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Georgetown,  
Guyana.  
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The following Bill which was introduced in the National Assembly is published for general information.

F. A. NARAIN,  
Clerk of the National Assembly



BILL No. 27 of 1975

CUSTOMS (AMENDMENT) BILL 1975

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
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3. Amendment of section 15 of the Principal Act.
4. Amendment of section 22 of the Principal Act.
5. Amendment of the First Schedule to the Principal Act.
6. Amendment of the Fourth Schedule to the Principal Act.
7. Substitution of new Schedule for the fifth Schedule to the Principal Act.

## A BILL

## Intituled

AN ACT to amend the Customs Act.

A.D. 1975. Enacted by the Parliament of Guyana:—

Short title  
and com-  
mencement.  
Cap. 82:01.

1.(1) This Act, which amends the Customs Act, may be cited as the Customs (Amendment) Act 1975.

(2) This Act shall be deemed to have come into operation

- (a) in relation to Antigua on 4th July, 1974;
- (b) in relation to St. Kitts-Nevis-Anguilla on 26th July, 1974; and
- (c) in relation to —
  - (i) Community States other than those mentioned in (a) and (b); and
  - (ii) Barbados, Jamaica, and Trinidad and Tobago.
 on 1st May, 1974.

Amendment  
of section  
8 of the  
Principal  
Act.

2. Section 8 of the Principal Act is hereby amended by the deletion therefrom of the words "Part III of".

Amendment  
of section  
15 of the  
Principal  
Act.

3. Section 15 of the Principal Act is hereby amended in the following respects —

- (a) by the deletion from subsection (1) of the words "Association Territories or" wherever those words occur;
- (b) by the substitution in paragraph (iii) of the proviso to subsection (1) for all the words which occur after the words "consigned from", of the words "a Community State";
- (c) by the substitution in subsection (1) (b) for the words "an Association Territory or Community States" of the words "a Community State";
- (d) by the deletion from subsection (2) of the words "the Association Agreement or";
- (e) by the substitution in subsection (2) —

- (i) for the words "Association Territory or Community States" of the words "Community State";
  - (ii) for the words "an Association" of the words "a Community";
  - (iii) for the words "other Territory or Community States" of the words "other Community State";
- (f) by the substitution in subsection (6) —
- (i) for the words "Association Territory" of the words "Community State";
  - (ii) for the words "an Association" of the words "a Community";
- (g) by the repeal of subsection (7) and the substitution thereof of the following subsection —
- "(7) In this section —
- "drawback" includes any prescribed remission or repayment of, or exemption from, duty chargeable on importation into any Community State;
- "Community" means the Caribbean Community;
- "Community rate of duty" means a rate of customs duty which is applicable to goods on the basis of their eligibility in that behalf as having been the produce of or manufactured in, and consigned from any of the Community States, and includes an exemption so applicable from customs duty;
- "Community States" means the Members of the Community specified in Part IIB of the First Schedule;
- "the Community Treaty" means the Treaty establishing the Community including the Caribbean Common Market concluded pursuant to paragraph 1(3) of the Georgetown Accord;
- "the Georgetown Accord" means the Agreement under the style of the Georgetown Accord concluded at the Eighth

Conference of Heads of Government of Commonwealth Caribbean Countries on 12th April, 1973, at Georgetown, Guyana, among the Governments of Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts/Nevis/Anguilla, St. Lucia, St. Vincent and Trinidad and Tobago:

Provided that, subject to negative resolution of the National Assembly, the Minister may if it appears expedient so to do by reason of any decision taken by the Common Market Council of the Community or any agreement with respect to trade made between all or any of the Members for the time being of the Community, or between all or any of those Members and any other country, make regulations providing that this section shall have effect with such adaptation or modification of any reference to the Community Treaty, the Community States, or the Community rates of duty as may be specified in the regulations.”;

- (h) by the substitution in subsection (8) for the letter “C”, of the letter “B”.

