

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Committee on Customs Valuation

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INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

Legislation of Zimbabwe

The following communication has been received from the Permanent Mission of the Republic of Zimbabwe.

The amendments to the Customs and Excise Act and Customs and Excise (General) Regulations legalising GATT Valuation System in Zimbabwe are attached.

*English only/anglais seulement/inglés solamente.



ZIMBABWE

ACT

To amend the Customs and Excise Act [*Chapter 177*]
and to provide for matters connected therewith or
incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

1. (1) This Act may be cited as the Customs and Excise Amendment Act, 1987. Short title and date of commencement.

(2) This Act shall come into operation on the 1st January, 1988.

2. Section 2 of the Customs and Excise Act [*Chapter 177*] (hereinafter called "the principal Act") is amended— Amendment of section 2 of Cap. 177.

- (a) by the repeal of the definition of "Controller";
- (b) in the definition of "entry" by the insertion after "documents" of "including documents relating to freight and insurance";
- (c) by the insertion of the following definitions—

"cost", in relation to the cost, insurance, freight value of any goods, means the ex-factory price of the goods, together with the cost of transport from the place of manufacture to the place of export and all other charges and expenses incidental to placing the goods on board the means of transport by which the goods are removed from the country of exportation;

"cost, insurance, freight value", in relation to any goods, means the total amount of the cost, insurance and freight paid or payable for those goods;

"Director", subject to the provisions of section *four*, means the Director of Customs and Excise referred to in subsection (1) of that section;

"freight", in relation to the cost, insurance, freight value of any goods, means the cost of transporting the goods from the place of export in the country of exportation to the place of importation in Zimbabwe, and includes all loading, unloading and handling charges;

"insurance", in relation to the cost, insurance, freight value of any goods, means any costs, charges and expenses of or associated with the insurance of the goods from the place of export in the country of exportation to the place of importation in Zimbabwe;

"place of importation", in relation to—

- (a) goods other than goods imported by post, means—
 - (i) where the goods are imported by ship, the ship's first port of call in Zimbabwe;
 - (ii) where the goods are imported by aircraft, the place where the aircraft makes its first landing in Zimbabwe;
 - (iii) where goods are imported by road or rail transport, the place where the goods cross the borders of Zimbabwe;
 - (iv) where the goods are imported by pipeline, the place where the goods pass through the first metered point on the pipeline within Zimbabwe;
- (b) goods imported by post, means the post office in Zimbabwe where duty payable on the goods is assessed;"

Amendment of section
35 of Cap. 177.

3. Section 35 of the principal Act is amended in subsection (1) by the repeal of proviso (ii).

Amendment of section
36 of Cap. 177.

4. Section 36 of the principal Act is amended in subsection (1)—

- (a) by the repeal of paragraph (b) and the substitution of—
 - "(b) make and subscribe to a declaration in the prescribed form—
 - (i) as to the correctness of the particulars on the bill of entry; and
 - (ii) except in the case of an importer of such goods as may be prescribed, as to whether or not he is related to the supplier of the imported goods within the meaning of subsection (3) of section *ninety-one*;
- and";

(b) by the repeal of paragraph (d) and the substitution of—

“(d) produce all bills of lading, invoices or other documents relating to the goods or their value, including, if required, the declarations and certificates referred to in section *thirty-seven*, and answer all such questions relating to the goods as may be demanded of or put to him by the proper officer; and”.

5. Section 37 of the principal Act is repealed and the following is substituted—

Amendment of section 37 of Cap. 177.

Director
may require
certain
declarations
and certifi-
cates.

“37. For the purposes of ascertaining the value and origin of any imported goods, the Director may require the importer to produce—

- (a) a declaration of value completed by the importer; and
- (b) a declaration of particulars relating to the value of the goods for duty purposes; and
- (c) a certificate of origin completed by the supplier or manufacturer of the goods;

in such manner and to such effect as may be prescribed.”.

6. Section 39 of the principal Act is amended—

Amendment of section 39 of Cap. 177.

