

FIRST SCHEDULE*(Sections 43(2) and 69)***GOODS NOT PERMITTED TO BE WAREHOUSED ON IMPORTATION**

1. Animals, living
 2. Arms, Ammunition and Explosives
 3. Asphalt, all kind including pitch and tar
 4. Bottles, empty in bags
 5. Bricks and tiles
 6. Cattle and other animal foods (other than in tins packed in cases)
 7. Cement and cement products
 8. Cheese
 9. Chemicals
 10. Film, cinematographic
 11. Fireworks
 12. Fish (other than in tins packed in cases)
 13. Fruits and nuts (other than in cases)
 14. Grain, flour, pulse and preparations thereof (other than in tins packed in cases)
 15. Hay and Chaff
 16. Manures
 17. Matches (not contained in hermetically sealed cases of zinc or tin)
 18. Meats (other than in tins packed in cases)
 19. Metals
 20. Molasses
 21. Nuts and kernels, other than food
 22. Oil—
 - (a) edible
 - (b) fuel
 - (c) other kinds, including essential, medicinal and perfumed oils
 23. Salt
 24. Seeds for expressing oil there from
 25. Ships, boats, and launches
 26. Starch
 27. Stones and slates
 28. Sugar, (unless packed in tins or cases)
 29. Vegetables (other than in tins packed in cases)
 30. Wood and timber—
 - (a) Lumber
 - (b) Shingles
 - (c) shooks, staves and headings
 31. Any goods which in the opinion of the Comptroller are likely to cause damage to other goods stored in the same warehouse.
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SECOND SCHEDULE

(Sections 81(1), 81(2) and 248)

VALUATION OF IMPORTED GOODS

1. (1) In this Schedule—
 - (a) “customs value of imported goods” means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods;
 - (b) “goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
 - (c) “identical goods” means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
 - (d) “identical goods and similar goods”, as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 8(1)(b)(iv) because such elements were undertaken in Saint Christopher and Nevis;
 - (e) “produced” includes grown, manufactured and mined;
 - (f) “similar goods” means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.
- (2) For the purpose of this Schedule—
 - (a) persons shall be deemed to be related only if—
 - (i) they are officers or directors of one another’s business;
 - (ii) they are legally recognised partners in business;
 - (iii) they are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
 - (b) one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter;
 - (c) 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 shall be deemed to be related only if they fall within the criteria of sub-paragraph 2(a);

- (d) the term person means a natural or legal person;
- (e) an event shall be deemed to occur about the same time as another event if the first event occurs on the same day as the other event or within the forty-five days immediately before or the forty-five days immediately after, the day on which the other event occurs.

2. (1) The customs value of imported goods shall be determined under paragraph 3 whenever the conditions prescribed therein are fulfilled.

(2) Where such value cannot be determined under paragraph 3, it shall be determined by proceeding sequentially through paragraphs 4 to 7, inclusive, to the first such paragraph under which it can be determined, subject to the provision that, where the importer requests it and the Comptroller agrees, the order of application of paragraphs 6 and 7 shall be reversed.

(3) Except as provided for in sub-paragraph (2), it is only when the customs value of imported goods cannot be determined under a particular paragraph that the provisions of the next paragraph in the sequence established by sub-paragraph (2) can be applied.

(4) Where the customs value of imported goods cannot be determined under paragraphs 3 to 7, inclusive, it shall—

- (a) be determined using reasonable means consistent with the principles and general provisions of this Schedule;
- (b) to the greatest extent possible, be based on previously determined customs values; and
- (c) make use of the methods of valuation laid down in paragraphs 3 to 7, inclusive, using, where necessary, reasonable flexibility in their application.