Amendment  
of section  
22 of the  
Principal  
Act.

4. Section 22 of the Principal Act is hereby amended in the following respects —

- (a) by the deletion of all the words appearing in subsection (1), immediately before paragraph (a), thereof, and by the substitution therefor of the following words —

“(1) Wherever the value of goods is required to be declared under any provision of this Act, the value shall — ”; and

- (b) by the deletion of the words “liable to *ad valorem* duty” appearing in the marginal note thereto, and by the substitution therefor of the words “for declaration”.

Amendment  
of the First  
Schedule to  
the Principal  
Act.

5. The First Schedule to the Principal Act is hereby amended in the following respects —

- (a) by the substitution for paragraph 3 of the General Provisions of Part 1 thereof, of the following paragraph —

“3. The Import Schedule and the list of Export Duties exclusive of the Annex to this Schedule, apply to goods imported from or exported to countries that are not Members of the Caribbean Community or which do not qualify for special treatment as provided in the Community Treaty. The preferential rates of duty shown in the columns so marked apply to goods originating in and consigned from countries listed in Part II A of this Schedule. The other Preferential rates of duty specified in the Annex to Part 1 of this Schedule and headed “Community Rates of Duty” apply only to such goods as are specified therein which conform with the origin and consignment criteria set out in the Community Regulations in the Fourth Schedule to this Act and are imported from the countries listed in Part II B of this Schedule. The general rates of duty apply to goods originating in or consigned from any other country.”;

- (b) by the substitution therein for Part II B of the following Part —

“Part II B

**Members of the Caribbean Community**

Antigua  
 Barbados  
 Belize  
 Dominica  
 Grenada  
 Guyana  
 Jamaica  
 Montserrat  
 St. Kitts/Nevis/Anguilla  
 St. Lucia  
 St. Vincent  
 Trinidad and Tobago”;

- (c) by the deletion therefrom of Part II C;
- (d) by the deletion from item 11 of Part IV thereof, of the words “or Part II C, respectively”; and
- (e) by the substitution therein for the word “Territory” of the words “Community State”.

Amendment  
of the Fourth  
Schedule to  
the Principal  
Act.

6. The Fourth Schedule to the Principal Act is hereby amended in the following respects —

- (a) by the substitution for paragraph (1) of regulation 2 of the following paragraph —

“(1) Subject to the following provisions of these Regulations, goods shall be treated as having been the produce of, or having been manufactured in a State mentioned in Part II B of the First Schedule to this Act, the areas whereof are hereinafter collectively called the Community if —

- (a) they and the materials from which they have been produced or manufactured have been wholly grown, produced or manufactured, as the case may be, in the Community; or
- (b) they have undergone any operation or process of production or manufacture in the Community and the value of materials imported into the Community and used in the production or manufacture of the goods does not in the case of the Less Developed Countries exceed 60 per cent and in the case of the other Community States 50 per cent of the export price of those goods.”;

- (b) by the addition to regulation 9 thereof, of the following paragraph as paragraph (3) —

“(3) In this Schedule “Less Developed Countries” means Antigua, Belize, Dominica, Grenada, Montserrat, St. Kitts/Nevis/Anguilla, St. Lucia and St. Vincent.”;

- (c) by the deletion from the Heading thereto of the following words —  
“and Caribbean Free Trade”;
- (d) by the deletion of the words “Association Area or” wherever they occur immediately before the words “Community Area”;
- (e) by the deletion of the word “Area” wherever it occurs immediately after the word “Community”; and
- (f) by the substitution for the word “Territory”, wherever it occurs, of the words “Community State”.

7. The Fifth Schedule to the Principal Act is hereby deleted and the following substituted therefor as the Fifth Schedule —

Substitution of new Schedule for the Fifth Schedule to the Principal Act.

