



Overview of CUSTOMS ACT 1967 Amendment

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OBJECTIVE

- **Simplification and modernisation of customs procedures to facilitate economic growth and sustain competitive position**
 - **Seamless flow of goods & people across borders**
 - Simplified procedures*
 - Risk management*
 - Transaction to audit based control*
- **Transparency and predictability**
- **Consistency of application with other relevant laws**
- **Transnational organised crime**

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REFERENCES

- Relevant domestic laws
- Customs Act of other countries
- WCO documents
- Revised Kyoto Convention
- Artikel V GATT
- Asean Customs Transit Rules and Procedures
- Proposals from the business sector

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PROPOSALS – New

Examples

- Definition—
 - Accredited person
 - Assessment
 - Authentication code
 - Country of origin
 - Customs control
 - Customs clearance
 - Customs release
 - Customs agent
 - Transit
 - Transshipment

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SULIT**PROPOSALS - New****Examples:**

- Public ruling
- Transit and transshipment
- Manufacture of dutiable goods (new Part)
- Assessment *
- Inspection and taking of samples by the importer
- Simplified procedures for customs clearance
- Offsetting unpaid tax against drawback or refund
- Establishment of Fund for refund of duty
- Origin and Preferential Tariff Treatment*
- Use of electronic service
- Enforcement powers to deal with transnational organised crime

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PROPOSALS - Modification**Examples**

- Definition— Manufacture, officer of customs, prohibited goods
- Powers of Minister to exempt/remit
- Certificate of DG to be admissible
- Payment of duty, etc., short paid or erroneously refunded
- Import by pipeline
- Drawback – section 93
- Submission of manifest
- Pre – arrival declaration
- Records of imported goods
- Access to places or premises

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PROPOSALS - Deletion

- Section 95 – Drawback on destroyed goods
- Part XX – Singapore preventive vessels

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MANIFEST

1. Inward
 - Sea - 24 hours before arrival of vessel.
 - Air – before aircraft has landed
2. Outward
 - Sea – 24 hours before departure
 - Air – 24 hours before departure
3. No amendment allowed if investigation has commenced on goods importated
4. To facilitate risk assessment, pre-clearance

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PRE-ARRIVAL CLEARANCE

1. Submission of declaration plus supporting documents and processing prior to arrival of goods
2. A key technique for
 - Clearance of cargo upon arrival
 - Clearance of cargo prior to arrival



Expedite clearance procedures

Standards 3.25 General Annex RKC

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SIMPLIFIED PROCEDURES

1. Eligibility – authorised person determined by criteria specified by Customs
2. Special treatment
 - Release on minimum information of duties/taxes
 - Periodic declaration
 - Deferred payment
 - Self-assessment

Transitional Standards 3.22 General Annex RKC

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TRANSIT & TRANSHIPMENT (T&T)

1. Definition
 - Definition of “ in transit “ appears in sec. 2 as “in transit” is contained in the definition of “import”.
 - No definition of “Transshipment” in Customs Act, though definition exists under Free Zones Regn.
2. Insufficient focus on T&T procedures & operations in the Act although these are very important activities..
 - ”Transshipment” - only in sections 52 & 76 .
 - ”Transit” – only in the Customs Regn where regn 13 is on “through transit” (international transit).

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TYPES OF TRANSIT

(a) Through transit



(b) Inward/inbound transit



(c) outward/outbound transit



(d) interior/inland transit



International – transit (a) to (c)
National transit – (d)

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TRANSIT & TRANSHIPMENT (T&T)

PROVISIONS PROPOSED TO INCLUDE:

- * commencement and completion of procedure and operation
- * limiting customs ports/airports, routes and times
- * persons entitled to submit transit clearance declaration
- * documents to be used
- * duty suspension \implies security, customs seals
- * authorised carriers