(5) No customs value shall be determined under sub-paragraph (4) on the basis of—

- (a) the selling price in Saint Christopher and Nevis of goods produced in Saint Christopher and Nevis;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with paragraph 7;
- (e) the price of goods for export to a country other than Saint Christopher and Nevis;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

3. (1) The customs value of imported goods determined under this paragraph shall be the transaction value, that is, the price actually paid or payable for the goods

when sold for export to Saint Christopher and Nevis, adjusted in accordance with paragraph 8, and in appropriate cases paragraph 9, provided—

- (a) that there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions which—
 - (i) are imposed or required by law or by the public authorities in Saint Christopher and Nevis;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
 - (b) that 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;
 - (c) that 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 paragraph 8; and
 - (d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under sub-paragraph (2).
- (2) (a) In determining whether the transaction value is acceptable for the purposes of sub-paragraph (1), the fact that the buyer and the seller are related within the meaning of paragraph 1 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise the Comptroller has grounds for considering that the relationship influenced the price, he or she shall communicate the grounds to the importer who shall be given a reasonable opportunity to respond;
- (b) in a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with sub-paragraph (1) whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time—
- (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Saint Christopher and Nevis;
 - (ii) the customs value of identical or similar goods, as determined under paragraph 6;
 - (iii) the customs value of identical or similar goods, as determined under paragraph 7,

in applying the foregoing texts, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in paragraph 8 and costs incurred by the seller in sales in which he or she and the buyer are not related that are not incurred by the seller in sales in which he or she and the buyer are related;

- (c) the tests set forth in sub-paragraph (2)(b) shall be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under that sub-paragraph.
- (3) (a) The 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 for the imported goods. Payments may be made directly or indirectly, and need not necessarily take the form of a transfer of money, and shall include—
- (i) all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller; and
 - (ii) any settlement by the buyer, whether in whole or in part, of a debt owed by the seller;
- (b) activities, including marketing activities, undertaken by the buyer on his or her own account, other than those for which an adjustment is provided in paragraph 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.
- (4) The customs value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods—
- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
 - (b) customs duties and other taxes payable in Saint Christopher and Nevis by reason of the importation or sale of the goods;
- (5) The fact that goods which are the subject of sale are entered for home use within Saint Christopher and Nevis shall be regarded as adequate indication that they were sold for export to Saint Christopher and Nevis. This indication shall also apply where successive sales of goods have taken place before valuation. Where such successive sales have taken place each price resulting from them may be used as a basis for valuation.
4. (1) (a) The customs value of imported goods determined under this paragraph shall be the transaction value of identical goods sold for export to Saint Christopher and Nevis and exported at or about the same time as the goods being valued;
- (b) in applying this paragraph, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.
- (2) Where the costs and charges referred to in paragraph 8(1)(e) are included in the transaction value, an adjustment shall be made to take account of significant

differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

(3) In applying this paragraph—

- (a) if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods;
- (b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under sub-paragraph (1) for identical goods produced by the same person as the goods being valued; and
- (c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment.

(4) For the purposes of this paragraph, the transaction value of identical imported goods means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraph (1)(b) and (2) of this paragraph.

5. (1) (a) The customs value of imported goods determined under this paragraph shall be the transaction value of similar goods sold for export to Saint Christopher and Nevis and exported at or about the same time as the goods being valued.

- (b) In applying this paragraph, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment lead to an increase or a decrease in value.

(2) Where the costs and charges referred to in paragraph 8(1)(c) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(3) In applying this paragraph—

- (a) if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods;
- (b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under subparagraph (1) for similar goods produced by the same person as the goods being valued;
- (c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment.

(4) For the purposes of this paragraph, the transaction value of similar imported goods means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraph (1)(b) and 2 of this paragraph.

6. (1) (a) If the imported goods or identical or similar imported goods are sold in Saint Christopher and Nevis in the condition as imported, the customs value of the imported goods, determined under this paragraph, shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following—
- (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in Saint Christopher and Nevis of imported goods of the same class or kind;
 - (ii) the usual costs of transport and insurance and associated costs incurred within Saint Christopher and Nevis; and
 - (iii) the customs duties and other taxes payable in Saint Christopher and Nevis by reason of the importation or sale of the goods;
- (b) if neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value of imported goods determined under this paragraph shall, subject otherwise to the provisions of sub-paragraph (1)(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Saint Christopher and Nevis in the condition as imported at the earliest date after the importation of goods being valued but before the expiration of ninety days after such importation.