(a) in subsection (1) by the repeal of paragraphs (c), (d) and (e) and the substitution of—

- “(c) the value for duty purposes of the goods in terms of Part VIII has been declared; and
- (d) the free on board value of the goods has been declared; and
- (e) the cost, insurance, freight value of the goods has been declared; and
- (f) the following documents have been produced to the proper officer—
- (i) a sufficient invoice relating to the goods described on the entry; and
 - (ii) documents relating to freight and insurance on the goods described in the entry; and
 - (iii) the declarations and certificate referred to in section *thirty-seven* and relating to the goods described in the entry; and
 - (iv) any other document which may be required by or in terms of this Act:

Provided that—

- (i) in the absence of any such document or if any such document is incomplete or fails to disclose all the information which the proper officer may require, that officer may, if he thinks fit and as a condition for the release of the goods, permit the person who entered the goods to deposit with him, in lieu of production of the required document, a sum to be determined by that officer and, if the

document is not produced within a period specified by that officer, the sum so deposited shall be forfeited to the State unless the Director directs otherwise;

- (ii) in the case of goods which are not merchandise for sale, the Director may dispense with the production of an invoice.”;

(b) in subsection (4)---

- (i) by the deletion of “an invoice or other document referred to in paragraph (c)” and the substitution of “a document referred to in paragraph (f)”;

- (ii) by the deletion of “invoice or such other”.

Amendment of section 49 of Cap. 177.

7. Section 49 of the principal Act is amended by the repeal of subsection (6) and the substitution of the following subsections—

“(6) In default of compliance with subsection (1) or (5), the proper officer may cause the goods concerned to be conveyed to a State warehouse or to any other place indicated by him or may himself so remove them and, if entry is not made within three months together with the payment of any duty due and all charges of removal and warehouse rent, the Director may, subject to the provisions of this section, cause the goods to be sold by public auction, if they have not been entered before the date fixed for their sale.

(7) The provisions of subsections (3), (4), (5), (5a) and (5b) of section *thirty-five* shall apply, *mutatis mutandis*, in respect of any goods referred to in subsection (6).

(8) Any person who exports or assists in exporting any goods in contravention of this section shall be guilty of an offence.”.

New Part substituted for Part VIII of Cap. 177.

8. Part VIII of the principal Act is repealed and the following is substituted—

“PART VIII

VALUE FOR DUTY PURPOSES

Interpretation in Part VIII.

91. (1) In this Part—

“Agreements” means Article VII of the General Agreement on Tariffs and Trade, which was entered into at Geneva on the 30th October, 1947, and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, which was entered into at Geneva on the 12th April, 1979.

“buying commission”, in relation to imported goods, means any fee paid by an importer to his agent for representing him abroad in the purchase of and the payment for the goods;

“goods of the same class or kind”, in relation to imported goods, means goods produced by a particular industry or industrial sector in the country from which the

imported goods were exported and falling within the same group or range of goods as the imported goods;

"identical goods", in relation to imported goods, means goods which—

- (a) are manufactured in the same country as the imported goods, whether by the same or a different manufacturer; and
- (b) save possibly for minor differences in appearance, are the same as the imported goods in all material respects, including physical characteristics, quality and reputation;

but does not include goods which incorporate or reflect engineering, development work, design work, plans or sketches undertaken in Zimbabwe;

"price actually paid or payable", in relation to imported goods, means the total payment made or to be made, either directly or indirectly, by the buyer to or for the benefit of the seller of the imported goods, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the imported goods;

"similar goods", in relation to imported goods, means goods which—

- (a) are manufactured in the same country as the imported goods, whether by the same or a different manufacturer; and
- (b) though not alike in all respects to the imported goods, have like characteristics and component materials which enable them to perform the same functions as and to be commercially interchangeable with the imported goods;

but does not include goods which incorporate or reflect engineering, development work, design work, plans or sketches undertaken in Zimbabwe;

"unit price", in relation to imported goods that are sold, means the price of the goods in accordance with the contract of sale, divided by the number of the units of the goods;

(2) In the determination of whether or not any goods are similar to other goods for the purposes

of this Part; regard shall be had, among other factors, to the quality of the goods, their reputation and their trademark, if any.

(3) For the purposes of this Part, persons shall be deemed to be related to each other only if—

- (a) they are officers or directors of one another's businesses; or
- (b) they are partners in business; or
- (c) they are employer and employee; or
- (d) in the case of bodies corporate, any other person directly or indirectly owns, controls, or holds five *per centum* or more of the issued voting stock or shares of both of them; or
- (e) one of them directly or indirectly controls the other; or
- (f) both of them are directly or indirectly controlled by a third person; or
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

(4) Persons who are associated in business with one another in that the one is the sole agent, sole distributor or sole concessionnaire, however described, of the other shall be deemed to be related to each other for the purposes of this Part only if they are so deemed in terms of subsection (3).

Value for duty purposes.

92. (1) For the purpose of assessing the amount of any duty payable on any imported goods and for the purpose of any declaration or oath which may be required by this Act or any other enactment in relation to any question of value or duty in connexion with the importation of goods or goods which are likely to be imported, the value of such goods shall, subject to the provisions of this Act, be the transaction value thereof as established or determined in terms of sections *ninety-three to ninety-eight*.