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REVIEW AND APPEAL

TWO-TIER

- Review and Revision \longrightarrow DG
- Appeal \longrightarrow Tribunal

REPRESENTATION

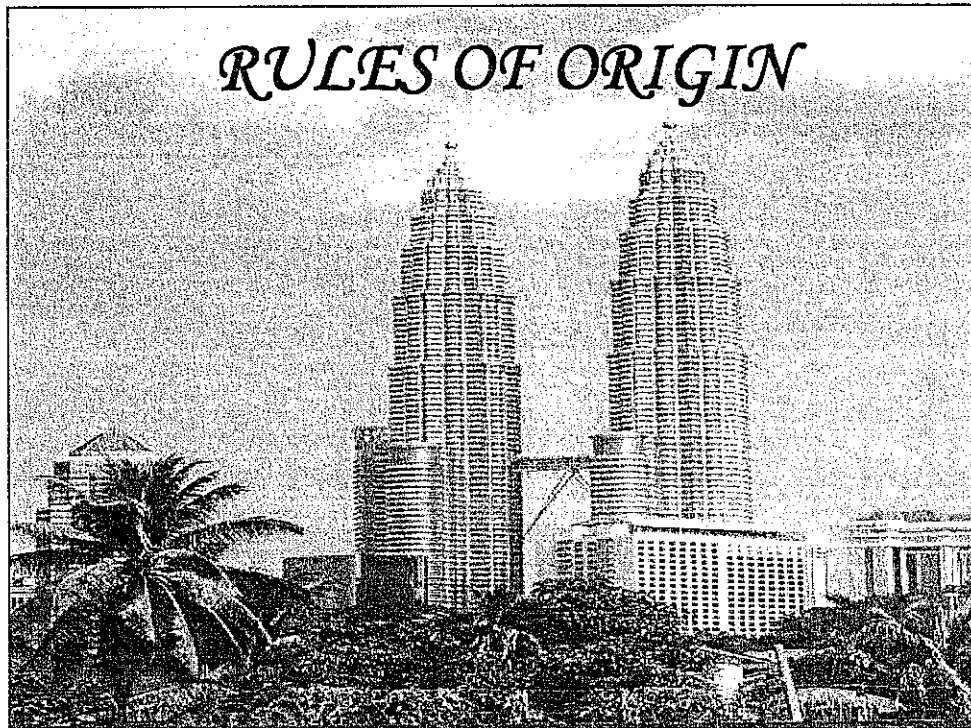
- Advocates & solicitors allowed
- provision for "undue financial hardship"

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THANK YOU

for

Your Kind Attention



SCOPE OF PRESENTATION:



- Introduction
- Current Practice
- Role Of Customs Authority
- Self-certification
- Legislative Enforcement of RoO
- Proposed amendments

Introduction to RoO

- Rules of origin plays an important role in preferential trade agreements as they define conditions whereby preferential market access is granted to products originating from free trade partner countries.

CURRENT PRACTICE

- No specific legal provision
- Minister's power to make an order under section 11 Customs Act 1967
 - FTAs are gazetted under Customs Duties Order
 - ✓ Preferential treatment based on origin of goods

CURRENT PRACTICE

ISSUING AUTHORITY AND CERTIFICATE OF ORIGIN

- Preferential treatment under ATIGA or any FTA accorded under certificate of origin (CoO)
- Ministry of International, Trade and Industry (MITI) is the authorising authority CoO
- MITI will conduct pre-exportation verification.
- Conduct verification visit together with Customs.