(2) If neither the imported goods nor identical nor similar imported goods are sold in Saint Christopher and Nevis in the condition as imported, then, if the Comptroller so decides, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Saint Christopher and Nevis who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in sub-paragraph (1)(a). Where this method of valuation is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction and other industry practices shall form the basis of the calculations.

(3) In this paragraph, the unit price at which imported goods or identical or similar imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(4) Any sale in Saint Christopher and Nevis to a person who supplies 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 any of the elements specified in paragraph 8(1) (b), shall not be taken into account in establishing the unit price for the purposes of this paragraph.

(5) For the purposes of sub-paragraph (1)(a)(i)—

- (a) profit and general expenses shall be taken as a whole. The figure for the purposes of this deduction shall be determined on the basis of information supplied by or on behalf of the importer unless his or her figures are inconsistent with those obtaining in sales of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer;
- (b) in determining either the commission or the additions usually made for profit and general expenses, the question whether certain goods are of the same class or kind as other goods shall be determined on a case-by-case basis by reference to the circumstances involved. In doing this, sales for which the necessary information can be provided of the narrowest group or range of imported goods of the same class or kind as the goods being valued should be examined; and
- (c) goods of the same class or kind includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

(6) For the purposes of sub-paragraph (1)(b), the earliest date shall be 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.

7. (1) The customs value of imported goods determined under this paragraph shall be based on a computed value which shall consist of the sum of—

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses 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 Saint Christopher and Nevis; and
- (c) the cost or value of the items referred to in paragraph 8(1)(e).

(2) The cost or value of materials and fabrication referred to in sub-paragraph (1)(a) above shall include the cost of elements specified in paragraph 8(1)(a)(ii) and (iii). It shall also include the value, duly apportioned, of any element specified in paragraph 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in paragraph 8(1)(b)(iv) which are undertaken in Saint Christopher and Nevis shall be included only to the extent that such elements are charged to the producer. No cost or value of an element referred to in this sub-paragraph shall be counted more than once in determining the computed value.

(3) The cost or value referred to in sub-paragraph (1)(a) shall be determined on the basis of information relating to the production of the goods being valued, supplied by or on behalf of the producer. It shall be based upon the commercial accounts of the producer, provided that these accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

(4) For the purposes of sub-paragraph (1)(b)—

- (a) the amount for profit and general expenses shall be taken as a whole and shall be determined on the basis of information supplied by or on behalf of the producer unless his or her figures are inconsistent with those 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 Saint Christopher and Nevis;
 - (b) if the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of the goods of the same class or kind referred to in sub-paragraph (4)(a) the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods;
 - (c) goods of the same class or kind means goods imported from the same country as the goods being valued;
 - (d) whether goods are of the same class or kind as other goods shall be determined on a case-by-case basis with reference to the circumstances involved. In doing this, sales for export to Saint Christopher and Nevis of the narrowest group or range of goods of the same class or kind as the goods being valued for which the necessary information can be provided should be examined;
 - (e) the general expenses referred to cover the direct and indirect cost of producing and selling the goods for export which are not included under sub-paragraph (1)(a).
8. (1) In determining the customs value under paragraph 3, there shall be added to the price actually paid or payable for the imported goods—
- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods—
 - (i) commission and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one of the customs purpose with the goods in question;
 - (iii) the cost of packing, whether for labour or materials;
 - (b) the value, apportioned appropriately of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable—
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dyes, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Saint Christopher and Nevis and necessary for the production of the imported goods;
 - (c) royalties and licence fees, which among other things, may include payments in respect of patents, trademarks and copyrights, related to the goods being valued that the buyer must pay either directly or indirectly, as a condition of sale of the goods being valued, to the

extent that such royalties and fees are not included in the price actually paid or payable;

- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- (e) (i) the cost of transport of the imported goods to the port or place of importation;
- (ii) loading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (iii) the cost of insurance.

