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CHAPTER 91

IMPORT DUTIES (CONSOLIDATION)

JR 52 of 1975	Act 40 of 1984	Act 5 of 1995
JR 37 of 1976	Act 11 of 1985	Act 12 of 1995
JR 39 of 1976	Act 33 of 1985	Act 2 of 1996
JR 6 of 1977	Act 26 of 1986	Act 11 of 1996
JR 20 of 1977	Act 11 of 1988	Act 8 of 1998
JR 16 of 1978	Act 22 of 1988	Act 8 of 1999
Act 3 of 1980	Act 49 of 1989	Act 9 of 2000
Act 8 of 1980	Act 10 of 1990	Act 34 of 2001
Act 1 of 1982	Act 15 of 1990	Act 31 of 2002
Act 6 of 1982	Act 1 of 1992	Act 16 of 2003
Act 33 of 1982	Act 16 of 1992	Act 27 of 2003
Act 1 of 1984	Act 32 of 1993	Act 8 of 2004
Act 27 of 1984	Act 17 of 1994	Act 19 of 2005

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IMPORT DUTIES (CONSOLIDATION)

To consolidate the provisions relating to customs import duties.

1. Customs import duties

(1) The customs import duties set out in Schedule 1 shall be levied at the rates therein specified on all goods imported into Vanuatu:

Provided that customs import duty shall not be payable in respect of the items set forth in Schedule 3 under the circumstances or to the extent specified therein in respect of such items.

(2) The Minister may by Order make such amendments to any part of Schedule 1 as he considers necessary to ensure conformity with the Harmonized Commodity Description and Coding System established by the Brussels's Convention of 14th June, 1983 and with such other international classifications as he considers necessary.

(3) Any amendment made under subsection (2) shall not increase or have the effect of increasing the rates of duties provided in Schedule 1.

2. Duties to be levied on customs value of goods

The *ad valorem* duty on imported goods specified in Schedule 1 is payable on the customs value of such goods worked out in accordance with the provisions of Schedule 2.

3. *(Repealed)*

4. Remission of duty on motor spirit

Notwithstanding the provisions of Schedule 1, the Minister may remit one third of the specific import duty levied on motor spirit which is for consumption in islands other than Efate and Espiritu Santo.

5. Reduction of import duty for agricultural development

In order to encourage the development of agriculture, the Minister may with the approval of the Council of Ministers by Order reduce rates for specific import duties.

6. Method of payment

A customs officer shall certify the amounts payable by the importer of any goods in respect of the customs import duty and customs service tax and shall notify him of the total amount due. Payment by the importer of the total amount due shall be made as a single sum.

7. Offences

Failure to pay the amount of customs service tax certified by the customs officer in accordance with section 6 shall be an offence punishable by a fine not exceeding VT 50,000.

SCHEDULE 1

(section 1)

HARMONIZED SYSTEM NOMENCLATURE

(Available as a separate file in the electronic version of the Consolidated Edition 2006)

SCHEDULE 2

(section 2)

CUSTOMS VALUATION OF IMPORTED GOODS

1. Interpretation

(1) In this Schedule, unless the contrary intention appears:

"buying commissions" mean the fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of goods being valued;

"computed value" means the value determined in accordance with clause 8;

"customs value of imported goods" means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods;

"country of export" or "the country from which goods are exported" means the country from which the goods are transported directly to Vanuatu or the country from which goods are taken to be transported directly under subclause (6);

"country of importation" means the country or customs territory of importation;

"deductive value" means the value determined in accordance with clause 7;

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

"identical goods" means imported goods that:

(a) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods; and

(b) were produced in the same country as the goods being valued were produced; and

(c) were produced by or on behalf of the producer of the goods being valued;

but does not include goods which incorporate or reflect engineering, development, artwork, design work, plans and sketches for which no adjustment has been made under clause 4(2)(g)(iv) because such elements were undertaken in Vanuatu;

"price actually paid or payable" is the total payment made or to be made by the buyer to, or for the benefit of, the seller of the imported goods;

"produced" includes grown, manufactured or mined;

"similar goods" means imported goods that:

(a) closely resemble the goods being valued in respect of component materials and parts and characteristics, and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods and the goods being valued; and

(b) were produced in the same country as the goods being valued were produced; and

(c) were produced by or on behalf of the producer of the goods being valued;

but does not include goods which incorporate or reflect engineering, development, artwork, design work, plans and sketches for which no adjustment has been made under clause 4(2)(g)(iv) because such elements were undertaken in Vanuatu;

"sufficient information", in respect of a determination made under this Schedule of any amount, difference or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference or adjustment;

"to produce" includes to grow, to manufacture or to mine;

"transaction value" means the value determined in accordance with clauses 3 and 4.

(2) For the purposes of this Schedule, persons are taken to be related only if:

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

(b) they are legally recognised partners in business; or

(c) they are employer and employee; or

(d) in the case of persons that are bodies corporate – another person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding 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 another person; or

(g) together they direct or indirectly control another person; or

(h) they are members of the same family.

(3) For the purposes of this Schedule, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other are taken to be related if they fall within the criteria of subclause (2).

(4) For the purposes of this Schedule, persons are taken to be members of the same family if:

(a) they are connected by blood relationship within the fourth degree of relationship; or

(b) they are married to each other, or one is married to a person who is connected within the fourth degree of relationship to the other; or

(c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.

(5) For the purposes of this Schedule, if:

(a) there are no goods that were produced by or on behalf of the person who produced the goods being valued; and

(b) there are no goods that are otherwise identical goods or similar goods;

goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods are taken to be identical goods or similar goods, as the case may be.

(6) For the purposes of this Schedule, goods exported to Vanuatu from any country but passing through another country on their way to Vanuatu (whether transhipped in that other country or not) are taken to be transported directly from the first mentioned country.

(7) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by a buyer and relating to the purchase of imported goods are not to be regarded as part of the customs value of the goods if:

(a) the charges are distinguished from the price actually paid or payable for the goods; and

(b) such goods are actually sold at the price declared as the price actually paid or payable; and

(c) the buyer, if required, can demonstrate that:

(i) the financing arrangement was made in writing; and

(ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

(8) For the purposes of this Schedule, information submitted by an importer, buyer or producer in relation to valuing imported goods may not be rejected by the Director of Customs because of the accounting method by which the information was prepared if it was prepared in accordance with generally accepted accounting principles.

(9) In the interpretation of this Schedule, regard must be had to:

(a) the Interpretative Notes in Annex 1 to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994; and

(b) the decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods that was adopted by the WTO Committee on Customs Valuation on 12 May 1995; and

(c) the decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment that was adopted by the WTO Committee on Customs Valuation on 12 May 1995.

2. Application

(1) The provisions of this Schedule apply to any goods imported into Vanuatu on or after the date specified by Order in writing made by the Minister.

(2) The customs value of imported goods is to be determined in accordance with clauses 3 to 9.

(3) The customs value of imported goods is their transaction value if the customs value can be determined in accordance with clauses 3 and 4.

(4) If the customs value of imported goods cannot be so determined, it must be determined in the following order and on the following basis:

(a) the transaction value of identical goods that meet the requirements set out in clause 5;

(b) the transaction value of similar goods that meet the requirements set out in clause 6;

(c) the deductive value of the imported goods as set out in clause 7;

(d) the computed value of the imported goods as set out in clause 8.

(5) The Director of Customs must reverse the order of consideration of the valuation basis provided for in subclauses (4)(c) and (d) upon receipt of a written request from the importer. The reversal must be confirmed in writing by the Director of Customs.

(6) If the customs value of imported goods, cannot be determined on the basis of any of the methods referred to in subclauses (4)(a) to (d), the customs value of the goods must be determined under clause 9.