CURRENT PRACTICE



ROLE OF CUSTOMS AUTHORITY (RMCD)

- Responsible in receiving the certificate of origin including supporting documents from the importers as required under laws and regulation.
- Prior to the importation, RMCD is responsible in receiving the specimen signature of authorized issuance authority from the issuing authorities via MITI and distribute it to all customs entry points.
- In cases a CoO is rejected by Customs, the rejected CoO shall be marked accordingly

CURRENT PRACTICE**ROLE OF CUSTOMS AUTHORITY**

- Customs will observe the time limit of the CoO and all particulars as stated in the Operational Certification Procedures for RoO of the relevant FTA's.
- Preferential treatment shall be given once Customs is satisfied with the CoO produced.
- Customs will join MITI for verification visits.
- Customs will issue the necessary administrative instructions to implement the results of verification visits

CURRENT PRACTICE**SELF-CERTIFICATION – Pilot Project**

- Pilot project of this scheme was implemented among three participating ASEAN member states (AMS) since 1 November 2010.
- A system which enables the Certified Exporters (CE) to make out an invoice declaration on the origin of goods exported. It will gradually replace the conventional method.
- CE will be authorized by the issuing authority of the participating AMS.
- List of CE will be circulated among participating AMS.

CURRENT PRACTICE



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- Commercial invoice, customs declaration form and other related documents need to be presented to RMCD for clearance of goods.
- RMCD will verify the list of CEs and the invoice which contains a statement to determine that the goods are in compliance to the RoO under ATIGA.
- Preferential treatment will be given when RMCD is satisfied with the compliance to the RoO under ATIGA.
- Importing Member States may request the authority of the exporting Member States to conduct a retroactive check at random when it has reasonable doubt to the authenticity/accuracy of the information.

CURRENT PRACTICE

- When it is suspected that fraudulent acts in connection with the RoO or the Invoice Declaration, Customs shall penalize the importer or the agent as per the Customs Act 1967 (incorrect declaration and falsifying documents).

LEGISLATIVE FRAMEWORK on RoO

- The need to provide specific legal provisions on the RoO
 - guiding principles stipulating how on origin determinations as well as declarations
 - procedures on origin certification, origin verification, acceptance of origin determination by Customs for preferential treatment etc.

LEGISLATIVE FRAMEWORK

Enabling provisions in Customs Act 1967 will be introduced:

- To ensure that rules of origin are applied in an impartial, transparent and consistent manner,
- To be a general guideline for preferential origin to confer benefits on goods traded between participating countries, namely importation at a reduced or zero rate of duty.
- To enable the customs authorities to carry out all the controls they deem necessary to ensure that customs legislation is correctly applied with regard to rules of origin.

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PROPOSED AMENDMENTS

A. Proof of origin:

- All claims for preferential tariff treatment must be supported by a CoO.
- For self-certification, proof of origin would be based on the declaration by the exporter on the invoice

PROPOSED AMENDMENTS

B. Issuance of CoO & Verification of Origin.

- Minister to appoint a body or any government agency deem fit
 - to issue CoO
 - to verify CoO
- Powers that may be exercised by the issuing authority body relating to RoO will clearly spelt out in the proposed amendment.

PROPOSED AMENDMENTS

C. Enforcement

- To allow authorized of public officers to enforce the requirements of RoO
- To propose appropriate penalties by reviewing Section 133 of CA.