(2) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this paragraph.

(3) Additions to the price actually paid or payable shall be made under this paragraph only on the basis of objective and quantifiable data; and if such do not exist a transaction value shall not be determined under the provisions of paragraph 3.

(4) In this paragraph, the term “buying commissions” means fees paid by an importer to his or her agent for the service of representing him or her abroad in the purchase of the goods being valued.

(5) Notwithstanding sub-paragraph (1)(c) of this paragraph—

- (a) charges for the right to reproduce the imported goods in Saint Christopher and Nevis shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
- (b) payments made by the buyer for the right to distribute or re-sell the imported goods shall be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Saint Christopher and Nevis of the goods.

9. (1) Charges for interest under a financing arrangement entered into by the buyer and related to the purchase of imported goods shall not be included in the customs value determined under paragraph 3 provided that—

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement has been made in writing;
- (c) where required by the Comptroller, the buyer can demonstrate that—
 - (i) such goods are actually sold at the price declared as the price actually paid or payable; 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.

(2) The provisions of sub-paragraph (1) shall apply regardless of whether the finance is provided by the seller, a bank or another person; and it shall also apply, *mutatis mutandis*, where customs value is determined under a method other than the transaction value.

THIRD SCHEDULE**FORFEITURE**

(Sections 194 and 196)

1. (1) The Comptroller shall, except as provided by sub-paragraph (2), give notice of the seizure of anything seized as liable to forfeiture and of the grounds of that seizure to any person who to his or her knowledge was the owner of, or one of the owners of, that thing at the time of its seizure.

(2) Notice shall not be required to be given under sub-paragraph (1) if the seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure;
- (b) the owner or any of the owners of the thing seized or any servant or agent of his or her; or
- (c) in the case of anything seized in a vessel or aircraft, the master or commander of that vessel or aircraft.

2. Notice under paragraph (1) shall be given in writing and shall be deemed to have been duly served on the person concerned—

- (a) if delivered to him or her personally;
- (b) if addressed to him or her and left or forwarded by post to him or her at his or her usual or last known place of abode or business, or in the case of a body corporate at its registered or principal office; or
- (c) where he or she has no address in Saint Christopher and Nevis, or his or her address is unknown, by publication of the notice of seizure in the *Gazette* and in a newspaper circulated in Saint Christopher and Nevis.

3. Where any person, who was at the time of the seizure of anything the owner or one of the owners of it, claims that it was not liable to forfeiture, he or she shall, within one month of the date of service of the notice of seizure or, where no such notice was served, within one month of the date of seizure, give notice of his or her claim in writing to the Comptroller at any customs office.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside Saint Christopher and Nevis, shall specify the name and address of a solicitor in Saint Christopher and Nevis who is authorised to accept service and act on behalf of the claimant, and service upon a solicitor so specified shall be deemed to be proper service upon the claimant.

5. If, on the expiration of the relevant period under paragraph 3 for the giving of a notice of claim, no such notice has been given to the Comptroller, or where such notice is given, that notice does not comply with any requirement of paragraph 4, the thing seized shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of anything seized is duly given in accordance with paragraph 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of its seizure liable to forfeiture, that court shall condemn that thing as forfeited.

7. Where anything is in accordance with either paragraphs 5 or 6 deemed to have been condemned or condemned as forfeited, then without prejudice to any restoration

or sale, the forfeiture shall be deemed to have had effect from the date when the liability to forfeiture arose.

8. Proceedings for the condemnation of anything shall be civil proceedings and may be instituted—

(a) in any Magistrates Court having jurisdiction in the place—

- (i) where any offence in connection with that thing was committed or where any proceedings for such an offence have been instituted;
- (ii) where the claimant resides or, if the claimant has specified a solicitor under paragraph 4, where that solicitor has his or her office; or
- (iii) where that thing was found, detained or seized or to where the thing was first brought after being found, detained or seized; or

(b) in the High Court.