(2) If the value of any goods according to the provisions of this Part is not an exact number of dollars, the value shall be calculated to the nearest dollar, and for this purpose the amount of fifty cents shall be deemed to be less than one-half of one dollar.

(3) If the value of any good required to be entered separately is fifty cents or less, no account shall be taken of such value.

Transaction value: primary method of valuation.

93. (1) Subject to the provisions of this Act, the value for duty purposes of any imported goods shall be the transaction value of the goods, that is to

say, the price actually paid or payable for the goods when sold for export to Zimbabwe, adjusted in terms of section *ninety-nine*, if—

- (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which—
 - (i) are imposed or required by law; or
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;and
- (b) the sale or price of the goods is not subject to any condition or consideration for which a value cannot be determined; and
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in terms of section *ninety-nine*; and
- (d) subject to the provisions of subsection (2), the buyer and the seller are not related.

(2) The fact that a buyer and a seller are related shall not in itself be a ground for not accepting the transaction value, where—

- (a) in the opinion of the Director, such relationship did not influence the price actually paid or payable for the goods concerned; or
- (b) the importer proves to the satisfaction of the Director that the transaction value closely approximates to one of the following values—
 - (i) the transaction value of identical or similar goods sold at or about the same time as the goods to be valued at comparable commercial and quantity levels to buyers in Zimbabwe who are not related; or
 - (ii) the value, determined in terms of section *ninety-six*, of identical or similar goods imported into Zimbabwe at or about the same time as the goods to be valued.

Transaction
value of
identical
goods: first
alternative
method.

94. (1) Subject to the provisions of section *ninety-five* and of this section, if the value for duty purposes of any imported goods cannot be established in terms of section *ninety-three*, their value for duty

purposes shall be the transaction value of identical goods which are—

- (a) sold for export to Zimbabwe at the same commercial level and in substantially the same quantity as the goods to be valued; and
- (b) exported to Zimbabwe at or about the same time as the goods to be valued.

(2) Where no sale such as is referred to in paragraph (a) of subsection (1) is found, the value for duty purposes of the imported goods concerned shall be established for the purposes of this section by a sale of identical goods that are sold for export to Zimbabwe at a different commercial level and additionally, or alternatively, in different quantities from the goods to be valued, adjustments being made to take account of differences in price attributed to commercial level and additionally, or alternatively, to quantity.

(3) In establishing the value for duty purposes of any imported goods in terms of this section, an adjustment shall be made to take account of significant differences in the costs and charges referred to in section *ninety-nine* between the goods to be valued and the identical goods concerned arising from differences in distances and modes of transport.

(4) If, in the application of this section, more than one transaction value is determined, the lowest such value shall be taken as the value for duty purposes of the goods to be valued.

(5) An importer who wishes any imported goods to be valued in terms of this section shall, on request, produce to the proper officer either—

- (a) a copy of a bill of entry on the basis of which the Department accepted the value of imported goods which were identical to the goods to be valued and which were entered within three months of the date of the goods to be valued; or
- (b) sufficient information to enable the proper officer to trace a bill of entry referred to in paragraph (a).

Transaction
value of
similar
goods: second
alternative
method.

95. (1) Subject to the provisions of section *ninety-six* and of this section, if the value for duty purposes of any imported goods cannot be established in terms of section *ninety-three* or *ninety-four*, their value for duty purposes shall be the transaction value of similar goods that are—

- (a) sold for export to Zimbabwe at the same commercial level and in substantially the same quantity as the goods to be valued; and

(b) exported to Zimbabwe at or about the same time as the goods to be valued.

(2) The provisions of subsections (2) to (5) of section *ninety-four* shall apply, *mutatis mutandis*, to the valuation of goods in terms of this section as if references in those subsections to identical goods were references to similar goods.

Deductive
value: third
alternative
method.

96. (1) Subject to the provisions of section *ninety-seven*, if the value for duty purposes of any imported goods cannot be established in terms of section *ninety-three*, *ninety-four* or *ninety-five*, their value for duty purposes shall be established in terms of this section.

(2) Subject to the provisions of this section, if the goods to be valued, or identical or similar imported goods, are sold in Zimbabwe at or about the time of importation of the goods to be valued and in the same condition as that in which they were imported, the value for duty purposes of the goods to be valued shall be based on the unit price at which the goods to be valued, or the identical or similar imported goods, as the case may be, are so sold in Zimbabwe in the greatest aggregate quantity to persons who are not related to the importer.

