport to those areas within the country where customs offices exist, and Article (24) stipulates that the customs administration shall apply the conditions and procedures prohibiting the entry, exit or passage of the prohibited goods or the goods contravening this Law or any other Law or resolution.

Chapter IV

The Distinguishing Elements of the Goods

This Chapter provides clarification and description of the distinguishing elements of the goods (origin, value, type) and stipulates that imported goods shall be subject to the proof of origin according to the rules agreed on within the framework of the international and regional economic organizations. The provision of Article (26) of the Law and the provision of Article (1) of the Rules

of Implementation are in line with the provisions of the WTO Valuation Agreement where calculation of the value of goods for customs purposes is determined according to the provisions and principles prescribed in detail in the Rules of Implementation of the Law.

Article (27) specifies the documents to be attached with the customs declaration and the nature of these documents and the treatment of the cases where the importer fails to submit such documents to customs, whereas Article (28) provides that the value of the exported goods shall be their value prevailing at the time of registering the customs declaration plus all charges incurred until arrival of the goods to the customs office. Article (29) provides that the goods that are not mentioned in the customs tariff nomenclature and the explanatory notes thereof shall be classified according to the classification

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advice issued by the World Customs Organization which the approved body in respect to the international classification. However, goods falling under national subheadings of the customs tariff beyond six digits are classified within the framework of the GCC as the unified Customs Tariff for the Classification and Coding of Commodities is in line with the Harmonized System in force.

Chapter (V)

Importation and Exportation

This chapter covers the Articles (30 to 46) of the Law which contain provisions of importation and exportation such as the rules, practices and procedures to be followed- at importation and exportation- by the carriers of the goods through the air, land and sea means of transportation or by post, and the documents to be produced to the customs authorities and the times of producing and the details to be contained in these documents and the controls

to be observed by carriers at loading and unloading and the extent of their responsibility for the goods they carry when such goods traverse the borders of the State.

Article (46) of this Section provides an important element of facilitation of the customs operations which is the use of the modern technology media in the Electronic Data Interchange for the clearance of the goods according to the rules prescribed by the minister or the competent authority.

Chapter (VI)

Stages of the Customs Clearance

This chapter elucidates in detail the stages of the customs clearance beginning with the lodgment of the customs declaration according to the forms approved within the frame of the Council and that the director general is empowered to specify the documents to be attached with the customs declarations and the details to be contained therein and the clearance cases without production of such documents gains cash o bank guarantees or undertakings according to the conditions prescribed by the director general.

The Law permits the owners of goods or their representatives to examine heir goods prior to the lodgment of the customs declaration and to have access to the customs declarations and documents to which no other persons can have access except the competent judicial and official authorities.

Articles (52 to 59) deal with the right of the competent customs officer to

inspect the goods wholly or partially on a case-by-case basis according to

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practices in force, the inspection procedures, the movement of goods and the presence of the owner of the goods during the inspection and the right of the administration to open the packages and make analysis (tests) of the goods, the discrepancy cases and the missing (incomplete) documents stating the description and specifications of the goods and the right of the administration to re-inspect the goods and the other relevant matters.

Article (60) tackles the declaration and inspection, at the customs offices, of the passengers accompanied luggage and belongings according to the practices and rules prescribed by the director general.

Article (61) discusses the formation of valuation committee composed of the administration's employees under a resolution issued by the director general. Such committee is specialized in the settlement of the disputes arising between the customs office and the importers concerning the valuation of the imported goods and the committee may seek assistance of experts according to the measures and procedures provided for in Article (26) of this Law without

prejudice of the importer's right to appeal before the court.

Article (62) deals with the disputes between the customs officer and the owner of the goods concerning the valuation of the goods and provides that the dispute shall be referred to the director general for settlement or to the Valuation Settlement Committee. This article also provides for the right of the director to release the goods against the guarantees provided for in this Article

and the conditions thereof.

Articles (63 to 66) deal with the payment of the customs taxes "duties" and the other charges and the release of the goods according to the rules and conditions prescribed by the director general.

Chapter VII

The cases where the customs taxes "duties" are suspended and Drawback

This chapter deals with cases where the goods could be released and moved from one place to another in the country without payment of the customs taxes "duties"; these are known as the cases where the customs taxes "duties" are suspended. The Section also deals with the *Drawback* (a system under which the paid the customs taxes "duties" can be refunded when the goods leave the country according to the following provisions and rules:

1. The release of the goods against submitting cash or bank guarantees in an amount equivalent to the customs taxes "duties" according to the instructions of the director general. Such guarantees shall be released upon presentation of the discharge certificates.