9. (1) In any proceedings for condemnation, the claimant or his or her solicitor shall make oath that the thing was or was to be to the best of his or her knowledge and belief, the property of the claimant at the time of the seizure.

(2) In any proceedings for condemnation before the High Court, the claimant shall give such security for the costs of the proceedings as may be determined by the court.

(3) If any requirement of this paragraph is not complied with, the court shall give judgement for the Comptroller.

10. (1) Any party to condemnation proceedings in a Magistrate's Court may appeal to the High Court against the decision of that Magistrate's Court in those proceedings.

(2) Where any appeal is made against the decision of any court in condemnation proceedings, the thing shall remain in the possession of, or be returned to the possession of the Comptroller until the final determination of the matter.

11. In any proceedings arising out of the seizure of anything, the fact, form and manner of the seizure shall be taken to have been as set forth in the process unless the contrary is proved.

12. Where anything is at the time of its seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five not being in partnership, the oath required to be taken by paragraph 9, and any other thing required by this Schedule or the Rules of Court to be done by, or by any person authorised by the claimant or owner may be taken or done by the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some other authorised officer of that body;
- (b) where the owners are in partnership, any of those owners; or
- (c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

13. (1) Where, under sections 199 and 201, anything is restored, sold or destroyed, and it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall, on demand by the claimant, tender to him or her—

- (a) where the thing was restored, an amount equal to any amount paid as a condition of that restoration;
- (b) where the thing was sold, an amount equal to the proceeds of sale; or
- (c) where the thing was destroyed, an amount equal to its market value at the time of its seizure.

(2) Where an amount tendered under sub-paragraph (1) includes a sum on account of the duty chargeable on the thing which has not been paid, the Comptroller may deduct so much of that amount as represents the duty.

(3) If the claimant accepts an amount tendered to him or her under sub-paragraph (1), he or she shall not be entitled to maintain any further action on account of the seizure, detention, restoration, sale or destruction of the thing seized.

(4) Where the claimant and the Comptroller are unable to agree upon the market value of anything destroyed under sections 203 and 205, that value shall be determined by the Customs Appeal Commissioners.

FOURTH SCHEDULE

Sections 104(1) and (2), and 105(1), (2) and (3)

PROHIBITIONS AND RESTRICTIONS

PART I

PROHIBITED IMPORTS

1. Base or counterfeit coin or currency notes from any country.
2. Coin or currency notes legally current in Saint Christopher and Nevis or any money purporting to be such, not being of the established standard in weight and fineness.
3. Articles or food intended for human consumption declared by the competent public health authority to be unfit for such purpose.
4. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, phonograph records, videos or any other indecent articles or matter.
5. Matches which contain white or yellow phosphorus.
6. Prepared opium and pipes or other utensils for use in connection with the smoking of opium or other narcotic drugs.
7. Preparations of opium or other narcotic drugs for smoking.
8. Any pistol or other apparatus in the form of a stylographic pen or pencil capable of firing any kind of shot or cartridge whatsoever or any cartridge containing tear gas.
9. Fictitious stamps or any die, plate, instrument or materials capable of making any such stamps.

10. Flick knives, gravity knives, black jack, bludgeon, switch knives and blades, night sticks, ratchet knives and other similar knives with flying blades, dagger or any sword, knife or any instrument having a blade ending up in a sharp point, which is not primarily designed for use in a profession, craft or business or for domestic use.
11. All publications, articles or other matter associated with black magic, secret magic, obeah, witchcraft or other magical arts and occultism.
12. Seditious publications, articles, prints, phonograph records or video.
13. Goods, the importation of which is prohibited by any other enactment.