3. Transaction value as primary basis of customs valuation

(1) The customs value of imported goods is the transaction value, that is the price actually paid or payable for the goods when sold for export to Vanuatu adjusted in accordance with clause 4, if:

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

(i) are imposed 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 is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued; 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 accordance with clause 4; and

(d) the buyer and the seller of the goods are not related to each other at the time the goods are sold for export or, if the buyer and the seller are related to each other at that time, the transaction value is acceptable for customs purposes under subclause (4).

(2) If the buyer and seller are related, the Director of Customs must examine the circumstances surrounding the sale to determine whether the transaction value is acceptable or not.

(3) If the Director of Customs is of the opinion that the relationship between the buyer and the seller of any goods influenced the price actually paid or payable for the goods, the Director must:

(a) inform the importer of the grounds on which his or her opinion was formed; and

(b) give the importer a reasonable opportunity to satisfy him or her that the relationship did not influence the price.

If the importer so requests, the communication of the grounds must be in writing.

(4) In a sale between related persons, the transaction value of the goods is acceptable and the goods are to be valued under subclause (1) if:

(a) the relationship between the buyer and the seller did not influence the price of the goods; or

(b) the importer of the goods demonstrates the transaction value of the goods closely approximates to one of the following occurring at or about the same time:

(i) the transaction value in sales to unrelated buyers of identical goods or similar goods for export to Vanuatu;

(ii) the deductive value of identical goods or similar goods;

(iii) the computed value of identical goods or similar goods.

(5) In applying the tests in subclause (4)(b), due account must be taken of:

(a) demonstrated differences in commercial levels and quantity levels; and

(b) the amounts referred to in clause 4; and

(c) costs incurred by the seller in sales in which the seller and the buyer are not related, being costs that are not incurred by the seller in sales in which the seller and the buyer are related.

(6) Without limiting subclause (4)(b), the factors that may be taken into consideration in determining whether one value closely approximates to another, include the following:

(a) the nature of the goods being valued;

(b) the nature of the industry that produces the goods being valued;

(c) the season in which the goods being valued are imported;

(d) whether a difference in values is commercially significant.

(7) The tests in subclause (4)(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under subclause (4)(b).

4. Adjustment of price actually paid or payable

(1) In determining the customs value of imported goods under clause 3, the price actually paid or payable for the goods must be adjusted in accordance with subclauses (2) and (5).

(2) There is to be added to the price actually paid or payable for the imported goods the following amounts, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(a) commissions and brokerage, except buying commissions;

(b) the cost of containers, cartons, cases and coverings that are treated for customs purposes as being part of the goods;

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

(d) royalties and licence fees, including payments for patents, trademarks and copyright, relating to the goods being valued that the buyer must pay, directly or indirectly, as a condition of sale of the goods being valued (exclusive of charges for the right to reproduce the goods in Vanuatu);

(e) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues or is to accrue directly or indirectly to the seller;

(f) the following costs and charges:

(i) the cost of transportation of the goods to Vanuatu;

(ii) the loading, unloading and handling charges associated with the transportation of the goods to Vanuatu;

(iii) the cost of insurance of the goods to Vanuatu;

(g) the value (determined and apportioned in accordance with subclause (3)) of the following goods and services that are supplied directly or indirectly by the buyer free of charge, or at a reduced cost, for use in connection with the production and sale for export of the imported goods:

(i) material components, parts and other goods incorporated in the imported goods;

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

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

(iv) engineering, development, art work, design work, plans and sketches undertaken outside Vanuatu and necessary for the production of the imported goods.

(3) The value of the goods and services in subclause (2)(g)(i), (ii), (iii) and (iv) is to be:

(a) determined in a reasonable manner appropriate to the circumstances; and

(b) apportioned to the imported goods in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

(4) Without limiting subclause (3)(a):

(a) if the importer acquires the goods or services at a given cost from a seller who is not related to the importer – the value of the goods or services is that cost; or

(b) if the goods or services were produced by the importer or by a person related to the importer – the value of the goods or services is the cost of producing the goods or services; or

(c) if the goods or services had previously been used by the importer, whether or not acquired or produced by such importer – the value of the goods or services would be the original cost of acquisition or production adjusted downward to reflect the prior use.

(5) There is to be deducted from the price actually paid or payable for the goods the following amounts, to the extent that they are included in the price actually paid or payable for the goods:

(a) any reasonable costs, charges or expenses for the construction, erection, assembly, maintenance or technical assistance provided in respect of the goods after they are imported;

(b) any reasonable costs, charges or expense incurred in respect of the transportation or insurance of the goods within Vanuatu;

(c) any other customs duties or taxes payable in Vanuatu by reason of the importation or sale of the goods;

if the costs, charges, expenses, duties or taxes are distinguished from the price actually paid or payable for the goods.

(6) Additions and deductions to the price actually paid or payable for imported goods must be made on the basis of sufficient information.

(7) No additions or deductions are to be made to the price actually paid or payable for imported goods in determining their customs value except as provided for by this clause.

(8) If there is not sufficient information to determine any of the amounts required to be added to, or deducted from, the price actually paid or payable, the transaction value of the goods being valued cannot be determined under clause 3.

5. Transaction value of identical goods as customs value

(1) Subject to subclauses (2), (3) and (4), if the customs value of imported goods cannot be determined under clause 3, the customs value of the goods is the transaction value of identical goods if the identical goods were:

(a) sold for export to Vanuatu; and

(b) exported at the same or substantially the same time as the goods being valued; and

(c) sold to a buyer:

(i) at the same or substantially the same commercial level as the buyer of the goods being valued; and

(ii) in the same or substantially the same quantities as the goods being valued.

(2) If the identical goods were not sold under the conditions described in subclause (1)(c), other identical goods sold to a buyer under any of the following conditions are to be substituted:

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

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

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

(3) The transaction value of identical goods must be adjusted by adding to or deducting from that value, as the case may be, amounts to account for:

(a) if the costs and charges referred to in clause 4(2)(f) are included in the transaction value – significant differences in such costs and charges between the imported goods and the identical goods arising from differences in distances and modes of transport; and

(b) if the transaction value is in respect of identical goods sold under the conditions described in subclause (2)(a), (b) or (c) – differences in either or both of the following:

(i) the commercial levels of buyers of the identical goods and the imported goods;

(ii) the quantities in which the identical goods and the imported goods were sold.

Each of the amounts must be determined on the basis of sufficient information. However, if any such amount cannot be so determined, the customs value of the imported goods must not be determined on the basis of the transaction value of identical goods under this clause.

(4) If, in applying this clause, more than one transaction value of identical goods is found, the lowest such transaction value must be used to determine the customs value of the imported goods.

6. Transaction value of similar goods as customs value

(1) If the customs value of imported goods cannot be determined under clause 5, the customs value of the goods is the transaction value of similar goods if the similar goods were:

(a) sold for export to Vanuatu; and

(b) exported at the same or at substantially the same time as the goods being valued; and

(c) sold to a buyer:

(i) at the same or substantially the same commercial level as the buyer of the imported goods; and

(ii) in the same or substantially the same quantities as the goods being valued.

(2) Subclauses (2), (3) and (4) of clause 5 apply to this clause as if a reference in those subclauses to "identical goods" were a reference to "similar goods".

7. Deductive value as customs value

(1) If the customs value of imported goods cannot be determined under clause 6, the customs value of the goods is the deductive value of the goods as provided for by subclause (2), (3) or (4), whichever applies.

(2) The deductive value of imported goods is the unit price at which the imported goods, or identical or similar goods, are sold in the greatest aggregate quantity if:

(a) the imported goods, or identical or similar goods, are sold in Vanuatu in the condition in which they were imported; and

(b) the sale occurs at or about the time of the importation of the goods being valued.