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2. When the goods transit the territories of the GCC Member States according to the provisions of the international regulations and agreements in force such as the Transit Agreement of the Arab States and according to the specified routes and at the responsibility of the carrier as instructed by the director general. The routes and conditions of transport shall be prescribed by a resolution of the minister or the competent authority.

3. The placement of the goods inside the warehouses of the customs office according to the conditions and rules prescribed by the director general.

4. The free zones and duty-free shops set up by the legal instrument of each State; the rules, conditions and customs procedures thereof are to be prescribed under a resolution by the minister or the competent authority subject to the enhanced control thereof.

Article (80) designates the goods prohibited from entering the free zones and duty-free shops and Article (83) provides that goods may not be moved from one free zone to another unless in accordance with the regulations in force, whereas Article (85) provides that the goods taken out from the free zone into the country shall be treated as foreign goods.

Article (87) holds the Administration of the free zone responsible for the offences committed by its employees.

Articles (89 to 94) deals with the cases where the goods not imported for home markets can be temporarily admitted and then re-exported from the country upon completion of the purposes and expiry of the legal duration of time for their stay in the country.

These Articles also refer to the temporary admission of tourist vehicles under the Temporary Admission System subject to the international agreements made in this connection.

Article (97) deals with the cases where the customs taxes “duties” levied on the foreign goods are wholly or partially refunded (drawback) at re-exportation according to the conditions set forth in the Rules of Implementation.

Chapter VIII

Exemptions

This chapter contains provisions for the exemption from the customs taxes “duties” (Articles 98 to 106). Exemption covers the following commodities and items:

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1. The commodities exempted in the Unified Customs Tariff of the GCC Member States.
2. The commodities imported for the diplomatic and consular bodies and the international organizations, the heads and members of the diplomatic and consular missions approved by the country according to the international agreements, laws and practices in force subject to the reciprocity principle and subject to the provisions of Article (100) concerning the conditions and procedures relating to the goods exempted under Article (99) of this Law.
3. Imports by all sectors of the Armed Forces and the Internal Security Forces such as ammunition, arms,...etc.
4. The personal effects and used household appliances belonging to the citizens residing abroad or those brought with the foreigners (expatriates) upon their first arrival for residence in the country according to the conditions prescribed by the director general.
5. Personal effects and gifts brought by passengers according to the conditions of the Rules of Implementation.
6. Imports of the philanthropic societies (Charities) according to the conditions set forth in the Rules of Implementation of this Law.
7. The cases provided for in Article (105) exempted from the customs

taxes “duties” such as the returned goods of national origin that were exported to outside of the country as well as the foreign goods returned to the country which are proved to have been previously reexported to outside of the country and the goods temporarily exported for completion of processing or repair.

Chapter IX

Service Charges

Article (107) provides that the goods placed in the yards and warehouses belonging to the customs office shall be subject to the storage, handling and insurance charges and the fees of the other services required for the storage and inspection of the goods according to the specified rates. However, In no case shall the storage charge exceed half the estimated value of the goods, in the event such warehouses are managed by other entities, these fees shall be collected according to the provisions and rates prescribed in this respect. This Article permits the collection of charges for the sealing and analysis (testing) of the goods and all the other rendered services and that the services mentioned in this Article and the conditions of collection shall be prescribed by a resolution to be issued by the minister or the competent authority.

Chapter X

Customs Brokers

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This chapter defines the customs broker and his capacity (Article 108) and Article (109) entitles the natural and legal nationals of the GCC Member States the right to engage in this activity after obtaining the necessary licence from the Administration.

Chapter XI

The rights and duties of the Customs officers of the Administration

This chapter outlines two important aspects of the nature of the job of the customs officers; the security aspect which is to prevent the entry of the smuggled goods and contraband into the country via the customs ports and the economic aspect being to collect the customs taxes “duties”. The section regulates the rights and duties of the officers of the Administration and the incentives given to them and this Law entitles them the power of judicial arrest. The section does also permit the customs officers to carry guns provided that such officers shall be nominated by a resolution of the minister or the competent authority and it requires the civil and military authorities and the Internal Security Forces to help them carry out the duties assigned to them when so requested.