PART II

RESTRICTED IMPORTS

1. Firearms and ammunition including any lethal barrelled weapon from which any shot, bullet or other missile can be discharged or noxious fumes or liquid can be emitted or any accessory, component part of any such weapon or any accessory to such weapon designed or adapted to diminish the noise or other flash caused by firing such weapon unless with the written permission of the Commissioner of Police.
2. Shock baton, stun guns, pepper spray and mace, unless with the written permission of the Commissioner of Police.
3. Explosives, unless with the written permission of the Commissioner of Police.
4. Handcuff of any type unless with the written permission of the Commissioner of Police.
5. Radio and television transmitting equipment, including walkie talkies unless under licence from the Minister of Communications.
6. Cannabis sativa, including parts of the plant, cannabis Indica, choras, ganja or any preparation or mixture of cannabis, choras or ganja, unless under licence from the Chief Medical Officer.
7. Narcotic drugs and psychotropic substances including controlled drugs unless under licence from the Chief Medical Officer.
8. Any goods whatsoever which bear a design in imitation of any currency or bank notes or coin in common use in Saint Christopher and Nevis or elsewhere unless with the approval of the Comptroller of Customs.
9. Tear gas or any ingredient which may produce what is commonly known as tear gas or tear smoke unless with the written authority of the Minister responsible for National Security.
10. Laser pointers.
11. Any goods whatsoever which bear the Coat of Arms or the Flag of Saint Christopher and Nevis or any facsimile imitation or representation thereof, unless with the approval of the Minister responsible for National Security.
12. All goods which if sold would be liable to forfeiture under the Marks, Collective Marks and Trade Names Act, Cap. 18.22, and also all goods of foreign manufacture bearing any name or trade mark or purporting to bear the name or trade mark of any manufacturer, dealer or trader in Saint Christopher

- and Nevis, unless such trade name or trade mark is accompanied by a specific indication of the country in which the goods were made or produced.
13. Rare or threatened species of animals or plants, (including whales, elephants, flamingos, parrots, turtles, tortoises, black coral, tree ferns and orchids), their products and derivatives, (including ivory necklaces, carvings and rings, fur coat of protected species, turtles shell combs, necklaces, bracelets and black coral jewellery), whose international trade is regulated by the Convention on International Trade in Endangered Species of wild Fauna and Flora (CITES) unless such goods are accompanied by the appropriate permits signed by the CITES authorities in the country of exportation or importation.
 14. Night scope binoculars and similar night vision instruments or apparatus of a kind generally used by the Armed Forces, Para Military and other law enforcement agencies, unless with the written permission of the Minister responsible for National Security.
 15. Uniforms or clothing including camouflage clothing used by the St Kitts and Nevis Defence Force or the Royal St Kitts and Nevis Police Force or closely resembling the uniform or clothing used by the Police or the Defence Force, unless with the written permission of the Commissioner of Police.
 16. Ozone Depleting Substances to be restricted under the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 and specified under Annexes A to E, unless under licence from the Minister responsible for the Environment.

ANNEX A**Group I****Substances**

CFCL ₃ ,	CFC-11
CF ₂ Cl ₂	
CFC-12	
C ₂ F ₃ Cl ₃	CFC-113
C ₂ F ₄ Cl ₂	CFC-114
C ₂ F ₅ Cl	CFC-115

Group II

CF ₂ BICl	halon-1211
CF ₃ BR	halon-1301
C ₂ F ₄ Br ₂	halon-2402

ANNEX B: Products containing controlled substances specified in Annex A

- (a) Automobiles and truck air conditioning units (whether incorporated in vehicle or not)
- (b) Domestic and commercial refrigeration and air conditioning heat pump equipment e.g.—
 - (i) Refrigerators
 - (ii) Freezers
 - (iii) Dehumidifiers
 - (iv) Water coolers
 - (v) Ice machines
 - (vi) Air conditioning and heat pump units
- (c) Aerosol products, except medical aerosols
- (d) Portable fire extinguisher
- (e) Insulation boards, panels and pipe covers
- (f) Pre-polymers