PROPOSED AMENDMENTS

D. Self-Certification

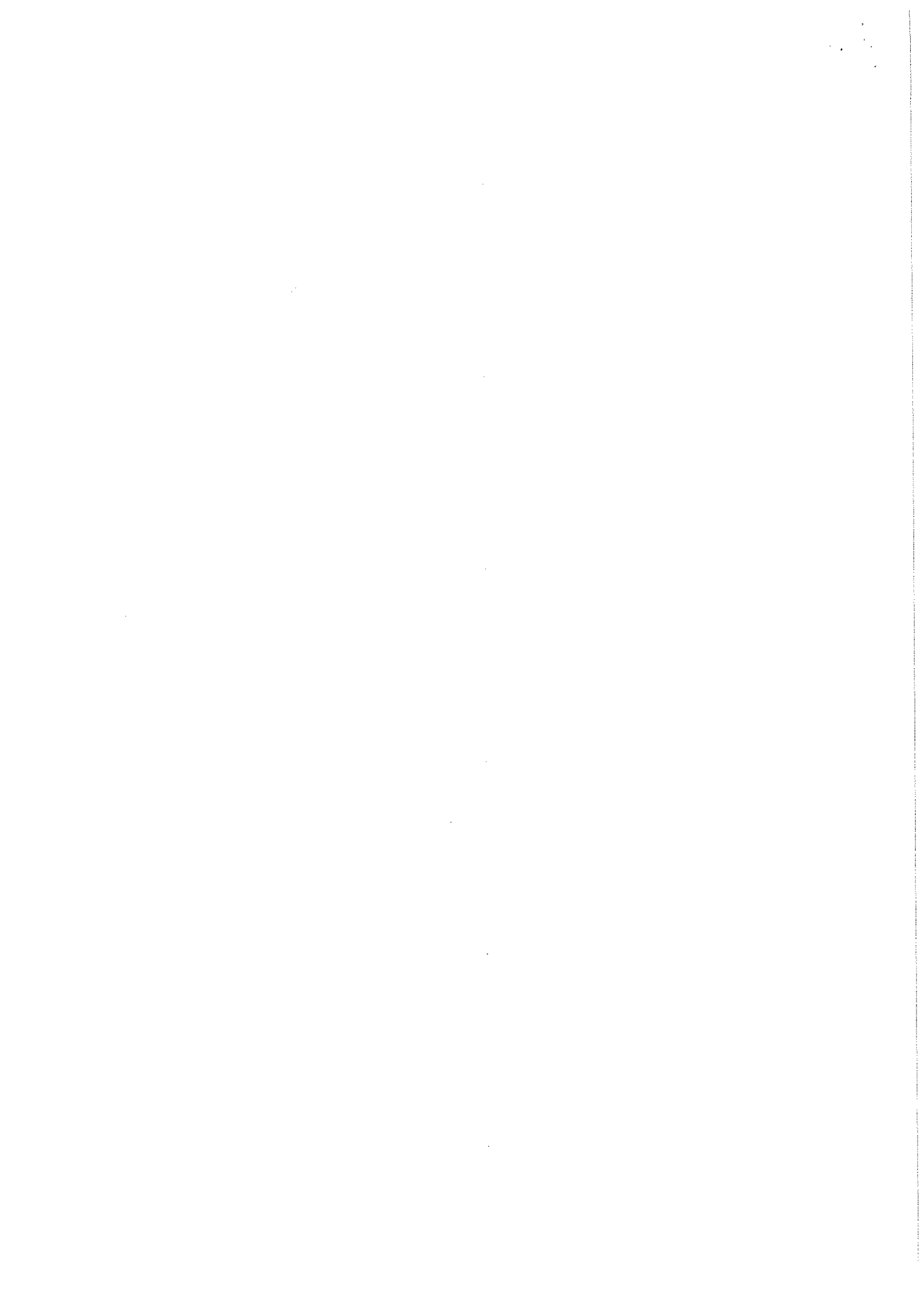
Exporters to be registered with the issuing authority.

PROPOSED AMENDMENTS

Suspension or Revocation of CoO/SC

- Conditions under which CoO or SC to be suspended or revoked.
- Procedures for suspension or revocation. under certain prescribed situations.
- Opportunity for review/appeal.





