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**DRAFT**

**Standard Operating Procedures**

**Penalties and Prosecution**

**The Lebanese Customs Administration**

**General Directorate of Customs**

**PENALTIES AND PROSECUTION – STANDARD OPERATING PROCEDURES**

1. These Standard Operating Procedures replace all existing procedures relating to Penalties and Prosecution.
2. The standardisation of General Directorate of Customs procedures is necessary for the following reasons:

* To reduce the financial impact of fraud in terms of evaded duties and taxes of national significance;
* To increase conformity and consistency with international norms and standards;
* To enhance transparency;
* To improve the operating and deployment framework of the Customs Brigade based on risk management principles;
* To increase levels of compliance, revenue security and facilitation relating to the control of cross border trade;
* To improve the interaction and operational co-ordination between customs and other law enforcement agencies.

1. Indeed, the principle for the need to achieve modern and standardised procedures is enshrined at the very beginning of the Lebanon Customs Act 2001, as follows:

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| **Lebanon Customs Act 2001** | |
| **Article** | **Provision** |
| 4 | **1.** Customs and parties concerned shall implement all customs procedures subject to the principles of streamlining, publicity, transparency and common interest.  **2.** Pursuant to the provisions of paragraph (1) above, the customs administration shall adopt modern means and advanced and developed regulations for the organization of the customs business especially as concerns the following (there are 13 modern procedures listed).  **3.** Customs procedures laid down in this chapter should be implemented in the light of the principle of trade facilitation without violating efficient customs control, and upon guidance by new procedures of risks management and evaluation. |

1. A Standard Operating Procedure (SOP) is a document which describes regularly recurring Customs Officer work processes. The purpose of a SOP is to carry out the operations correctly and always in the same manner. When Customs Officers follow the SOP for a particular job, they produce a product that is consistent and predictable. An SOP is a compulsory instruction.
2. These Standard Operating Procedures contain instructions on the following operations:

* Legislative provisions for monetary penalties, forfeiture and prosecution
* Investigation and sanctions
* Monetary penalties
* Additional penalties imposed by the competent authority
* Examples: violations, monetary penalties, and additional penalties
* Final decision on the amount of penalty to be paid under the reconciliation process
* Criminal prosecution

1. **LEGISLATIVE PROVISIONS FOR MONETARY PENALTIES, FORFEITURE AND PROSECUTION**

The following Articles of the Customs Act contain the principal legal provisions for monetary penalties, forfeiture, and prosecution:

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| **Lebanon Customs Act 2001** | |
| **Article** | **Provision** |
| 381 | 1- Violations set forth in the customs laws and regulations may be prosecuted and proved by all legal evidences even if such violations were not discovered inside or outside the customs territory or upon declaration of goods through customs manifests. For this purpose, information coming from foreign authorities, forfeiture proceedings and documents issued by the said authorities may be considered to be proofs of violations.  2- Public prosecutors shall be in charge of the popular actions filed for the purpose of implementing criminal sanctions incurred from ordinary crimes committed concurrently with customs violations or relating to such violations. However, the customs administration shall be in charge of actions filed in order to apply duties and fines. |
| 414 | Monetary penalties and forfeitures prescribed in the customs laws and regulations shall be considered a civil compensation for the customs administration. |
| 415 | Monetary penalties and forfeitures may be combined whenever material violations are combined. |
| 421 | A- The following violations shall incur the seizure and forfeiture of smuggled goods, in accordance with the provisions of Article 422 and provided that the penalty prescribed in Article 423 is enforced: (there is a list of 34 types of violation) |
| 422 | In all cases where courts decide the forfeiture of smuggled goods, such courts shall, pursuant to the provisions of Paragraph 2 of Article 417, decide along with monetary penalties prescribed in Article 423 the forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud (despite the submission of a correct declaration in respect thereof). The value of forfeited goods shall be added to the amount of the monetary penalty. |
| 423 | Notwithstanding the regulatory forfeitures, the monetary penalties prescribed in Article 421 shall be determined as follows:  1- Cases involving seizure of goods and means of transport used to conceal the fraud:  A- From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized.  B- From three to four times the duty on highly dutiable merchandise, merchandise subject to revenue duty or merchandise subject to the control of the customs police by virtue of the decisions of the Higher Council of Customs on conditions prescribed in Article 340 of this Law.  C- From two to three times the duty (including customs duties) on prohibited or monopolized merchandise.  D- From one to two times the duty (including customs duties) on restricted goods.  2- Cases involving relief of merchandise, means of transport and things used to conceal the fraud.  In order to compensate forfeiture, the court may impose on the violator a penalty up to the value of the goods, means of transport and things used to conceal fraud in addition to the monetary penalties mentioned here above (including customs duties), according to the price in effect in national market at the time of the fraud. |
| 429 | 1- In cases where customs discovers during vessels inspection on conditions prescribed in Articles 69,70,72 and 79, one or more of these violations:  1- Failure to submit the general and one manifest.  2- Producing many manifests.  3- Discovery of unmanifested merchandise  4- Manifest description inconsistent with the actual merchandise.  5- Failure to submit manifested merchandise for inspection.  2- Masters of vessels may incur a penalty up to the value of merchandise mentioned under (3) (4) and (5).  3- In all cases discussed above, the vessel shall be subject to seizure to secure the payment of monetary penalties prescribed here above; In addition prohibited or monopoly goods in excess to the manifest shall be forfeited. |
| 430 | In cases where customs finds during vessels inspection on conditions prescribed in Articles 69, prohibited, monopolized, highly dutiable merchandise or merchandise subject to revenue tax, on board of such vessels whether declared in the manifest or not, the vessel and the cargo so laden shall be subject to forfeiture and the vessel masters shall be liable for a penalty of **100,000 L.B.P.**  Vessels may be relieved from forfeiture if the master proves that he was compelled under certain conditions (maritime emergencies or a defect) to change the vessel course or to anchor 12 miles away from the shore or to have recourse to a Lebanese port, provided that these circumstances are registered in the vessel's logbook, prior to customs inspection. |