ANNEX C**Group I**

	Substances
CF ₃ Cl	CFC-13
C ₂ FCl ₅	CFC-111
C ₂ F ₂ Cl ₄	CFC-112
C ₃ FCl ₇	CFC-211
C ₃ F ₂ Cl ₆	CFC-212
C ₃ F ₃ Cl ₅	CFC-213
C ₃ F ₄ Cl ₄	CFC-214
C ₃ F ₅ Cl ₃	CFC-215
C ₃ F ₆ Cl ₂	CFC-216
Cl ₃ F ₇ Cl	CFC-217

Group II

CCl ₄	carbon tetrachloride
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Group III

C ₂ H ₃ Cl ₃	1, 1, 1-trichloroethane (methyl chloroform)
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ANNEX D**Group I**

	Substances
CHFC ₁₂	HCFC-21
CHF ₂ Cl	HCFC-22

CH ₂ FC1	HCFC-31
C ₂ HFC1 ₄	HCFC-121
C ₂ HF ₂ C1 ₃	HCFC-122
C ₂ HF ₃ C1 ₂	HCFC-123
CHC1 ₂ CF ₃	HCFC-123
C ₂ HF ₄ Cl	HCFC-124
CHFC1CF ₃	HCFC-124
C ₂ H ₂ FC1 ₃	HCFC-131
C ₂ H ₂ F ₂ C1 ₂	HCFC-132
C ₂ H ₂ F ₃ C1	HCFC-133
C ₂ H ₃ FC1 ₂	HCFC-141
CH ₃ CFC1 ₂	HCFC-141b
C ₂ H ₃ F ₂ C1	HCFC-142
CH ₃ CF ₂ C1	HCFC-142b
C ₂ H ₄ FC1	HCFC-151
C ₃ HFC1 ₆	HCFC-221
C ₃ HF ₂ C1 ₅	HCFC-222
C ₃ HF ₃ C1 ₄	HCFC-223
C ₃ HF ₄ C1 ₃	HCFC-224
C ₃ HF ₅ C1 ₂	HCFC-225
CF ₃ CF ₂ CHC1 ₂	HCFC-225ca
CF ₂ C1CF ₂ CHCLF	HCFC-225cb
C ₃ HF ₆ C1	HCFC-226
C ₃ H ₂ FC1 ₅	HCFC-231
C ₃ H ₂ F ₂ C1 ₄	HCFC-232
C ₃ H ₂ F ₃ C1 ₃	HCFC-233
C ₃ H ₂ F ₄ C1 ₃	HCFC-234
C ₃ H ₂ F ₅ C1	HCFC-235
C ₃ H ₃ FC1 ₄	HCFC-241
C ₃ H ₃ F ₂ C1 ₃	HCFC-242
C ₃ H ₃ F ₃ C1 ₂	HCFC-243
C ₃ H ₃ F ₄ C1	HCFC-244
C ₃ H ₄ FC1 ₃	HCFC-251
C ₃ H ₄ F ₂ C1 ₂	HCFC-252
C ₃ H ₄ F ₃ C1	HCFC-253
C ₃ H ₅ FC1 ₂	HCFC-261

$C_3H_5F_2Cl$	HCFC-262
C_3H_6FCl	HCFC-271

Group II**Substance**

$CHFBr_2$	
CHF_2Br	HBFC-22B1
CH_2FBr	
C_2HFBr_4	
$C_2HF_2Br_3$	
$C_2HF_3Br_2$	
C_2HF_4Br	
$C_2H_2FBr_3$	
$C_2H_2F_2Br_2$	
$C_2H_2F_3Br$	
$C_2H_3FBr_2$	
$C_2H_3F_2Br$	
C_2H_4FBr	
C_3HFBr_6	
$C_3HF_2Br_5$	
$C_3HF_3Br_4$	
$C_3HF_4Br_3$	
$C_3HF_5Br_2$	
C_3HF_6Br	
C_3H_2FBr	
$C_3H_2F_2Br_5$	
$C_3H_2F_2Br_4$	
$C_3H_2F_3Br_3$	
$C_3H_2F_4Br_2$	
$C_3H_2F_5Br$	
$C_3H_3FBr_4$	
$C_3H_3F_2Br_3$	
$C_3H_3F_3Br_2$	
$C_3H_3F_4Br$	
$C_3H_4FBr_3$	
$C_3H_4F_2Br_2$	
$C_3H_4F_3Br$	