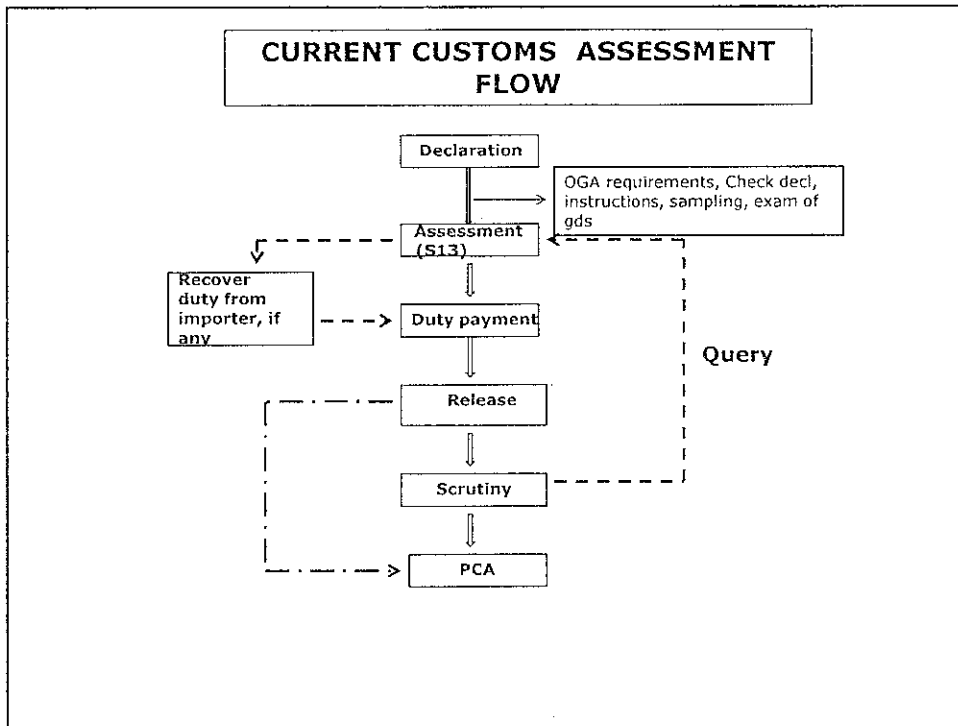


ASSESSMENT IN CUSTOMS CLEARANCE

Assessment In Customs Act 1967

- No definition under Sec 2 of the Act
- Provision on assessment under Sec 13(1), Customs Act 1967
 - 13. (1) The proper officer of customs may, in respect of any dutiable or uncustomed goods,---
 - (a) determine the class of goods to which such dutiable or uncustomed goods belong; and
 - (b) value, weigh, measure or otherwise examine, or cause to be valued, weighed, measured or otherwise examined such dutiable or uncustomed goods, for the purpose of ascertaining the customs duty leviable thereon.

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What Is Self Assessment In Customs Clearance

- A form of trade facilitation, where the importer or exporter is entrusted to assess, calculate and declare the duty payment of his goods.

- This concept is based on the fact that the importer or exporter of the goods is in a better position to know the value, conditions and terms of his goods.

The Need For Self Assessment In Customs Clearance

- Minimise human intervention
- Provide swift and efficient clearance of cargo
- Further modernize and enhance customs administration to meet the demands of international trade
- Comply with Revised Kyoto Convention Standards and Recommended practices to simplify procedures and expedite customs clearance
- Recommendation by WCO that countries which have implemented WTO Valuation System and audit based control (post clearance audit) should adopt Self Assessment as a form of customs facilitation.

Self-Assessment In Customs Act 1967

- No clear provisions of self-assessment
- Relevant sections - 79 & 80:

Declarations to give a full and true account of dutiable goods imported (sec.79) and exported (sec 80)

- This provision does not specifically state that importers and exporters will themselves assess their duty liabilities when submitting their customs declarations but more to assist Customs in performing assessment function.

PROPOSALS-Definition

- To provide definitions for:
 - Assessment
 - Self-assessment
 - Re-assessment

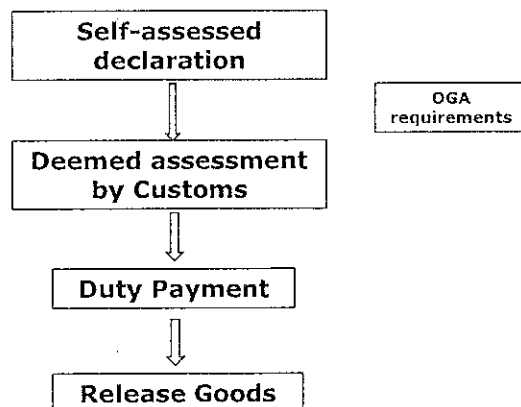
PROPOSALS-What Is Assessment

- The determination of the class of goods to which such goods belong; and valued, weighed, measured or otherwise examined, for the purpose of ascertaining the customs duties or taxes leviable if any;
- Includes self-assessment, provisional assessment or re-assessment.