(3) If the goods to be valued, or identical or similar imported goods, are not sold in Zimbabwe at or about the time of importation of the goods to be valued but are otherwise sold in Zimbabwe as provided in subsection (2), the value for duty purposes of the goods to be valued shall be based, subject to the provisions of this section, on the unit price at which the goods to be valued, or identical or similar imported goods, as the case may be, are sold in the greatest aggregate quantity in such a sale transacted at the earliest date after the importation of the goods to be valued, but not later than ninety days after such importation.

(4) If the goods to be valued, or identical or similar imported goods, are not sold in Zimbabwe in the same condition as that in which they were imported, then, whether or not the importer so requests, the value for duty purposes of the goods to be valued shall be based, subject to the provisions of this section, on the unit price at which the goods to be valued, or the identical or similar imported goods, as the case may be, are sold after further processing in the greatest aggregate quantity to persons in Zimbabwe who are not related to the importer.

(5) In valuing goods in terms of this section, deductions shall be made, where appropriate, for—

(a) commissions usually paid or agreed to be paid, or additions usually made for profit

and general expenses, in connexion with sales in Zimbabwe of goods of the same class or kind as the goods to be valued, irrespective of the country of exportation;

- (b) any costs of transportation and the cost of loading, unloading, handling and insurance and associated costs incidental to the transportation of the goods within Zimbabwe from their place of importation;
- (c) any duty or tax payable in Zimbabwe by reason of the importation or sale of the goods;
- (d) in the case of goods to which the provisions of subsection (4) apply, any increase in the value attributable to the further processing referred to in that subsection.

(6) For the purpose of establishing the unit price of any goods in terms of this section, an officer may accept a sales invoice or price list relating to the goods concerned at the relevant time.

Fall-back
method of
valuation: final
alternative
method.

97. (1) If the value for duty purposes of any imported goods, other than non-merchandise goods as defined in subsection (1) of section *ninety-eight*, cannot be established or determined in terms of sections *ninety-three* to *ninety-six*, the Director shall establish it, subject to the provisions of this section—

- (a) on the basis of a previous determination; or
- (b) by applying any of the provisions of section *ninety-three* to *ninety-six* with such modifications and adaptations as he considers reasonable and necessary in the circumstances; or
- (c) by using any other reasonable means consistent with the principles and general provisions of the Agreements as the Director considers appropriate in the circumstances of the particular case.

(2) The Director shall base any determination in terms of subsection (1) on information available in Zimbabwe.

(3) The Director shall not base any determination in terms of subsection (1) on any of the following—

- (a) the selling price in Zimbabwe of goods manufactured in Zimbabwe; or
- (b) a system which provides for the acceptance of the higher of two alternative values; or

- (c) the price of goods on the domestic market of the country of exportation of the goods to be valued; or
- (d) the cost of production of the goods to be valued or of identical or similar goods; or
- (e) the price of the goods to be valued, when sold for export to a country other than Zimbabwe; or
- (f) a system of minimum customs values; or
- (g) arbitrary or fictitious values.

(4) Whenever the transaction value of imported goods is to be determined in terms of this section, the importer shall produce to the proper officer such documentary evidence relating to the determination as the proper officer may require.

Valuation
of goods
imported
privately

98. (1) In this section—

“non-merchandise goods” means goods imported by an individual for his own use in Zimbabwe but not for trade purposes.

(2) If, in the opinion of the Director, the declared value for duty purposes of non-merchandise goods—

- (a) does not reflect a *bona fide* open market sale price between unrelated parties; or
- (b) has not been established or has been incorrectly declared by the importer;

the Director may determine the value on the basis of a previous determination or, if there is no such determination, by applying any of the provisions of section *ninety-three* to *ninety-six*, with such modifications and adaptations as he considers reasonable and on the basis of any information available to him.

Adjustments
to be made
in calculat-
ing value
for duty
purposes of
imported
goods.

99. (1) In determining the value for duty purposes of any imported goods in terms of section *ninety-three*, there shall be added to the price actually paid or payable for the goods—

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable—
 - (i) commission and brokerage, except buying commission; and
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and

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

and

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

(i) materials, components, parts and similar items incorporated in the goods to be valued; and

(ii) tools, dies, moulds and similar articles used in the production of the goods to be valued; and

(iii) materials consumed in the production of the goods to be valued; and

(iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Zimbabwe and necessary for the production of the goods to be valued;

and

(c) royalties and licence fees, including any payments for patents, trade marks or copyright and for the right to distribute or resell the goods, but not including charges for the right to reproduce the goods in Zimbabwe, which the buyer is required to pay, directly or indirectly, as a condition of sale of the goods for export to Zimbabwe, to the extent that such royalties and fees are not included in the price actually paid or payable for the goods to be valued; and

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods to be valued that accrues directly or indirectly to the seller.