C₃H₅FBr₂

C₃H₅F₂Br

C₃H₆FBr

Group III**Substance**

CH₂BrCl

Bromochloromethane

ANNEXE**Group I****Substance**

CH₃Br

methyl bromide

17. Goods, the importation of which is regulated by any other enactment unless in accordance with such enactment.

PART III**PROHIBITED EXPORTS**

1. Goods the exportation of which is prohibited by any enactment.

PART IV**RESTRICTED EXPORTS**

1. Narcotic drugs and psychotropic substances unless under licence from Chief Medical Officer.
2. Any goods whatsoever which bear the Coat of Arms or the Flag Saint Christopher and Nevis or any facsimile imitation or representation thereof unless with the approval of the Minister.
3. Rare or threatened species of animals or plants, their products and derivative except such goods are accompanied by the appropriate permits issued by CITES authorities.
4. Foreign currency exceeding the prescribed amount unaccompanied by exchange control permission.
5. Goods the exportation of which is regulated by any other enactment unless in accordance with such enactment.

FIFTH SCHEDULE

(Section 210)

CUSTOMS APPEAL COMMISSION**Appointment and membership.**

1. The Commission shall consist of the five persons, as follows—
 - (a) two persons with extensive experience in customs matters;
 - (b) a senior officer from the Ministry of Trade;
 - (c) a senior officer from the Attorney-General's Chambers;

- (d) an experienced customs broker.
- 2. The Commission shall elect from among its members a Chairperson and a Deputy Chairperson.
- 3. A meeting of the Commission is duly constituted for all purposes if at the meeting there is a quorum of not less than three Commissioners participating in the meeting.
- 4. The functions, powers, rights and obligations of the Commission shall not be affected by any vacancy in its membership.

Terms of appointment.

- 1. A Commissioner shall hold and vacate office in accordance with the terms of his or her instrument of appointment.
- 2. A Commissioner may at any time resign his or her office by giving not less than one month's notice in writing to the Chairperson, except that in the case of the Chairperson he or she shall tender his resignation in writing to the Minister.
- 3. If the Minister is satisfied that a Commissioner—
 - (a) has been absent from three consecutive meetings of the Commission without excuse or the permission of the Commission;
 - (b) has become bankrupt;
 - (c) is incapacitated by physical or mental illness; or
 - (d) is unable or unfit to discharge the functions of a Commissioner,he or she may terminate the appointment of the Commissioner.
- 4. There shall be paid to the Commissioners such remuneration as the Minister may determine.

Tenure and conditions of member of Commission.

The tenure of office and other terms and conditions of office of the members of the Commission shall be set out in the instrument of appointment.

Disclosure of interest.

- 1. Where a Commissioner has any direct or indirect personal interest in the outcome of the deliberations of the Commission in relation to any matter—
 - (a) he or she shall disclose the nature of his or her interest at a meeting of the Commission in person or by means of a written notice brought to the attention of the Commission;
 - (b) the disclosure shall be recorded in the minutes of the Commission; and
 - (c) he or she shall withdraw from any deliberations of the Commission in relation to that matter and not vote upon it.
- 2. For the purposes of this paragraph, a general notice given by a Commissioner that he or she is a member or director of a particular organisation and is to be regarded as interested in any matter concerning that organisation is sufficient disclosure in relation to any such matter.

SECRETARIAT OF COMMISSION.

The Commission shall be serviced by a secretariat from the Customs Department.