(3) The deductive value of imported goods is the unit price at which the imported goods, or identical or similar goods, are sold in the greatest aggregate quantity at the earliest date after the goods being valued are imported if:

(a) the imported goods, or identical or similar goods, are sold in Vanuatu in the condition in which they were imported; and

(b) the sale does not occur at or about the time of the importation of the goods being valued, but does occur with 90 days after that importation.

(4) If:

(a) neither the imported goods nor identical goods nor similar goods are sold in Vanuatu in the condition in which they were imported; and

(b) the imported goods, after being assembled, packaged or further processed in Vanuatu, are sold in Vanuatu within 90 days after their importation; and

(c) the importer requests that this subclause be applied;

the deductive value of the imported goods is the unit price at which those goods are sold in the greatest aggregate quantity, due allowance being made for the value added by the assembling, packaging or further processing referred to in paragraph (b).

(5) For the purposes of subclauses (2), (3) and (4), the unit price at which imported goods, or identical or similar goods, are sold must be determined by ascertaining the unit price in respect of sales of the goods:

(a) at the first commercial level after importation of the goods; and

(b) to persons who are not related to the persons from whom they buy the goods;

if a sufficient number of such sales have been made to permit a determination of the unit price of the goods.

(6) Any sale in Vanuatu of imported goods to a person who supplies any of the goods or services referred to in clause 4(2)(g) directly or indirectly free of charge, or at a reduced cost, for use in connection with the production and sale for export of the imported goods must not be taken into account for the purposes of this clause.

(7) For the purpose of subclauses (2), (3) and (4), the unit price in respect of any goods being valued must be adjusted by deducting from the price an amount equal to the total of the following:

(a) an amount determined in accordance with subclause (8) for:

(i) the commission generally earned on a unit basis; or

(ii) the profit and general expenses, including all costs of marketing the goods, considered together as a whole that is generally reflected on a unit basis;

in connection with sales in Vanuatu of goods of the same class or kind;

(b) the reasonable costs, charges and expenses that are incurred in respect of the transportation and insurance of the goods within Vanuatu, and reasonable associated costs, charges and expenses, to the extent that an amount for such costs, charges and expenses is not deducted in respect of general expenses under paragraph (a);

(c) any customs duty or other taxes payable in Vanuatu in respect of the goods to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a);

(d) if subclause (4) applies – the amount of value added to the goods that is attributable to the assembly, packaging or further processing in Vanuatu of the goods.

(8) The amount for commission or profit and general expenses referred to in subclause (7)(a) must be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted accounting principles.

(9) The information must be supplied:

(a) by or on behalf of the importer of the goods being valued; or

(b) if the information supplied by or on behalf of the importer of the goods being valued is not sufficient information – by an examination of sales in Vanuatu of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can be obtained.

(10) If there is not sufficient information to determine the amount referred to in subclause (7)(d) in respect of any goods being valued, the customs value of the goods must not be determined under subclause (4).

(11) For the purposes of subclause (3), the “earliest date” refers to the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

8. Computed value as customs value

(1) If the customs value of imported goods cannot be determined under clause 7, the customs value of the goods is the computed value of the goods.

(2) The computed value of the imported goods is the sum of:

(a) the costs, charges and expenses, or the value, of:

(i) materials employed in producing the imported goods; and

(ii) the production or other processing of the imported goods;

including the costs, charges and expenses mentioned in subclause (3), and determined in the manner specified in subclause (4); and

(b) an amount for profit and general expenses, considered together as a whole, equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Vanuatu, and determined under subclause (5).

(3) The costs, charges and expenses mentioned in subclause (2)(a) include the following:

(a) the costs referred to in clause 4(2)(b) and (c);

(b) the value of any goods and services referred to in clause 4(2)(g) which have been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods;

(c) the value of engineering, development, artwork, design work, plans and sketches that were undertaken in Vanuatu to the extent that such elements are charged to the producer of the goods.

(4) The costs, charges and expenses referred to in subclause (2)(a) are to be determined on the basis of:

(a) the commercial accounts of the producer of the goods being valued; or

(b) any other sufficient information relating to the production of the goods being valued;

supplied by or on behalf of the producer of the goods and prepared in a manner consistent with generally accepted accounting principles of the country of production of the goods being valued.

(5) The amount of profit and general expenses referred to in subclause (2)(b) must be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally acceptable accounting principles of the country of production of the goods being valued.

(6) The information must be supplied:

(a) by or on behalf of the producer of the goods being valued; or

(b) if the information supplied by or on behalf of the producer of the goods being valued is not sufficient information – by an examination of sales for export to Vanuatu of the narrowest group or range of goods of the same class or kind from which sufficient information can be obtained.

(7) For the purposes of this clause, "general expenses" means the direct and indirect costs, charges and expenses of producing goods for export other than the costs, charges and expenses referred to in subclause (2)(a).

9. Residual value

(1) If the customs value of imported goods cannot be determined under clause 8, the customs value must be determined:

(a) on information available in Vanuatu; and

(b) on the basis of the value derived from the methods of valuation set out in clauses 3 to 8 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at the customs value of the goods.

(2) However, a customs value must not be determined on the basis of:

(a) the selling price in Vanuatu of goods produced in Vanuatu; or

(b) a system which provides for the acceptance for customs purposes of the higher of 2 alternative values; or

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

(d) the cost of production other than computed values that have been determined for identical or similar goods in accordance with clause 7; or

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

(f) minimum customs values; or

(g) arbitrary or fictitious values.

10. Appeal rights

(1) At any time after the making of a determination by the Director of Customs in relation to any imported goods, the Director of Customs may review the determination.

(2) The importer of any goods may, at any time after the making of a determination by the Director of Customs in relation to the goods, request the Director of Customs to review the determination.

(3) If, as a result of a review under subclause (1) or (2), the Director of Customs is satisfied that the determination is:

(a) inconsistent with this Schedule; or

(b) incorrect for any other reason;

the Director of Customs must amend the determination, and import duty is payable in accordance with that amended determination.

(4) If the importer of the goods is not satisfied with a decision of the Director of Customs under subclause (3) in relation to a determination, the importer may apply to the Supreme Court for a review of the original determination or the amended determination, as the case requires.

(5) The Supreme Court may affirm, vary or revoke the original determination or the amended determination, as the case requires.

11. Supply of information

Subject to clause 12, upon the written request by the importer of any goods, the Director of Customs must give written notice to the importer:

(a) of the customs value of the goods; and

(b) the basis of the determination of that value; and

(c) the provisions of this Schedule that apply to the goods.

12. Confidential information

(1) This clause applies to information that:

(a) is by its nature confidential; or

(b) has been provided to the Director of Customs by any government or person on a confidential basis for the purpose of determining the customs value of any goods.

(2) The information must not be disclosed to any other government or person without the specific authority of the government or person who provided the information, except to extent that it may be required to be disclosed in any legal proceedings arising out of a determination made under this Schedule.

13. Foreign currency conversion

(1) If the conversion of foreign currency into the currency of Vanuatu is necessary to determine the customs value of imported goods, the rate of exchange to be used:

(a) is the rate duly published by the competent authority in Vanuatu; and

(b) must reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of Vanuatu.

(2) The rate of exchange to be used is the rate referred to in subclause (1) that is in effect at the time when the imported goods are declared for customs purposes.

(3) The Director of Customs must notify the rate of exchange in such manner as he or she determines.

14. Withdrawal of goods

(1) If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of the customs value, the importer of the goods may withdraw the goods from the control of the Director of Customs.

(2) The Director of Customs as a condition of withdrawal of any goods may require from the importer:

(a) a sufficient guarantee for the goods in the form of a surety; or

(b) a deposit or some other appropriate instrument covering the ultimate payment of customs duties for which the goods may be liable.

15. Delegation

The Director of Customs may delegate, by instrument in writing, all or any of his or her functions and powers under this Schedule (other than those under clause 10) to a customs officer on such terms and conditions as are specified in the instrument of delegation.