PROPOSALS – Self-assessment by importer/exporter

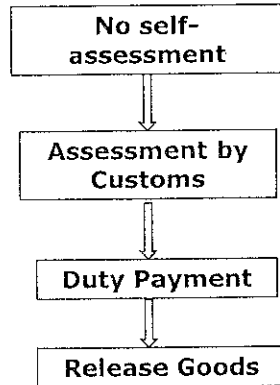
- The declaration submitted is a self-assessment by the importer or exporter, as to the duty payable in respect of the goods, if any.
- Self-assessed declarations deemed to be assessed by proper officer of Customs

PROPOSALS – Self-Assessment by Importer/Exporter



PROPOSALS – Assessment by Customs

- Situation where no declaration has been submitted.



PROPOSALS - Re-assessment by Customs

- in relation to a duty, means a re-calculation by the customs authority of the amount of duty payable on the goods as previously assessed
- Enables the proper officer of customs to make re-assessment on self-assessment and customs assessment -
 - ✓ *during customs clearance*
 - ✓ *after duty on the goods has been paid*
 - ✓ *the goods are no longer subject to customs control*
 - ✓ *during post-clearance audit*

PROPOSALS - Re-assessment by Customs

- Allows more than one re-assessment to be made in cases involving
 - ✓ fraud
 - ✓ misrepresentation of facts
 - ✓ false declaration
 - ✓ non-disclosure of material facts.