Section XII

Customs Zone (Territory)

This chapter contains provisions of the Customs zone (boundary):

Article (121) states that there are provisions of the customs territory as provided for in clause 9 of Article (2) of this Regulation (Law) which states that the marine customs boundary covers the area of the sea located between the seashores and the ending of the territorial waters. The land customs boundary covers the lands located between the shores or the land borders on the one hand and an internal line to be specified by a resolution by the minister or the competent authority on the other. This provision provides that prohibited and

restricted goods as well goods subject to high customs taxes “duties” shall be subject to the provisions of the customs zone. So the presence of such goods within these areas requires their subjection to the provisions of the customs zone and the movement of such goods is usually subject to special provisions in order to avoid their smuggling into the country.

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Chapter XIII

Customs Matters

This chapter deals with the customs matters which are an important aspect of the provisions of this Law.

Articles (122 to 128) relate to the investigation of smuggling according to the controls and powers set forth in these Articles such as the inspection of the goods and the means of transport and the search of persons, seizure of the goods, examining the documents, records, correspondence and other documents and the right to detain any suspect according to the rules prescribed by a resolution issued by the minister or the competent authority.

Para (3) of Article (126) states that the exercise of work outside of the two customs zones shall be within the borders of the State.

Articles (129 to 134) deal with the seizure report and the main elements to be contained therein. This report is deemed as a pretext (proof) of the material facts and the incompleteness of the report shall not render it null.

Those Articles allow the customs office to seize the contravening or smuggled goods and the items used for concealing them as well as the various means of transport excluding those intended for the transport of persons unless such means are specially designed for the purpose of smuggling. The Administration has the right to dispose the goods smuggled or being smuggled if such goods are narcotics and the like according to the regulations and laws in force in the country.

Articles (135 to 137) deal with the provisional seizure of the smuggled goods and the things used for concealment thereof and the mean of transport and the seizure of all documents to ensure the customs taxes “duties”. These Articles also authorize the director general – when necessary- to obtain an order from the competent authorities to effect the provisional attachment of the properties of the offenders and those involved in smuggling. The director general may, when necessary to ensure the rights of the public treasury, impose a customs security on the properties of the tax “duty” payers or their partners. The Articles have specified the arrest cases in the smuggling crimes in the act, the resistance of the customs officers or the security officers and the other matters regulating the arrest process provided that the arrested persons shall be brought to the competent court within 24 hours following the time of arrest.

Article (138) provides that the offenders and the persons accused of smuggling shall be prevented from travel by a decision of the director general in the event the value of the seized items is not sufficient to cover the customs taxes “duties” and fines. This decision can be cancelled if the offender submits

a guarantee in an amount equivalent to the claimed amounts or if the value of the seize items turn to be sufficient to cover the claimed amounts.

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Articles (139 to 141) deal with the customs offences and the penalties thereof

and regard the collected customs fines and confiscations provided for in the Law as a civil compensation to the Administration and not subject to amnesty. These Articles also provide that a penalty shall be imposed on each offence separately provided that the higher (sterner) penalty shall be sufficient if the penalties are inseparable.

Except for the cases deemed as smuggling which are provided for in Article (143) of the Law and without prejudice to the provision of the international agreements in force, a fine shall be imposed on the offences referred to in Article (141) of this Law according to the rules set forth in the Rules of Implementation.

Articles (142, 143) deal in detail with the subject of smuggling, its definition and the cases deemed as smuggling. Para. "14" of Article (143) defines such case as those goods prohibited for exportation to outside of the country, but were exceptionally allowed to be exported provided that they shall be reimported

into the country and the non-compliance with this requirement shall be deemed as smuggling, while Article (144) defines the penal liability and those deemed penally liable.

Article (145) provides for the penalties imposed on the customs smuggling or attempted smuggling (the fines provided for in Article 145).

Articles (147 to 149) deal with the administrative prosecution "pursuit" and entitle the director general to issue the necessary decisions for the collection of the taxes "duties" and the measures of such collection and allow for the complaint before the minister or the competent authority against the penalization judgments. Within a specified period and that the minister or the competent authority may confirm, amend or cancel such judgments.

Article (151) provides that smuggling cases (actions) can only be activated by a written request from the director general.

Article (151) provides for the rules of reconciliatory settlement and entitles the director general or his representative to make a reconciliation (compromise) of the smuggling actions whether prior to bringing out the actions or during trial and before the issuance of the first instance judgment which shall be in lieu of the penalties and fines provided for in Article (145) of this Law provided that a manual of reconciliatory settlements shall be issued by a resolution of the minister or the competent authority.