SCHEDULE 3

(section 1)

EXEMPTION FROM CUSTOMS DUTIES ON GOODS IMPORTED OR DELIVERED FROM BONDED WAREHOUSE

The goods listed in this Schedule shall, by reason of the purpose for which they have been imported or are to be used, be either exempted from duty or liable to duty at lower rates than those to which they would be liable under the terms of Schedule 1, provided that in each case any conditions specified hereunder are complied with.

If within three years of the date of importation and without prior notification to Customs any goods imported under an exemption listed in this schedule are used for a purpose other than that for which the exemption was approved, the Director of Customs may disallow the concession and collect duty at the rates applicable under Schedule 1 and such collection shall be without prejudice to action that may be taken under any law for the time being in force.

In any case where an importer gives prior notification to Customs of intention to divert exempt goods to the home-market for purpose other than that for which exemption was granted, the Director of Customs may allow a reduction of liability for customs purposes and assess a notional C.I.F. value based on the price such goods would fetch in an open market sale between an independent seller and buyer on the date when the intended diversion is formally declared in writing to the Director of Customs.

SECTION 1 – ECONOMIC RELIEFS

Exemption granted under this section shall be granted only after compliance to minimum criteria as prescribed by the Director of Customs, after consultation with favourable recommendation by any relevant authority. All exemptions whether granted or declined under this section shall be notified by publication in the Government Gazette.

X.1 Goods Imported for Manufacturing or Processing Operation – Standard Relief
X.1A Goods Imported for Manufacturing or Processing Operation Involving Capital Investment of VT 1 Billion or More
X.2 Goods imported under Approved Development Project Agreements
X.3 Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project – Standard Relief

X.3A Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project Involving Capital Investment of VT 1 Billion or More
X.4 Goods Imported for Inter-Island Shipping – Standard Relief
X.4A Goods Imported for Inter-Island Shipping Involving Capital Investment of VT 1 Billion or More
X.5 Goods Imported for a Tourism Development Project – Standard Relief
X.5A Goods Imported for a Tourism Development Project Involving Capital Investment of VT 1 Billion or More
X.6 Goods imported for Mineral Exploration and Extraction
X.7 Diesel fuel imported for the generation of certain electric power.
X.9 Fisheries Industry Equipment Project –Standard Relief
X.9A Fisheries Industry Equipment for Project Involving Capital Investment of VT 1 Billion or More

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X.50 Life-Saving Equipment
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X.53 Dental Surgery and Laboratory Supplies
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X.57 Hospital medical supplies

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X.61 Containers, Crates, etc….
X.62 Soft Techniques of Energy
X.64 Goods not in accordance with contract
X.65 Goods admitted under an International Convention or Agreement

SECTION 1 – ECONOMIC RELIEFS

X.1 Goods Imported for Manufacturing or Processing Operation – Standard Relief

The Director of Customs may, subject to the favourable recommendations of the Director of Industry exempt any goods or approve a reduction of customs duty otherwise payable under the Customs Tariff, in respect of any goods being raw materials, machinery or equipment to be used exclusively in a manufacturing or processing operation in the Republic of Vanuatu.

Provided that:

(a) application shall be made to the Director of Industry in such form and manner as may be prescribed by the Director; and

(b) the finished goods arising from such manufacture or processing operation shall, in the interests of consumer protection, satisfy the Director of Industry in respect of their quality, quantity and value; and

(c) the importer shall at all times comply with such terms and conditions as maybe imposed by the Director of Industry.

X.1A Goods Imported for Manufacturing or Processing Operation Involving Capital Investment of VT 1 Billion or More

(1) Despite clause X.1, the Director of Customs may, subject to the favourable recommendation of the Director of Industry, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Industry is satisfied that the capital investment in Vanuatu in the manufacturing or processing operation concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director of Industry advises the Director of Customs, after the exemption is approved, that the Director of Industry is satisfied (based on information not available to him or her when making the recommendation under subsection (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.1 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Industry advises the Director of Customs that the Director of Industry is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Industry subsequently advises the Director of Customs that the Director of Industry is satisfied (based on information not available to him or her when giving advice under subclause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, subclause (2)(a), (b) and (c) applies.

(5) In this item, “prescribed period”, for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

X.2 Goods Imported under Approved Development Project Agreements

If:

(i) a person is a party to an agreement with the Government for a development project; and

(ii) the agreement is likely to contribute significantly to the economic development of Vanuatu; and

(iii) the person imports goods into Vanuatu;

the Director may, subject to the prior approval of the Council of Ministers, exempt the goods from customs duty otherwise payable or approve a reduction of customs duty otherwise payable in respect of the goods. The amount of any reduction is to be determined in writing by the Director.

X.3 Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project – Standard Relief

The Director of Customs may, subject to the favourable recommendation of the relevant Director, approve a reduction of customs duty, otherwise payable under the Customs Tariff –

(i) to a rate of not less than 5% for plant, machinery, materials and equipment (including designed vehicles such as cattle-trucks, refrigerated vehicles and the like), and including spare-parts and accessories; and

(ii) to a rate of 6 VT per litre for fuel oils, intended for use in static machinery or to power vehicles and equipment engaged primarily in off-the-road applications:

Provided that:

(a) application for reduction of exemption shall be made to the relevant Director in such form and manner as may be prescribed by the Director; and

(b) the goods shall be intended exclusively for use on a development project approved by the relevant Director;

(c) this provision shall not cover vehicles designed for general road use, or logging equipment; and

(d) the importer shall at all times comply with such terms and conditions as may be imposed by the relevant Director.

And further provided that the Director of Customs may at his/her discretion determine whether goods for which a reduction is claimed are so eligible.

X.3A Goods Imported for Agriculture, Horticulture, Livestock or Forestry Project involving Capital Investment of VT 1 Billion or More

(1) Despite clause X.3, the Director of Customs may, subject to the favourable recommendation of the relevant Director, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the relevant Director is satisfied that the capital investment in Vanuatu in the development project concerned will be VT 1 billion or more within the prescribed period.

(2) If the relevant Director advises the Director of Customs, after the exemption is approved, that the relevant Director is satisfied (based on information not available to him or her when making the recommendation under subclause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of item X.3 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the relevant Director advises the Director of Customs that the relevant Director is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the relevant Director subsequently advises the Director of Customs that the relevant Director is satisfied (based on information not available to him or her when giving advice under subclause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, subclause (2)(a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

X.4 Goods Imported for Inter-Island Shipping – Standard Relief

The Director of Customs may approve a reduction of customs duty, otherwise payable under the Customs Tariff: –

(i) to a rate of not less than 5% for plant, machinery, equipment and materials (including spare-parts) imported exclusively for use in inter-island shipping; and

(ii) to a rate of 6 VT per litre for fuel oils, intended exclusively for use by cargo vessels engaged in inter-island transportation:

Provided that:

(a) application for reduction shall be made to the Director of Customs in such form and manner as may be prescribed by him; and

(b) the person to whom relief is granted shall at all time comply with such terms and conditions as may be imposed by the relevant Director of Customs.

X.4A Goods Imported for Inter-Island Shipping Involving Capital Investment of VT 1 Billion or More

(1) Despite item X.4, the Director of Customs may approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director is satisfied that the capital investment in Vanuatu in the shipping project concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director determines (after the exemption is approved and based on information not available to him or her when approving the total exemption under subclause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.4 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director determines that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, he or she may continue the exemption for a further period.