There are also Decrees, as follows:

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| **Decrees** | |
| **Number** | **Provision** |
| 1802,  Article 1 | Defines the Customs Brigade as a public armed force within the Lebanese Customs. It falls under the Minister of Finance and its powers are stipulated as follows:   * Monitoring land, aerial and maritime borders as well as all those areas falling under the supervision of the Lebanese Customs so as to implement all the customs regulations and provisions concerning the importation and exportation of goods. * Investigating and verifying smuggling operations according to the provisions stipulated by the Customs Act and other regulations as well as setting up checkpoints and inspecting suspicious individuals. * Assisting the Administrative Customs employees. * Assisting all the public armed forces and administrations according to the provisions established by the laws in force. |
| 1802,  Article 103 | *There is no English translation available.* However, the Article essentially confirms that the Customs Brigade’s responsibility is to assist the Public Prosecution Service and work under its supervision in performing the duties of the Judicial Police within their field of competence. |

1. **INVESTIGATION AND SANCTIONS**

If, during a search, a Customs Officer has a reasonable suspicion that a person has been involved in smuggling, or has entered prohibited goods into Lebanon that will require investigation, he must inform an Investigation Specialist. Reasonable suspicion means that there are objectively reasonable circumstances to suspect that the individual is involved in, or is about to be involved in, a crime.

The sole duty and responsibility of Investigation Specialists is to investigate suspected offences. They will be appointed at both the local (for example, Division) level, and at the centre.

The local Investigation Specialist must conduct the initial questioning of the suspect. If (after liaising with the Public Prosecutor in appropriate cases) the initial questioning of the suspect leads to a determination that an administrative procedure involving reconciliation (see paragraph 8) will be followed, rather than a criminal or civil process, the local Investigation Specialist must finalise the questioning of the person and endeavour to obtain the person’s admission to the offence, and his agreement to pay the evaded duty / taxes together with the penalty.

The exception to this process is that, if it becomes clear during the initial questioning of the suspect that the value of the goods on which duty / taxes has been evaded, or the penalty, exceeds a ceiling that is set by the Director General, then the case must immediately be referred to the relevant Investigation Specialists at the centre.

At the centre, Investigation Specialists will investigate suspected criminal offences; cases referred by local Investigation Specialists; and in certain situations, offences requiring a civil process (for example, non-payment of taxes). After acceptance of the case, the Central Investigator must inform the Public Prosecutor immediately he suspects that an offence has been committed, to obtain authorisation to commence the investigation. All case decisions made during the course of an investigation are made by the Public Prosecutor, and Investigators must act within the parameters of their assignment.

The suspect’s goods and means of transport will be seized at the beginning of the investigation. However, Article 370 of the Customs Act makes provision for the release of the means of transport in certain circumstances, for example upon payment of a guarantee or a deposit equivalent to the value of the means of transport; or if Customs have completed their search of - for example - a taxi and conclude that the driver of the taxi had no knowledge of the attempted smuggling attempt. See below:

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| **Lebanon Customs Act 2001** | |
| **Article** | **Provision** |
| 370 | 1. Seized transport vehicles and goods used to conceal fraud may be delivered to the accused if they are not prohibited against submission of a guarantee, a bond, or a sum equivalent to the value of such goods. Goods may also be delivered to a third party against the submission of the same guarantees.  This procedure and the consequence thereof should be mentioned in the proceedings of seizure.  2. The manager or the Head of the department may release the public means of transport in favor of the proprietor or operator without a guarantee or a deposit equivalent to the value of such means of transport, provided that the proprietor is involved in the transport business and that the violator had signed with him the contract of transportation or lease of the vehicle in accordance with legal rules and professional customs, and provided that the operator of the vehicle has to the best of his capacities fulfilled his obligation of censorship, and that the vehicle is not conceived as to facilitate smuggling. However such release does not exempt from the payment of the expenses incurred by the customs administration as result of maintenance and custody. |