Article (152) provides in detail for the amount of reconciliation subject to the provisions of Article (151).

Article (153) provides that the action (claim) shall be settled after reconciliation and Articles (154 to 160) deal with the subject of liability and joinder in the smuggling matters and the rules thereof, while Article (155) holds the investors of the private shops and premises where the goods

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,subject of the offence or smuggling, are stored responsible for such premises; whereas the investors of the public shops and premises and the employees, the owners of the means of transport and drivers and their assistants shall be held responsible unless they prove their ignorance of the presence of such infringing goods or contraband and that they have got no direct or indirect good in them.

Article (156) provides that sponsors "guarantors" shall be held responsible within the extent of their guarantees upon payment of the customs taxes

“duties” and fines while Article (157) provides that customs brokers shall be responsible for the offences and smuggling crimes they commit in the customs declarations and Article (158) holds the owners of the goods, employers and the carriers responsible for the acts of their employees and those working for them.

With respect to the customs taxes “duties”, fines and confiscations, Article (159) provides that heirs shall not be responsible for the payment of the fines imposed on the deceased unless they are partners in the smuggling.

Article (160) provides that the applicable customs taxes “duties” and fines shall be jointly paid by the offenders or smugglers according to the practices adopted for the collection of the property of the Government Treasury and that the seized goods and means of transport, if any, shall be a security for the payment of the claimed amounts.

Articles (161 to 165) provide for the formation of first instance customs courts at the Administration and the customs offices according to the legal instrument

applicable in each State. The competences and judgments’ finality of such first instance customs courts and appeal courts as well as the collection of fines and the methods and means of executing attachment on the movable and unmovable property of the offenders have been set forth in these Articles. Article (165) empowers the minister or the competent authority to order that a sufficient amount of such property shall be retained for the payment of the claimed amounts.

Chapter XIV

The Sale of Goods

This chapter contains provisions relating to the sale of the goods in possession of the Administration provided for in Articles (166 to 172) and the rules to be followed for the sale of goods as set forth in Article (166) whereas Article (167) entitles the Administration, after expiry of the period specified by the minister or the competent authority, the right to sell the goods stored in the customs warehouses or placed in the yards and wharves or the goods left out in the customs offices.

Article (168) provided for the goods to be sold by the Administration and Article (169) provides that the Administration shall not be responsible for any

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damage caused to the goods sold by the Administration under the provisions of this Law unless it is proven that the Administration had committed an obvious error in the sale process. Article (170) contains some provisions relating to the sale process described in detail in this Article.

Article (171) deals with the controls under which the disposition of the proceeds of the sale of the permitted, prohibited and restricted goods.

Article (172) provides that the portion due to the Government Treasury of the proceeds of the customs fines and the value of the confiscated or abandoned goods and means of transport shall be 50% after deducting the customs taxes “duties” and charges and contains provisions for the disposition of the remaining portion.

Chapter XV

Privilege of the Customs Administration

This chapter grants the customs administration a general privilege over the

movable and unmovable property of the taxes “duties” payers in case of bankruptcy through precedence over all debts excluding the legal expenses in order to collect the customs taxes “duties” and other charges and the fines, compensations, confiscations and redemptions.

Chapter XVI

Prescription

This chapter contains provisions of prescription. Article (174) provides that any claim or action for the refund of the customs taxes “duties” that have been paid since more than three years shall not be accepted, and Article (175) empowers the administration to destroy the records, receipts, customs declarations and the other documents after five years following the finalization of the customs procedures thereof and the administration shall not be required

to produce them to any entity or give copies or duplicates thereof after the expiry of that period.

Without prejudice to the other regulations and laws applicable in the Member State, Article (176) specifies the prescription time, in respect to customs, if no pursuit “prosecution” has been initiated.

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Chapter XVII

Final Provisions

This chapter contains the following final provisions:

Article (177) empowers the Director General:

1. to exclude the ministries, governmental departments and public institutions from certain procedures for facilitation of their business, and
2. to sell the confiscated goods to the ministries and official departments and public institutions belonging to the government at the price he deems appropriate if they indicate their need of such goods, or to abandon such goods free of charge by a resolution of the minister or the competent authority.

Article (178) entitles the Financial and Economic Cooperation Committee of the GCC Member States the right to adopt the Rules of Implementation of this Law and Article (179) provides that this Law shall, after implementation, supersede the customs regulations and laws in force in the member states subject to and without contradiction to the regulations and constitutional rules in each State.