(4) If the Director determines subsequently (based on information not available to him or her when making the determination under subclause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, subclause (2)(a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

X.5 Goods Imported for a Tourism Development Project – Standard Relief

The Director of Customs may, subject to a favourable recommendation of the Director of Tourism approve a reduction of custom duty, otherwise payable under the Customs Tariff –

(i) to a rate of not less than 5% on all plant, machinery, equipment and materials (including spare-parts) imported exclusively for the construction and establishment of a new tourism development project, or the upgrading, refurbishment or extension of an existing tourism facility which the Director is satisfied is likely to contribute significantly to the economic development of the Republic of Vanuatu; and

(ii) to a rate of 6 VT per litre for fuel oils intended exclusively for use by static electro-generators in rural areas where no public utility services are available.

Provided that:

(a) application for reduction of exemption shall be made to the Director of Tourism in such form and manner as may be prescribed by him; and

(b) the goods shall be intended exclusively for use in tourism development project approved by the Director of Tourism;

(c) the person to whom relief is granted shall at all time comply with such terms and conditions as may be imposed by the relevant Director of Customs.

X.5A Goods Imported for a Tourism Development Project involving Capital Investment of VT 1 Billion or More

(1) Despite clause X.5, the Director of Customs may, subject to the favourable recommendation of the Director of Tourism, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Tourism is satisfied that the capital investment in Vanuatu in the tourism development project concerned (excluding any such investment in vehicles or boats) will be VT 1 billion or more within the prescribed period.

(2) If the Director of Tourism advises the Director of Customs, after the exemption is approved, that the Director of Tourism is satisfied (based on information not available to him or her when making the recommendation under subclause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.5 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Tourism advises the Director of Customs that the Director of Tourism is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Tourism subsequently advises the Director of Customs that the Director of Tourism is satisfied (based on information not available to him or her when giving advice under subclause (3)) that the capital investment in Vanuatu has been or will be less than a total of VT 1 billion during the prescribed period and the further period, subclause (2)(a), (b) and (c) applies.

(5) In this item, “prescribed period”, for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

X.6 Goods Imported for Mineral Exploration and Extraction

The Director of Customs may, subject to the favourable recommendation of the Director of Geology and Mines approved a total exemption of customs duty otherwise payable under the Customs Tariff, on all plants, machineries, equipment, vehicles, fuels, reagents and materials (including spare parts but excluding general consumable goods) imported for a mineral exploration and extraction project which the Director of Geology and Mines considers is likely to contribute significantly to the development of the mineral exploration and extraction programme in the Republic of Vanuatu.

X.7 Diesel Fuel Imported for the Generation of Certain Electric Power

(1) If:

(a) a person is a party to an agreement with the Government for the production of electric power; and

(b) diesel fuel is imported and is used by that person only for the purposes of that agreement; and

(c) the imported fuel is diesel fuel (distillate) classified under Tariff Classification Code 2710.0050;

the Director of Customs may, subject to the prior approval of the Council of Ministers, exempt the diesel fuel from Customs Duty otherwise payable or approve a reduction of Customs Duty otherwise payable in respect to the diesel fuel. The amount of the reduction is to be determined in writing by the Director.

(2) The Director of Customs may impose such terms and conditions as the Director thinks necessary on any exemption or reduction under this section.

(3) A person who is a party to the agreement referred to in subsection (1) must comply with such terms and conditions imposed under subsection (2).

X.9 Fisheries Industry Equipment for Project – Standard Relief

The Director of Customs may, subject to the favourable recommendations of the Director of Fisheries, approve a reduction of customs duty, otherwise payable under the Customs Tariff, to a rate of not less than 5% for:

(i) Boats, and boat-building materials, including, fuel-oils, where these are to be exclusively for commercial fishing;

(iii) Machinery, materials and equipment including fishing in-board and out-board motors, refrigeration equipment:

Provided that:

(a) reduction for fuel-oil allowed under subsection (i) above shall be:

a reduction of 5% of the duty rate where ad valorem duty rates apply and 6 VT per litre for fuel-oils in the case of new fisheries projects and such privileges shall be allowed for a period to be determined by the Director of Fisheries; and any goods for which a reduction is claimed shall be accompanied by a certificate stating that the goods are intended to be solely for an approved fisheries project and further provided that such certificate be endorsed by the Director of Fisheries.

X.9A Fisheries Industry Equipment for Project involving Capital Investment of Vt 1 Billion or More

(1) Despite clause X.9, the Director of Customs may, subject to the favourable recommendation of the Director of Fisheries, approve a total exemption from customs import duty on any goods referred to in that item for the prescribed period if:

(a) the requirements set out in that item are met; and

(b) the Director of Fisheries is satisfied that the capital investment in Vanuatu in the fisheries project concerned will be VT 1 billion or more within the prescribed period.

(2) If the Director of Fisheries advises the Director of Customs, after the exemption is approved, that the Director of Fisheries is satisfied (based on information not available to him or her when making the recommendation under subclause (1)) that the capital investment in Vanuatu has been or will be less than VT 1 billion within the prescribed period:

(a) the exemption ceases to apply; and

(b) the provisions of clause X.9 are to be applied in relation to any goods that have been imported and are the subject of the exemption; and

(c) the importer must pay any customs import duty that is determined to be payable under paragraph (b).

(3) However, if the Director of Fisheries advises the Director of Customs that the Director of Fisheries is satisfied that failure to invest VT 1 billion or more within the prescribed period is due to circumstances beyond the control of the importer, the Director of Customs may continue the exemption for a further period.

(4) If the Director of Fisheries subsequently advises the Director of Customs that the Director of Fisheries is satisfied (based on information not available to him or her when giving advice under subclause (3)) that the capital investment in Vanuatu has been (or will be) less than a total of VT 1 billion during the prescribed period and the further period, subclause (2)(a), (b) and (c) applies.

(5) In this item, "prescribed period", for an exemption from customs import duty, means the 3 year period commencing from the approval of the application for the exemption.

SECTION 2 – PERSONAL RELIEFS

INTRODUCTION

Notwithstanding any thing in any other enactment or in any other section of this Act, for the purpose of determining entitlement to customs exemption which may be allowed in respect of imported personal and household effects, the following definitions shall apply:

"Director" shall mean the Director of the Vanuatu Customs Department.

"resident" shall mean any person importing personal or household effects who, on the date such goods are imported, has spent not less than 12 months in the Republic of Vanuatu during the preceding two (2)-year period.

"person changing residence" shall mean any person who has taken up, or intends to take up, continuous residence in Vanuatu for a period of not less than six (6) months.

"standard allowances" shall mean the following goods:

(a) 250 cigarettes, or 100 cigarillos, or 50 cigars, or 250 grams of tobacco; and
(b) 1.5 litres of spirits; and
(c) 2250 millilitres of wine; and
(ca) 9 litres of beer; and
(d) 25 centilitres of toilet water; and
(e) 10 centilitres of perfumed spirits; and
(f) any other new or unused items including gifts (but excluding prohibited or restricted goods) up to a value of 50,000 vatu per person.

"means of transport" shall be taken to mean only motor vehicle, water-borne craft and aircraft.

"motor vehicle" shall mean any passenger motor car designed for the conveyance of a driver and up to a maximum of five adult passengers, but shall also include motorcycles, auto-cycles fitted with an auxiliary motor and mechanically-propelled invalid carriages.

"water-borne craft" shall mean yachts and other vessels designed for pleasure or sports and shall include ocean-going yachts up to a maximum of 40 net registered tons.

X.20 Personal and Household Reliefs

(1) Accompanied personal and household effects

Goods which meet the following terms and conditions may be admitted without payment of customs duty otherwise payable under the substantive tariff.

(A) Residents

(i) The standard allowances; and

(ii) any other personal or household effects, other than means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer for a period of at least 12 months:

provided that the allowances under (i) above shall not apply to any person of less than 15 years of age, nor to any person who has arrived in Vanuatu as a member of the crew of a vessel or an aircraft.