(2) In determining the value for duty purposes of any imported goods in terms of

sections *ninety-three* to *ninety-eight*, there shall be added to the price actually paid or payable for the goods—

- (a) the cost of freight and insurance to the place of importation in Zimbabwe, if such cost is not included in the price actually paid or payable for the goods to be valued:

Provided that—

- (i) where the goods to be valued were imported by air transport, the cost of freight and insurance shall be deemed to be fifteen *per centum* of the free on board value of the goods to be valued, unless the importer satisfies the proper officer to the contrary;
- (ii) where the goods to be valued were imported by means of transport, other than air transport, owned by the importer and there is no documentary evidence of the delivery costs from the place where the goods are loaded into the importer's means of transport, the combined cost of freight and insurance shall be deemed to be—
 - (a) five *per centum* of the free on board value of goods, in addition to the proved sea, air or other freight charges from the country of original export, where applicable, when the goods were transported from Botswana, South Africa, Lesotho, Swaziland, Mozambique, Zambia, Namibia or Malawi;
 - (b) seven and one-half *per centum* of the free on board value of the goods, in addition to the proved sea, air or other freight charges from the country of original export, where applicable, when the goods were transported from any country in Africa other than a country referred to in paragraph (a) of this proviso;

(iii) an importer shall, on demand, produce to the proper officer a statement of air, sea and other freight charges whenever goods to which paragraph (a) or (b) of proviso (ii) applies are to be valued; and

(b) in the case of goods imported by post, all charges for postage and insurance which are reflected on or accompany the postal article.

(3) In determining the value for duty purposes of any imported goods in terms of sections *ninety-three to ninety-eight*, there shall be deducted from the price actually paid or payable for the goods, to the extent that they are included therein amounts equal to—

(a) the cost of transportation, loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods within Zimbabwe from their place of importation; and

(b) buying commission, if identified separately from the price actually paid or payable for the goods.

Bill of entry or release of goods not to constitute valuation.

100. Neither the acceptance by an officer of a bill of entry stating the value of any imported goods nor the release by an officer of any imported goods following the presentation of such a bill of entry shall constitute a determination of the value of such goods for the purposes of this Part.

Rates of exchange: conversion of foreign currency.

100A. When the value or cost of any imported goods, or any element that is required to be included in such value or cost, is expressed in the currency of a foreign country, it shall be converted to the currency of Zimbabwe at the selling rate for that foreign currency, as designated by the Director in consultation with the Reserve Bank of Zimbabwe, applicable as a customs rate at the time the goods concerned were entered in terms of this Act.

Value for purpose of excise duty and surtax on goods locally manufactured.

100B. (1) In this section—

“dutiable value”, in relation to goods, means the value determined in terms of subsection (2);

“factory cost” means the sum of all the costs, direct and indirect, incurred by the manufacturer in the manufacture, finishing and packing of goods—

- (a) before their removal from the licensed premises of the manufacturer; or
- (b) for use in the manufacture of other goods on the licensed premises of the manufacturer;

and includes, where the goods are manufactured on behalf of another person from materials supplied by or on behalf of that person, the cost of the materials supplied by or on behalf of that person and any costs incurred in delivering those materials to the licensed premises of the manufacturer;

"goods" means goods subject to excise duty or surtax;

"selling price" means the price at which the manufacturer sells any goods in the ordinary course of trade to merchants in Zimbabwe for warehousing without payment of the excise duty or surtax thereon.

(2) The value for the purposes of assessing the amount of excise duty or surtax payable on goods manufactured in Zimbabwe shall be the value as determined by the Director from time to time.

(3) In determining the dutiable value of any goods, the Director shall have regard to any information supplied to him by the manufacturer or any other information available to him and shall, as far as practicable in the light of such information, determine the dutiable value as—

- (a) the factory cost plus twenty-five *per centum* of such cost or such percentage as may be prescribed in relation to any class of goods; or
- (b) the selling price, if any, if that price is greater than the amount referred to in paragraph (a).

(4) The manufacturer of any goods shall, within one month after the receipt of a request from the Director or within such further period as the Director may allow, submit to the Director a declaration in such form as the Director may require, giving an analysis of—

- (a) the factory cost; and
- (b) the amount by which the factory cost is exceeded by—
 - (i) the selling price, if any; and
 - (ii) the price, including the excise duty or surtax, if any, at which the

manufacturer sells the goods in the ordinary course of trade to merchants in Zimbabwe.

(5) A declaration for the purposes of subsection (4) shall be prepared at the expense of the manufacturer by an accountant or auditor approved by the Director and shall be signed by the manufacturer and the accountant or auditor who prepared it.