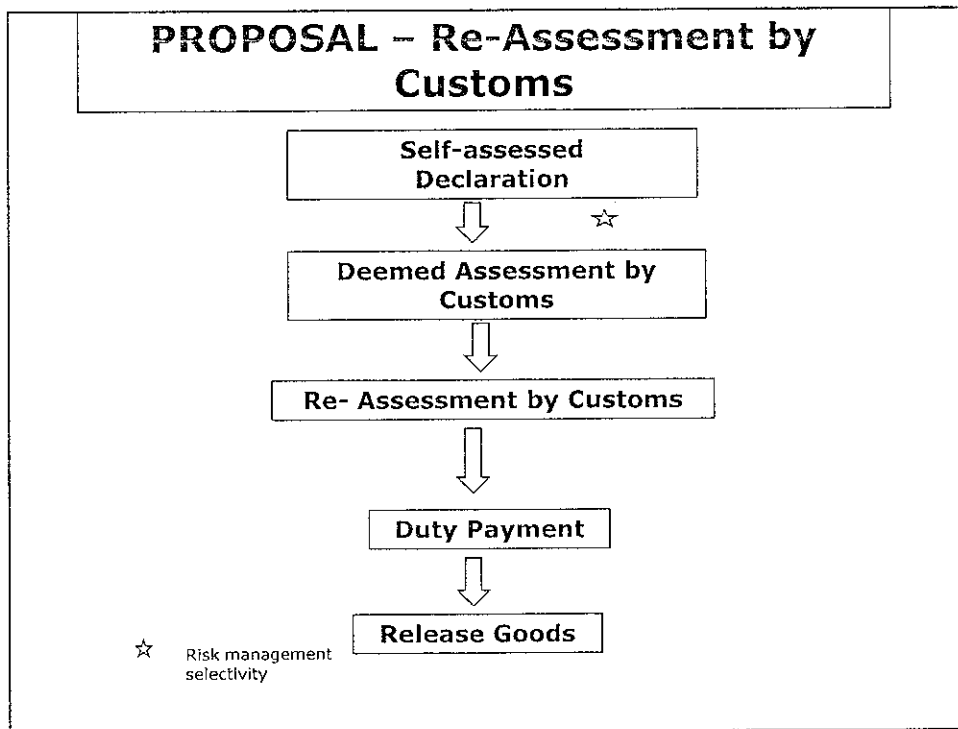
- Duty to keep records

- time limit on duty re-assessment

PROPOSAL – Re-Assessment By Customs

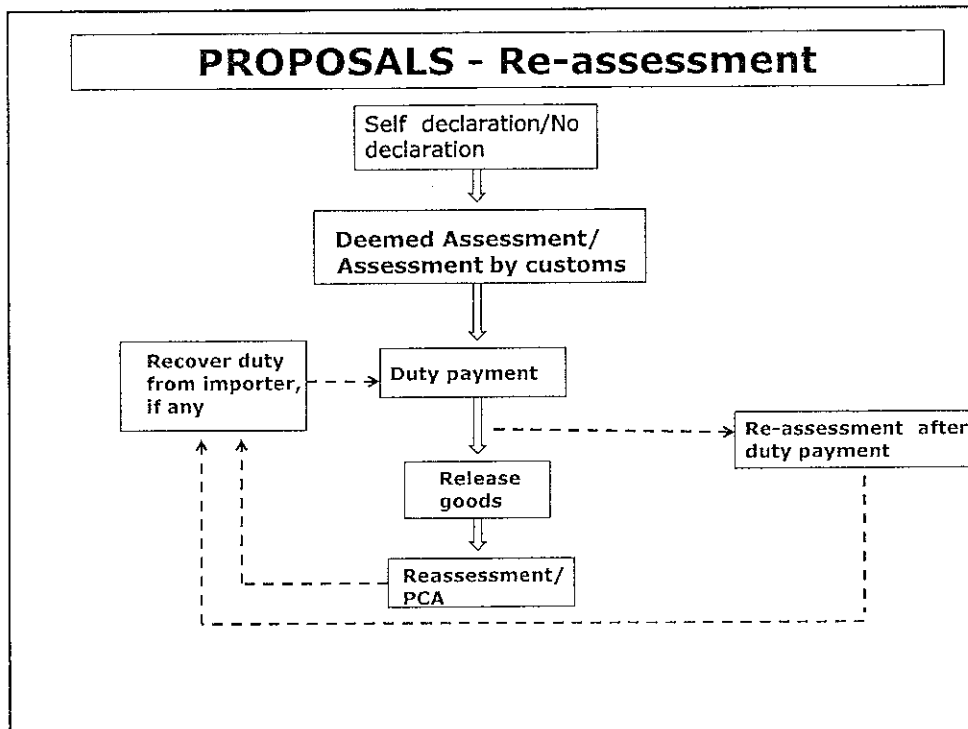
- During customs clearance
 - Identified by the risk management system based on the selectivity criteria determined.

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PROPOSALS – Re-Assessment By Customs

- After duty on the goods has been paid
- The goods are no longer subject to customs control
- During post-clearance audit



PROPOSALS - Time Limit On Re-Assessment

□ Re-assessment of duty may be made at any time within six years from the date of assessment of the duty on the goods.

□ Allows customs to make re-assessment after the expiry of the 6 years' time limit if the re-assessment is made as a result of fraud, misrepresentation or false declaration.

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PROPOSALS-What is Provisional Assessment

- Pending production of necessary documents or furnishing of full information or completion of any chemical or other test;
- Furnishing of security for the payment of deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed.