(B) Non-Residents

(i) The standard allowances; and

(ii) any other personal or household effects, including means of transport, which is imported solely for the use of the importer or his family during their stay in Vanuatu:

provided that:

(a) the allowances under (i) above shall not apply to any person of less than 15 years of age not to any person who has arrived in Vanuatu as a member of the crew of a vessel or aircraft; and

(b) any goods admitted under (ii) above, shall not be sold, hired, given, lent, pledged or otherwise disposed of in Vanuatu; and

(c) the allowances under (ii) above shall not include yachts, similar craft, and private aircraft for which separate provision is made under X.40.C. of this Schedule; and

(d) any goods admitted under (ii) above shall be re-exported from Vanuatu within a period of 6 months from the date of importation, save for reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature; and

(e) the Director may, in any case where he sees fit, require the payment of a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported; and

(f) any goods admitted under (ii) above by a person who subsequently decides to become a resident of Vanuatu must be declared in writing to the Director within six months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

(2) Unaccompanied personal or household effects

(A) Residents

Any personal or household effects, other than means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer for a period of at least 12 months.

(B) Non-Residents

Any personal or household effects, including means of transport, which are imported solely for use by the importer or his family in the course of the visit:

provided that:

(a) any goods so admitted shall not be sold, hired, given, lent, pledged or otherwise disposed of in Vanuatu; and

(b) the goods shall not be used for any commercial purpose in Vanuatu; and

(c) the goods admitted shall be re-exported from Vanuatu within a period of 6 months from the date of importation save for reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature; and

(d) the Director may, in any case where he sees fit, require a deposit or other security for the duties and taxes thereon until such time as the goods are re-exported from Vanuatu; and

(e) any goods admitted under (ii) above by a person who subsequently decides to become a resident of Vanuatu must be declared in writing to the Director within six months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

(3) Person changing residence

In addition to any allowances to which they may be entitled under this or any other section of this Schedule, persons changing residence may also import the following goods:

(a) new items of clothing, bedding or any other similar personal or household effects up to a maximum value of VT 50,000 per person; and

(b) used items of personal and household effects, including means of transport, which can be shown to the satisfaction of the Director to have been owned and used abroad by the importer or his family:

provided that:

(i) the goods are imported within a period of 6 months before or 6 months after the date on which the importer first arrived in Vanuatu to take up a period of continuous residence; and

(ii) the goods shall not be sold, hired, given, pledged or otherwise disposed of in Vanuatu for a period of at least 2 years from the date of importation; and

(iii) in the case of means of transport, the goods must have been owned and used abroad by the importer for a period or periods in excess of 12 months in the 2 years preceding the date of importation into Vanuatu, and further provided that the maximum quantity allowable shall be limited to one motor-vehicle or one water-borne craft or one aircraft for each importer, or for each importer's family in any case where a person changing residence is joined or intends to be joined during his period of residence in Vanuatu by members of his immediate family; and

(iv) any goods previously imported to Vanuatu under a non-residents concession which are eligible for duty and tax-free admission by a person changing residence must be declared to the Director in writing within 6 months of the date of first importation, and any duties and taxes liable thereon paid or otherwise exempted under this or any other section of this Schedule in such manner and under such conditions as may be decided by the Director.

X.21 Photographs, Films, Negatives and Audio or Video Recordings

The following goods may be admitted free of duty:

(a) Photographs, developed negatives, developed films and audio or video recordings;

(b) Recordings of a kind normally intended for use in language instructions:

Provided that the Director of Customs shall be satisfied that any goods imported under (a) above have only personal or sentimental value to the importer, are intended for his personal use and are not intended for sale, hire, public exhibition or performance.

X.22 Legacies and Inheritances

Goods and articles which the Director of Customs is satisfied were belonging to or in the possession of a deceased person and were used by him before his death other than for business purposes and that such goods and articles are imported by or for a person resident in the Republic of Vanuatu who has become entitled thereto by virtue of any testamentary deposition or intestacy may be admitted free of duty.

X.23 Post And Airfreight Packages

Articles arriving by post or airfreight for the exclusive personal use of the recipient where the FOB value of such articles does not exceed VT 10,000 may be admitted free of duty:

Provided that the Director of Customs may, at his discretion, determine than more than one parcel addressed to the same or several persons may be treated as a single importation and duty shall be assessed accordingly.

X.24 Wedding Presents and other Unsolicited Gifts

(1) Wedding presents of an individual FOB value not exceeding VT 20,000;

(2) Other unsolicited gifts of a total FOB value not exceeding VT 10,000 may be admitted free of duty:

Provided that:

(a) relief under (1) above shall require the written approval of the Director of Customs; and

(b) the total number of gifts admitted for any one wedding shall not together exceed a total FOB value of VT 100,000; and

(c) the Director of Customs and Taxes may, if he sees fit, require the production of documentary evidence to support any claim to entitlement under this exemption and may also require a deposit of other form of security for the duties and taxes liable thereon until such evidence is produced; and

(d) the Director of Customs and Taxes may, as he sees fit, determine that gifts imported under (2) above by the same or several persons may be treated as a single importation and duty shall be assessed accordingly.

SECTION 3 – CHARITABLE RELIEFS FOR NON-PROFIT MAKING GROUPS AND ORGANISATION

X.30 Charities

(a) Goods which are gift to a charitable or religious organisation and which are declared to be imported by such organisation for free distribution to or for the assistance of hospital patients or of persons in need of support; and

(b) Goods donated to the Red Cross for use or free distribution in emergencies and certified by the person for the time being in charge of the Red Cross in the Republic of Vanuatu that they are for free distribution may be admitted free of duty:

Provided that any used clothing imported as a charitable gift must be accompanied by a certificate of fumigation;

and further provided that the Director of Customs and Taxes may determine the quantity of goods that may be imported by any organisation.

X.31 Trophies

Cups, medals, shields and similar trophies which have been gained abroad or are provided to the satisfaction of the Director of Customs and Taxes to be intended specifically for bestowal as an honorary distinction or prize may be admitted free of duty:

Provided that this exemption shall not apply or extend to the importation or stocking of such articles for the purpose of trade.

X.32 Sports Equipment

Sports equipment, clothing and footwear used in open air sports, in quantity as the Director of Customs and Taxes may consider reasonable may be admitted free of duty:

Provided that such imports are made by or on behalf of a sporting organisation or school and are accompanied by a signed undertaking by a person acceptable to the Director of Customs and Taxes that such goods and equipment will remain the property of such organisation or school and that they have not been imported for sale or hire.

X.33 Uniform, Medals and Decorations

The following goods may be admitted free of duty:

(a) Uniforms and equipment imported for use by the Red Cross, Girl Guides or Boy Scouts associations or such other youth organisations recognised for this purpose by the Government of Vanuatu, and prescribed law enforcement officers.

(b) Medals and decoration approved by the Government of Vanuatu for wearing by persons in the Republic of Vanuatu.

X.34 Church Supplies

The following goods may be admitted free of duty:

(a) Building materials, including paint, for erection or repair of any church building;

(b) furniture and furnishing, including altars, baptismal fonts, pulpits, organs and such musical instruments and associated equipment used exclusively for divine worship, sacerdotal vestments;

(c) articles for use in the celebration of divine worship including altar bread and wine:

Provided that the goods are declared to be required for such purpose at the time of importation and are accompanied by a signed declaration from a member of the church or mission for which they are intended, certifying that the articles are for the sole use of a church and are not intended to be sold or otherwise disposed of in any manner.