(6) The Director shall, if—

- (a) the declaration referred to in subsection (4) is, in his opinion, satisfactory; and
- (b) it appears to him that the determination made in terms of subsection (2) was incorrect;

again determine the dutiable value in accordance with the provisions of subsection (3).

(7) If the declaration referred to in subsection (4)—

- (a) is not submitted in accordance with the provisions of this section; or
- (b) is submitted but is, in the opinion of the Director, deficient, inaccurate or for any other reason unsatisfactory;

the Director shall reconsider the determination made in terms of subsection (2) in the light of such information as may be available to him, and if it appears to him, in the light of that information, that the determination made in terms of that subsection was incorrect, he shall again determine the dutiable value in accordance with the provisions of subsection (3).

(8) If, by virtue of any determination made in terms of subsection (6) or (7), the dutiable value of goods is less than the dutiable value determined in terms of subsection (1), any excess of excise duty or surtax which has been paid on such goods shall be refunded to the manufacturer notwithstanding anything contained in section *one hundred and six*.

Value of
exported
goods.

100C. The value for customs purposes of any exported goods shall be—

- (a) the free on board value; or
- (b) in the case of goods for which there is no free on board value, the value as determined by the Director.

Duty-paid
value.

100D. (1) In this section—

“duty” includes any import tax which is payable in terms of the Sales Tax Act, [Chapter 184].

(2) The duty-paid value of any goods or articles shall be—

- (a) subject to the provisions of paragraph (c), in the case of goods which are imported or attempted to be imported, the value for duty purposes of such goods assessed in terms of this Part; or
- (b) subject to the provisions of paragraph (c), in the case of goods which are exported or attempted to be exported, the value of such goods assessed in terms of section *one hundred C*; or
- (c) in the case of any goods or articles the value of which cannot be assessed in terms of paragraph (a) or (b), the value of such goods or articles as determined by the Director;

and includes, in the case of any such goods, the duty, if any, payable thereon.

Appeals
against
valuation of
goods.

100E. (1) Any person who is aggrieved by any determination of the Director in terms of this Part may, subject to provisions of section *one hundred and seventy-eight* and after payment of the amount of any duty or tax demanded by the Director in respect of the goods concerned, appeal to the High Court against such determination.

(2) If on an appeal in terms of this section the High Court determines that a lesser amount was payable by way of duty or tax than the amount actually paid by the appellant in terms of subsection (1), the Director shall refund the amount overpaid in accordance with the provisions of section *one hundred and six*."

9. Section 154 of the principal Act is repealed and the following is substituted—

Amendment of Section
154 of Cap. 177.

Procedure on
cessation of
manufacture
of goods
liable to
excise duty
or surtax.

"154. (1) If a person licensed in terms of section *one hundred and eight* intends to cease manufacturing goods in respect of which the licence was issued, he shall give the Director three months' written notice of his intention so to cease manufacture.

(2) If a person licensed in terms of section *one hundred and eight* ceases to manufacture goods in respect of which the licence has been issued, or if his licence is not renewed or is cancelled, he shall, within one month after that date, render to the proper officer a true and complete return of his transactions since his last monthly return, and shall then and there pay the duty or surtax on the balance of his stock on hand or disposed of, on which the duty or surtax has not previously been paid.

(3) Failing the rendering of a return in terms of subsection (1) or payment of duty or surtax by the manufacturer concerned, the proper officer shall seize any stock held by the manufacturer and sell by public auction so much thereof as will be sufficient to cover the duty or surtax payable on the whole quantity and the expenses in connexion with the seizure and sale, and shall return the remainder of the stock, if any, to the manufacturer or his representative:

Provided that, if a licence has been cancelled or has not been renewed as a result of non-compliance by the licensee with the provisions of this Act, the whole of the stock on hand at the time of the cancellation of the licence shall be liable to forfeiture.

(4) Nothing contained in subsection (3) shall be deemed to deprive the State of any right it may have against the property or the estate of the manufacturer concerned or those of his or its sureties in respect of any duty which may remain unpaid after such sale or forfeiture as is provided for in subsection (3), nor shall such sale or forfeiture relieve the manufacturer of liability to prosecution under this Act."

Amendment of section
207 of Cap. 177.