“FIFTH SCHEDULE                      Section 22

1. The value of any goods imported for home use shall be taken to be the normal price, that is to say, the price which they would fetch at the time when they are entered for such use (or, if they are not so entered, at the time of importation) on a sale in the open market between a buyer and a seller independent of each other.
2. The normal price of any imported goods shall be determined on the following assumptions —
  - (a) that the goods are delivered to the buyer at the port or place of introduction into Guyana; and
  - (b) that the sale is a sale of the quantity to be valued; and
  - (c) that the seller bears all costs, charges and expenses incidental to the sale and to the delivery of the goods at that port or place of introduction; but
  - (d) that the buyer bears any duties or taxes applicable in Guyana.
3. A sale in the open market between a buyer and a seller independent of each other pre-supposes —

- (a) that the price is the sole consideration; and
- (b) that the price is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, other than the relationship created by the sale itself; and
- (c) that no part of the proceeds of any subsequent re-sale, other disposal or use of the goods will accrue, either directly or indirectly, to the seller or any person or any person associated in business with him.

4. Where the goods to be valued —

- (a) are manufactured in accordance with any patented invention or are goods to which any protected design has been applied; or
- (b) are imported under a foreign trade mark; or
- (c) are imported for sale, other disposal or use under a foreign trade mark,

the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design or trade mark in respect of the goods:

Provided however that when the goods to be valued are imported for sale, other disposal or use under a foreign trade mark, after further manufacture, the normal price may be determined on the assumption that it includes the value of the right to use the trade mark in respect of the goods.

5 For the purposes of this Schedule —

- (1) the expression “costs, charges and expenses” referred to in paragraph 2 (c), includes, *inter alia*, any of the following:
  - (a) carriage and freight;
  - (b) insurance;
  - (c) commission;
  - (d) brokerage;



- (e) costs, charges and expenses of drawing up outside Guyana documents incidental to the introduction of the goods into Guyana, including consular fees;
  - (f) duties and taxes applicable outside Guyana except those from which the goods have been exempt or have been or will be relieved by means of refund;
  - (g) cost of containers excluding those which are treated as separate articles for the purpose of levying duties of customs, cost of packing (whether for labour, materials or otherwise); and
  - (h) loading charges.
- (2) the expression "trade mark" includes a trade name and a get-up and a trade mark shall be treated as a foreign trade mark if it is the mark of —
- (a) any person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside Guyana; or
  - (b) any person associated in business with any such person as is referred to in sub-paragraph (a); or
  - (c) any person whose rights in the mark are restricted by an agreement with any person referred to in sub-paragraphs (a) or (b).
- 6** Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them."

#### EXPLANATORY MEMORANDUM

**This Bill seeks to make consequential amendments to the Customs Act as a result of the expansion of the Caribbean Community and the withdrawal of its Members from the Caribbean Free Trade Association.**

Clause 2 seeks to empower the Minister to make additions to, or deletions from the First Schedule to the Act in order to give effect to any resolution which may be passed by the Common Market Council of the Caribbean Community.

Clause 3 seeks to provide for the removal of references to the defunct Carifta arrangements.

In consequence of the introduction of the Brussels Nomenclature providing for the classification of imported articles, and the adoption of the Brussels Definition of Value for such articles it is necessary to reflect in the provisions of section 22 of the Act the current definition of value obtainable in countries which subscribe to the Brussels Nomenclature. Accordingly, Clause 4 of the Bill seeks to amend the provisions of section 22 which refer to the varied criteria to be found in the Fifth Schedule as amended by Clause 7 for the purpose of effecting a valuation.

Clause 5 seeks to amend the General Provisions of Part I of the First Schedule to the Act which provides explanatory notes for the interpretation of the Customs Tariff and to specify the Members of the Caribbean Community.

Clause 6 seeks to delete from the Fourth Schedule to the Act references to the Caribbean Free Trade Association and to provide for regulations which relate respectively to the Less Developed Countries and to the other Community States.

*F. E. Hope,*  
Minister of Finance.

(Bill No. 27/1975)  
(Cex 22 TJ)