X.35 School Supplies

The following goods may be admitted free of duty:

(a) Building materials, including paint, for erection, maintenance or repair of any school or building attached to or in close proximity to a school and which are to be used exclusively for the accommodation of boarding pupils or permanent members of the teaching staff;

(b) school furniture including desk, chairs and blackboards;

(c) educational supplies including books, stationery, maps, charts, pencils, rulers, and equipment for technical education;

(d) office equipment, generators, lawn mowers, kitchen equipment and any goods intended exclusively for use in schools (including vehicles or boats);

Provided that the Director of Customs may limit the number of exempt vehicles or boats issued under this provision, and

further provided:

(i) that a certificate is given at the time of importation by an official of the organisation for which they are intended (such official having been specifically nominated for this purpose), stating that the goods are solely for use in a school or schools and that they are not intended to be resold or disposed of (otherwise than to the pupils of such school) in any other manner;

(ii) that the Director of Customs shall be satisfied that such goods are necessary for the proper function of such establishment.

SECTION 4 – TEMPORARILY IMPORTED GOODS

X.40 Visiting Vessels and Aircraft

A. Vessels and aircraft engaged in International Trade

Any vessel or aircraft lawfully engaged in international trade which arrives in Vanuatu for the purpose of:

(i) discharging or loading manifested cargo, or disembarking or embarking fare paying passengers; or

(ii) safety, due to stress of weather, or repair, or for any other reason of circumstances accepted by the Director as being of an exceptional and unavoidable nature:

may be admitted free of duty, provided that the said aircraft shall depart Vanuatu within a reasonable period, having regard to the purpose of the visit, but in any case not later than 30 days save in any case where the Director approves an extension on the grounds of exceptional and unavoidable circumstance.

B. Foreign Government vessels and aircraft

Any vessel or aircraft owned or chartered by a foreign Government which visits Vanuatu at the invitation of the Government of the Republic of Vanuatu shall be free of duty.

C. Yachts and private aircraft

Sea-going yachts and private aircraft temporarily visiting Vanuatu may be admitted free of duty provided that in each case the vessel or aircraft:

(a) has entered Vanuatu under its own power on a voyage from foreign port or place; and

(b) belongs to or has been hired, chartered or otherwise loaned to a person or person travelling on board the vessel or aircraft at the time of its arrival in Vanuatu; and

(c) is intended for the personal use of the person or persons on board and shall not be used for any commercial purpose in Vanuatu; and

(d) shall not be sold, lent, hired, pledged or otherwise disposed of and shall not be used for any commercial purpose in Vanuatu; and

(e) shall not remain in Vanuatu for a period or periods exceeding a total of 18 months in any period of 24 months, save for reason of circumstance (including a change of residence) accepted by the Director of Customs as being of an exceptional and unavoidable nature.

X.41 Goods Imported for Display or Use at Exhibitions, Fairs, Meetings or Similar Events

Any goods imported for display, demonstration or use at exhibitions, fairs, meetings or similar events (other than exhibitions organised for private purposes in shops or business premises with a view to the sale of foreign goods), subject to whatever terms and conditions as may be determined by the Director may be admitted free of customs duty.

Provided that:

(a) the number or quantity of identical articles is reasonable having regard to the purpose of importation; and

(b) the goods shall not be sold, lent, hired, pledged or otherwise disposed of in Vanuatu; and

(c) the goods shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance (including a change of residence) accepted by the Director of Customs as being of an exceptional and unavoidable nature; and

(d) the Director may, in any case where he sees fit, require a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported from Vanuatu.

X.42 Goods Imported for Hire or Loan

Machinery or equipment intended for use on a project which, in the opinion of the Director of Customs is likely to contribute to the economic development of the Republic of Vanuatu may be admitted free of duty:

Provided that:

(a) the importer is able to satisfy the Director that no suitable alternative machinery or equipment is available for hire of loan in Vanuatu; and

(b) the goods remain in the ownership of the overseas supplier; and

(c) the goods shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature; and

(d) the Director may, in case where he sees fit, require a deposit or other security for the duties and taxes liable thereon until such time as the goods are re-exported from Vanuatu.

X.43 Tools of Trade and Professional Equipment

Tools of trade and professional equipment which, in the opinion of the Director, are necessary for the exercise of the calling, trade or profession of a person visiting Vanuatu for the purpose of performing a specified task may be admitted free of duty:

Provided that the tools or equipment:

(a) shall be owned by a natural person resident abroad or by a legal person established abroad; and

(b) shall be imported by a natural person resident abroad or by a legal person established abroad; and

(c) shall be used solely by or under the personal supervision of the visiting person, save in any case otherwise approved by the Director; and

(d) shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature;

and further provided that the Director of Customs shall, in any case where he sees fit, impose such additional conditions as he may consider to be necessary, including the requirement for deposit or other security for the duties and taxes liable thereon.

X.44 Scientific and Pedagogical Material and Equipment

Scientific and pedagogic material and equipment which is to be used in the Republic of Vanuatu solely for the purpose of scientific research, education or vocational training, including spare parts and test equipment for the maintenance, checking, gauging or repair of such equipment may be admitted free of duty:

Provided that the goods:

(a) are imported by approved institutions and used under their control and responsibility; and

(b) are used for non-commercial purposes; and

(c) remain in the ownership of a natural person resident abroad or a legal person established abroad; and

(d) shall be re-exported from Vanuatu within a period of 6 months, save for reason of circumstance accepted by the Director of Customs as being of an exceptional and unavoidable nature:

X.46 Inward Processing Relief

(1) Any goods imported into Vanuatu for manufacturing, processing or repair (other than goods being imported solely for packing, repacking or labeling) may be admitted free of duty if the Director is satisfied:

(a) the process for which the approval is sought is beneficial to the national economy; and

(b) any exemption would not conflict with the interests of established producers of goods identical or similar to those in respect of which admission is requested.

(2) The Director may impose such terms and conditions as the Director thinks necessary on any exemption under this section, including a requirement for a deposit or other security for duty.

X.47 Goods Imported for Duty-Free Sale to Tourists and Departing Passengers

Goods imported for duty-free sale to tourists, departing or transit passengers, crew members of visiting vessels (including yachts) or aircraft, or to any other person or organisation entitled to purchase goods duty free by virtue of an international convention or agreement signed by the Government of Republic of Vanuatu may be imported free of duty:

Provided that the goods shall on importation be declared for entry into a Bonded Warehouse approved by the Director of Customs;

and provided further that the owner of the goods shall comply strictly with any requirements which the Collector may impose including stock control and delivery conditions.

X.48 Goods Imported Temporarily for Supply to Foreign-Going Vessels and Aircraft

The following may be admitted free of duty:

(a) Aircraft and vessel spare parts, including goods and materials imported for the repair and renovation of aircraft and vessels, and which are intended to be fitted thereto;

(b) fuels, oils and greases;

(c) consumable stores (including tobacco products and alcoholic beverages) which are intended solely for the use of passengers or crew during a foreign voyage or flights:

Provided that such goods are intended solely for supply to aircraft and vessel which have received, or which are about to receive, outward clearance for a voyage to a foreign port or place.

SECTION 5 – RELIEFS FOR THE PROMOTION OF NATIONAL SAFETY, HEALTH OR WELL-BEING

X.50 Life Saving Equipment

The following items may be admitted free of duty:

(a) Life saving equipment including life jackets, life buoys, buoyancy apparatus, dye for marking sea, distress flares, rockets and other pyrotechnic devices for use in life saving;

(b) signal equipment including Morse signalling lamps, code flags, semaphore flags, horns and sirens:

Provided that any equipment which is claimed under subparagraph (a) above shall be subject of a signed undertaking that they are intended for use only in emergency life-saving operations and that they will be used for no other purpose.

X.51 Fire-Fighting Equipment

The following items may be admitted free of duty:

Fire-fighting equipment including fire-extinguishers, fire-engines, fire-hoses and goods or materials imported for use with such equipment:

Provided that any goods which is claimed shall be subject of a signed undertaking that they are intended for use only as or with fire-fighting equipment and that they will be used for no other purpose.