10. Section 207 of the principal Act is amended by the repeal of paragraph (a) and the substitution of—

"(a) goods imported into Zimbabwe shall be liable to the rates of customs duty and surtax which are applicable to those goods at the time when they are imported or at the time when they are entered for consumption, whichever is the later:

Provided that—

- (i) except in the case of goods properly taken out of bond or in the circumstances specified in provisos (ii) and (iii), the duty shall not be less than that payable at the time of importation;
- (ii) if, within six months after the importation of any goods or after such longer period as the Director may allow, the importer satisfies the proper officer that the goods were eligible for entry under a conditional tariff suspension or a conditional suspension, rebate or remission of duty, the importer shall be entitled to a refund of any excess duty paid by him;
- (iii) goods shall be eligible for entry under a conditional tariff suspension or a conditional suspension, rebate or remission of duty notwithstanding that the goods were temporarily imported in terms of section *one hundred*

and five before the conditional tariff suspension or the conditional suspension, rebate or remission of duty, as the case may be, became applicable to the goods;".

11. The provisions of the principal Act set out in the first column of the Schedule are amended to the extent specified opposite thereto in the second column. Minor amendments to Cap. 177.

12. Any reference in any enactment to the Controller of Customs and Excise, a Deputy Controller of Customs and Excise or an Assistant Controller of Customs and Excise shall, unless the context otherwise requires, be construed as a reference to the Director of Customs and Excise, a Deputy Director of Customs and Excise or an Assistant Director of Customs and Excise respectively. Construction of references to Controller and other officers in other enactments.

SCHEDULE (Section 11)

MINOR AMENDMENTS

<i>Provisions</i>	<i>Extent of Amendment</i>
Sections 2 (in the definitions of "customs area", "licensed premises" and "proper officer"), 4, 5, 6, 7, 9 (1), 11, 15 (1), 16 (2), 17, 18 (1), (2) and (3), 19 (1), 21 (6), 23 (1) (a) (ii), 24 (1) and (2), 25 (2) (a) (i), 26, 27, 30 (1) and (3), 32, 35, 36 (2), 37, 40 (4), 41 (2), 43 (1), 44 (3), 45 (2), 46, 47, 49 (1) and (3), 50 (2) (b), 51, 53 (2), 57, 58 (1) and (3), 59 (2) and (3), 60 (3) (a) (i), 64 (2), 65, 66, 69 (2), 70, 71 (1), 74A, 78 (3), 80 (5), 82A, 101 (3) and (4), 105, 106 (2) and (3), 107, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 121, 122 (1) and (3), 126, 127 (2), 130 (2) (a), 133 (1), 135, 136 (2), 137, 138, 139 (1), 141 (1), 142, 145, 176 (5), (6), (6a), (6b), (6c), (9), (10), (10a) and (12), 177, 178 (1), 180, 181 (1), 182 (1), (2), (3), (6), (8) and (10), 183 (1) and (2), 184, 185, 190 (1) and (8), 191 (d), 192, 194, 196, 198, 200, 202, 212, 213 (1), (2) and (5), 216 (6), 218, 218A and 219	By the deletion of "Controller" wherever it occurs and the substitution of "Director"

<i>Provisions</i>	<i>Extent of Amendment</i>
Section 2 (in the definition of "duty")	By the deletion of "subsection (2) of section <i>ninety-eight</i> " and the substitution of "subsection (1) of section <i>one hundred D</i> ".
Section 2 (in the definition of "officer")	By the deletion of "(3)" and the substitution of "(4)"
Section 4 (2)	By the deletion of "Controllers" and the substitution of "Directors".
Section 10 (1)	By the deletion of "he has good reason to suspect of having" and the substitution of "there are reasonable grounds for believing has".
Section 10 (1), proviso (ii)	By the deletion of "female" where it occurs for the second time and the substitution of "medical practitioner or by a female and the search shall be conducted with strict regard to decency".
Section 10 (2)	By the deletion of "For" and the substitution of "Where there are reasonable grounds for believing that it is necessary to do so for".
Section 128 (1)	By the deletion of— (a) "An" and the substitution of "Where there are reasonable grounds for believing that it is necessary to do so for the prevention, investigation or detection of an offence in terms of this Act, an"; (b) "suspected" wherever it occurs and the substitution of "reasonably suspected".
Sections 176 (13) and 182 (7)	By the deletion of— (a) "Controller" where it occurs for the first and last times and the substitution of "Director";

Provisions

Extent of Amendment

	(b) "Assistant Controller" and the substitution of "Assistant Director".
Section 182 (9)	By the deletion of— (a) "Assistant Controller" and the substitution of "Assistant Director"; (b) "the Controller" and the substitution of "the Director".
Section 189	By the insertion after "[Chapter 18]" of "but with- out derogation from any greater jurisdiction confer- red by that Act or any other enactment".

Statutory Instrument 314 of 1987.