PROPOSALS – Provisional Assessment

- CURRENT SITUATION
 - section 79 - *"..... such officer may, at his discretion, release the goods on payment of such customs duty as he may estimate....., together with a deposit of such amount as such undertaking being given by the importer..... to furnish a correct declaration within two months....."*
 - Section 87A - *"...the Director General may allow any document approved by him to be used as a provisional declaration...."*

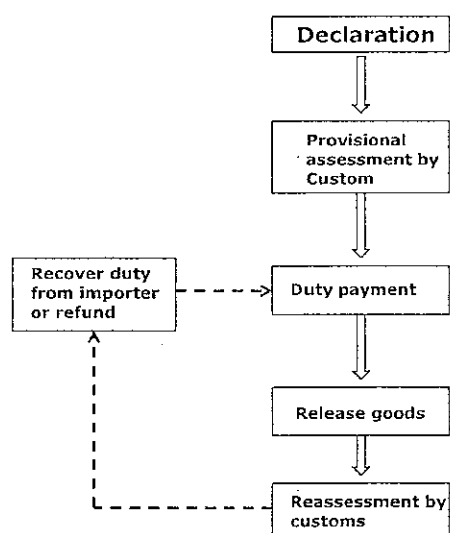
PROPOSALS -Provisional Assessment

□ PROPOSAL - Situations where provisional assessment may be made:

- absence of sufficient information.
- where the proper officer deems it necessary to subject any imported goods or exported goods to any chemical or other test; or
- where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry.

◀Furnishing of security for the payment of deficiency between the duty finally assessed and the duty provisionally assessed

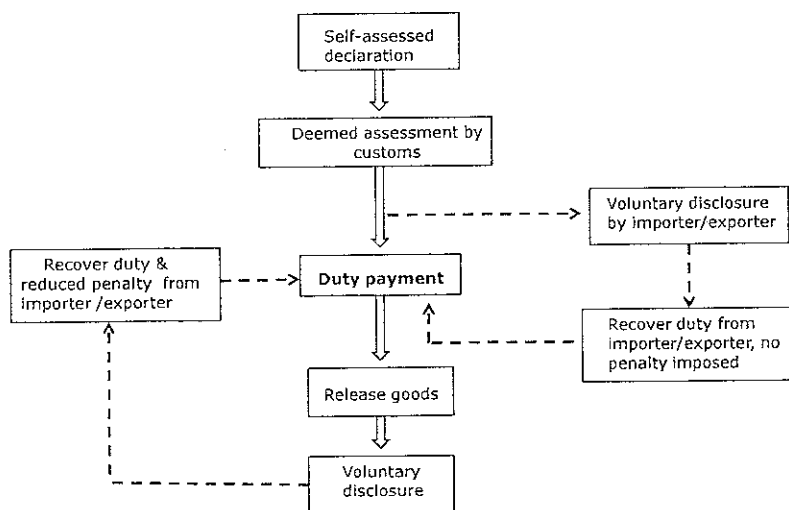
PROPOSALS - Provisional Assessment



PROPOSALS - Amendment of Assessment

- Current Situation
 - No provision on amendment of assessment by importer or exporter to correct mistakes or errors in declaration that has been submitted for customs clearance.
- Proposal
 - To allow importer or exporter to make amendment to his declaration through voluntary disclosure
 - Penalty will not be imposed if amendment is done before payment of duty or before clearance from customs control
 - Reduction of penalty if importer or exporter make voluntary disclosure after clearance from customs control and before re-assessment by customs or before post clearance audit

PROPOSAL – Amendment of Assessment (Voluntary Disclosure)



Finality Of Assessment

- Current provision in section 13(2) states.....
"When a valuation of any goods has been made by the proper officer of customs, such valuation shall be presumed to be correct until the contrary is proved".

This provision only focus on valuation and not other key assessment elements such as rate of duty, weight, volume, quantity, measurement, classification and origin of the imported/exported goods.

- Proposal
- ✓ Any assessment or re-assessment of any goods made by the proper officer of customs shall be presumed to be correct until the contrary is proved.

PROPOSALS – Penalty on under declaration of duty payable

- Self-assessment is trust-based
- Heavy penalties will be imposed on any under declared payment of duty discovered during re-assessment and post-clearance audit by Customs
- Reduced penalties imposed if voluntary disclosure by importers/exporters after release of goods from customs control but before re-assessment/scheduled for audit

THANK YOU...