X.53 Dental Surgery and Laboratory Supplies
The following items may be admitted free of duty:

(a) Surgery equipment including dental chair units, sterilisers, dental instruments and units for storing such instruments;

(b) laboratory equipment including lathes, clamps, teeth, wax, stainless steel wire and bands, acrylic resins and plaster of Paris;

(c) filling materials including dental cements, amalgam of mercury, zinc oxide, gold, and gold leaf:

Provided that such articles are imported on a signed declaration by an approved dental surgeon certifying that the goods are solely for use in his dental surgery:

Provided further that the Director is satisfied that such goods are necessary for the proper functioning of such dental surgery.

X.54 Gravestones, Memorials and Corpses of Deceased Person
The following items may be admitted free of duty:

(a) Tombs, graves, and accessories therefor, fresh and artificial flowers imported for use during a funeral service and other memorials for deceased persons:

Provided that the Director may determine whether such articles fall within the provisions of this exemption.

(b) Coffins containing deceased persons and special exemption shall include all necessary documents relating to the death, including those which are intended for health and police services.

X.55 Constituent for Use in the Preparation of Medicaments
Any goods intended exclusively for use by pharmacist as constituents in the preparation of medicaments (as defined in Legal Note I to Chapter 30 of the Vanuatu Customs Tariff) may be admitted free of duty:

Provided that:

(a) application for exemption shall be made to the Director of Customs in such form and manner as may be prescribed by him; and

(b) the importer shall at all times comply with such terms and conditions as may be imposed by the Director of Customs.

X.56 Law and Order Supplies
Any goods imported exclusively for use by Law and Order Enforcement Agencies may be admitted free of duty:

Provided that such goods which claimed shall be the subject of a signed undertaking that they are intended for use only as law and security enforcement purposes and that they will be used for no other purposes.

X.57 Hospital Medical Supplies
Medicaments falling under Tariff Classification Headings 3003 and 3004 if:

(a) the medicaments are imported by the Central Medical Store – Importer Company Code CO160; and

(b) the medicaments are for use only in hospitals within Vanuatu; and

(c) the importer complies with such terms and conditions as may be imposed by the Director.

SECTION 6 – MISCELLANEOUS CONDITIONAL RELIEFS

X.60 Returned Goods

(A) Same state goods:

Any goods exported from Vanuatu which are subsequently re-imported in the same state provided that it can be shown to the Director's satisfaction that:

(i) the goods are of Vanuatu origin; or

(ii) if not of Vanuatu origin, that all import duties and taxes liable thereon have been paid and have not been refunded nor been the subject of a claim for reimbursement, of that the goods are otherwise exempt from liability;

may be admitted free of duty.

(B) Goods which have undergone a process or repair:

Any goods exported from Vanuatu which have undergone a process or repair and which are re-imported within such time limits as may be determined by the Director may be admitted free of duty provided that:

(i) the goods are declared to Customs, in such form and manners as may be required by the Director, prior to their exportation from Vanuatu; and

(ii) the goods have not been nor will be the subject of a claim for reimbursement of import duties and taxes by virtue of their exportation; and

(iii) the costs of any materials used or incorporated during the process or repair, as well as any other costs relating thereto shall be declared:

and further provided that duties and taxes shall be liable on the value added to the exported goods by virtue of such process or repair except in any case where replacement parts or labour is provided without charge under a guarantee or warranty agreement.

X.61 Containers, Crates, etc.

Containers, crates, etc., in which goods liable to customs duties (whether exempted therefrom or not) are normally placed or packed during transportation may be admitted free of duty:

Provided that the Director is satisfied that any containers so specified are of no substantial value for any purpose other than as containers of the goods actually packed therein:

and provided further that in the case of international shipping containers, the said containers are re-exported from Vanuatu within a period of 6 months from the date of importation.

X.62 Soft Techniques of Energy

The following goods may be admitted at the rate of duty 5% unless the substantive tariff rate is lower than 5% in which case the substantive tariff rate shall apply:

(a) Solar heaters;

(b) Photovoltaic generators, consisting of panels of photocells combined with other apparatus such as voltage regulators and storage batteries, including accessories and replacement parts therefor;

(c) hydraulic engines and motors (including water wheels and water turbines);

(d) wind-engines (windmills):

Provided that in any case where eligibility for a reduced rate of 5% is in doubt the Director of Customs shall, as he sees fit, determine the entitlement of goods for which reduction is claimed.

X.64 Goods not in Accordance with Contract

Any imported goods which are not in accordance with terms of a contract of sale by reason of type, quantity, quality, performance or for any other reason acceptable may be admitted free of duty:

Provided that:

(a) the application for relief shall be lodged within a period of 3 months following the date of importation, save in any case where a longer period is accepted by the Director of Customs as being reasonable having regard to the purpose for which the goods were imported; and

(b) the goods shall not be used, other than for the purpose of testing; and

(c) the importer shall produce such document or other evidence as may be required by the Director; and

(d) the goods shall be re-exported, destroyed in official presence and that duties and taxes liable, if any, on the waste materials arising from such destruction shall be paid.

X.65 Goods Imported under an International Convention or Agreement

The following shall be admitted free of duty:

Any goods admissible free of duty or tax by virtue of an international convention or agreement signed by the Government of the Republic Vanuatu, which are intended for the use of a diplomatic, or for entitled other approved organisation or mission, or for entitled persons employed by them:

(a) Goods imported by Diplomatic Mission of foreign states or international organisations for the use of the Missions;

(b) Goods imported by diplomatic agents of foreign states or international organisations for their personal use;

(c) Goods imported by technical experts provided by foreign states or international organisations for their personal use;

(d) Goods (other than disaster relief aid) donated free of charge to the Government of Vanuatu by foreign states or organisations as aid in kind;

(e) Goods (other than disaster relief aid) donated free of charge to non-government groups and organisations in Vanuatu by foreign states or organisations under discretionary grant schemes;

(f) Goods (other than disaster relief aid) imported by or on behalf of the Government of Vanuatu for aid projects funded by development cash grants administered by Vanuatu;

(g) Goods (other than disaster relief aid) imported by or on behalf of the Government of Vanuatu for aid projects funded by development loans administered by Vanuatu;

(h) Goods imported by or on behalf of the Government of Vanuatu for disaster relief projects funded by foreign states or international organisations;

(i) Other;

Provided that a signed copy of the convention or agreement shall be lodged with the Minister of Finance, together with a list of persons entitled to privileges under such convention or agreement;

and further provided that the Director shall impose such conditions as he may consider necessary in any particular case.

SCHEDULE 4

(Repealed)

Table of Amendments (since the Revised Edition 1988)

1(2)	*Amended by Act 22 of 1988*
3(1)	*Amended by Act 2 of 1996*
Sec 3(3)	*Amended by Act 22 of 1988;*
3	*Repealed by Act 8 of 1998*
Schedule 1	*Substituted by Act 22 of 1988; then amended by Acts 10 of 1990, 15 of 1990, 1 of 1992, 16 of 1992, 32 of 1993, 17 of 1994, 5 of 1995, 2 of 1996, 11 of 1996; then substituted by Act 8 of 1998; then amended by Acts 9 of 2000, 34 of 2001, 31 of 2002,16 of 2003, 27 of 2003, 19 of 2005; then substituted and amended by Act 46 of 2005 (Published only in electronic edition, as subject to frequent change)*
Schedule 2	*Substituted by Act 8 of 1999*
Schedule 3	*Substituted by Act 22 of 1988; then amended by Acts 49 of 1989, 32 of 1993, 2 of 1996, 11 of 1996; then substituted by Act 8 of 1998; then amended by Acts 34 of 2001, 31 of 2002, 8 of 2004, 19 of 2005*
Schedule 4	*Substituted by Act 22 of 1988; then amended by Acts 49 of 1989, 16 of 1992, 11 of 1996; then repealed by implication by Act 8 of 1998*