[CAP. 177

**Customs and Excise (General) (Amendment) Regulations, 1987
(No. 28)**

IT is hereby notified that the Minister of Finance, Economic Planning and Development has, in terms of section 216 of the Customs and Excise Act [*Chapter 177*], made the following regulations:—

1. These regulations may be cited as the Customs and Excise (General) (Amendment) Regulations, 1987 (No. 28).

2. These regulations shall come into operation on the 1st January, 1988.

3. Section 16 of the Customs and Excise (General) Regulations, 1980, published in Statutory Instrument 310 of 1980 (hereinafter called "the principal regulations") is amended—

(a) in subsection (1) by the repeal of paragraphs (a), (b), (c) and the substitution of—

"(a) in the case of merchandise to be entered for consumption, with the exception of merchandise to be entered under rebate, by—

(i) the completion and submission to the proper officer of a bill of entry in form No. 21; and

(ii) the payment to that officer of any duty due on the goods;

(b) in the case of the entry for consumption of non-merchandise goods as defined in section 98 of the Act, with the exception of goods to be entered under rebate and articles imported as traveller's effects, by—

(i) the submission to the proper officer of documentary evidence of—

A. the cost of the goods; and

B. freight and insurance charges;

Customs and Excise (General) (Amendment) Regulations, 1987
(No. 28)

and such other documentary evidence as to the cost, freight, insurance, nature, quantity and origin of the goods as that officer may require; and

- (ii) the payment to that officer of any duty due on the goods;
- (c) in the case of non-merchandise goods contained in the baggage of passengers or imported as traveller's effects and to be entered for consumption, by—
 - (i) the making of a declaration of the goods in terms of section 14; and
 - (ii) the submission to the proper officer of such evidence as to the cost, nature, quantity and origin of the goods as that officer may require; and
 - (iii) the payment to that officer of any duty due on the goods;";
- (b) in subsection (2) by the repeal of paragraph (a) and the substitution of—
 - "(a) the submission to the proper officer of such evidence as to the nature, quantity, origin, value, insurance and freight charges for the goods as that officer may require; and";
- (c) by the repeal of subsection (3) and the substitution of—
 - "(3) Where a bill of entry is submitted to the proper officer in terms of paragraph (a), (d), (e), (g) or (f) of subsection (1), it shall, subject to the provisions of subsection (4) and such exceptions as may be allowed by the Director, be accompanied by the production of any documents relative to the goods which the proper officer may require, including, where appropriate, a declaration of particulars relating to customs value as provided for in section 23 and a certificate of origin as provided for in section 24.

S.I. 314 of 1987

4. Section 21 of the principal regulations is amended in subsection (3) by the deletion of "of a declaration in form No. 55" and the substitution of "of a declaration in form No. 21".

5. Section 23 of the principal regulations is repealed and the following is substituted—

"23. (1) Every importer of goods shall complete and submit with each entry to the proper officer a declaration of particulars relating to value in form No. 52A or 53A, depending on the method of valuation used:

Provided that an importer need not complete or submit such a declaration in respect of goods—

- (a) admissible free of duty under the customs tariff and the surtax tariff or by virtue of an agreement or any suspension, of duty; or
- (b) which are subject to the payment of duty and do not exceed a total value for duty purposes of one thousand dollars in respect of each complete consignment; or
- (c) imported temporarily under the provisions of section 105 of the Act; or
- (d) which are non-merchandise goods as defined in section 98 of the Act;

unless he is specifically requested to do so by the proper officer.

(2) Any importer who requires a ruling by the director on the value of any goods shall complete and submit to a proper officer a declaration in forms 54A and 54B."

6. Section 68 of the principal regulations is amended in subsection (2) by the repeal of paragraph (b) and the substitution of—

- "(b) any person entitled to first arrival privileges shall be granted a rebate of duty in respect of any goods—
- (i) owned and imported by him at the time of his arrival or within a period of six months after the time of his arrival; or

**Customs and Excise (General) (Amendment) Regulations, 1987
(No. 28)**

(ii) imported at such other time as the Director may, in his discretion, approve;

if such goods are intended for use in Zimbabwe by such person, but not for trade purposes;"

7. Section 86 of the principal regulations is repealed.

8. The Second Schedule to the principal regulations is amended in Part II—

(a) by the repeal of items 22, 52, 53, 54 and 55;

(b) by the insertion of the following items—

"52A Declaration of Particulars relating to Customs Value—(Transaction Value Method)

53A Declaration of Particulars relating to Customs Value—(Method other than Transaction Value)

54A Application for Registration of Value Ruling on Form 54B

54B Declaration of Particulars relating to Customs Value—Value Ruling."