At the finalisation of the investigation, a range of possible procedures are provided under the Customs Act, including:

* **MONETARY PENALTIES** (an administrative procedure, involving reconciliation between Customs and the offender, using customs law);
* **ADDITIONAL PENALTIES IMPOSED** **BY THE** **COMPETENT AUTHORITY** in respect ofgoods, and any vehicles used to transport the goods, that the competent authority (which - depending on the circumstances - may be the Director General or a relevant court) has decided should be seized or forfeited;
* Criminal **PROSECUTION**.

1. **MONETARY PENALTIES**

This is an administrative procedure involving the imposition of a penalty, to achieve reconciliation between the Customs Administration and the person who has violated a law. The action facilitates the quick settlement of an offence, using Customs law. In practice, the vast majority of Customs violations are settled by the imposition of administrative sanctions.

If (after liaising with the Public Prosecutor in appropriate cases) the decision is made not to prosecute the offender, financial penalties may be imposed using customs law. The decision to deal with offences through administrative proceduresis at the discretion of the Customs Administration, and is followed with the agreement of both parties (Customs and the offender).

If the offender does not agree to an administrative procedure (reconciliation) being followed, the case will be referred to the Customs Court (Justice Courts). If he loses his case, the value of the seized item may be added to the monetary penalty (an additional penalty - see paragraph 9 below).

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| **Lebanon Customs Act 2001** | |
| **Article** | **Provision** |
| 391 | 1- Along with the prerogative of relevant criminal courts empowered in accordance with the laws in force, the proceedings of seizure shall be referred to the relevant court of first instance in accordance with the provisions of the previous articles, if the dispute is not settled through reconciliation.  2- The Procedures of the Civil Code should be followed before all Justice Courts examining customs cases in accordance with the provisions laid down in this Law. |

The purpose of monetary penalties is to reprimand and reform a person who acts illegally or in an unacceptable manner so that, in the future, the person complies with Customs laws. It also serves as a warning to other importers, exporters, passengers, etc.

The maximum monetary penalties provided in law are from three to four times the duty on highly dutiable goods; goods subject to revenue duty; or other goods subject to Customs control by virtue of the decisions of the Higher Council of Customs on conditions prescribed in Article 423 of the Customs Act.

In addition to paying any penalties, the person who has committed the offence must also return any duties or taxes lost by the Government as a result of the offence. Additionally, Article 386 makes the following provision:

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| **Lebanon Customs Act 2001** | |
| **Article** | **Provision** |
| 386 | Reconciliation made between the customs administration on one hand and the violators and their partners on the other hand shall lead to the abatement of the personal action and the common-law actions, whenever such actions involve monetary customs violations not incurring physical sanctions. However, the reconciliation made with violators does not deter the pursuit of partners and parties to the violation, unless otherwise provided for in the text of reconciliation. Such reconciliation may not also deter the action brought by the public prosecution or any other administration in order to repress the ordinary misdemeanors or other crimes, committed simultaneously with the customs violation. |

The tables at paragraph 10 below show examples of the types of violation which may be subject to monetary penalties, and possibly also to additional penalties imposed by the competent authority.

1. **ADDITIONAL PENALTIES IMPOSED BY THE COMPETENT AUTHORITY**

An additional penalty may be imposed by the competent authority, which (depending on the circumstances) may be the Director General or a relevant court.

The additional penalty is the value of the goods that have been seized by Customs under their existing powers of seizure, or forfeited following litigation brought by the Public Prosecutor in court.The value of seized or forfeited goods is added to the amount of the monetary penalty.

Article 422 of the Customs Act provides the principal legal provisions for additional penalties, in accordance with the provisions of Paragraph 2 of Article 417 and the monetary penalties prescribed in Article 423 (see paragraph 6 above). Furthermore, Article 385 makes the following provision:

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| **Lebanon Customs Act 2001** | | |
| **Article** | | **Provision** |
| 385 | 1- The customs administration may make reconciliation with violators, before or during legal pursuit and following the issuance of the decision of the customs court mentioned in Article 391 of the present Law. Hence, the customs administration may substitute regulatory sanctions (fix or modifiable monetary penalties, forfeiture of means of transport and articles used to conceal smuggling) by a monetary penalty, which varies according to seizure conditions and which should be paid, whenever a need so arises, in addition to the charges due on goods imported or exported by fraud. | |

This enables the forfeiture to extend beyond smuggled goods, to also cover means of transport, merchandise and things of any kind whatsoever used to conceal fraud. In addition to paying any penalties, the violating party must also restore any duties or taxes lost by the government as a result of the violation.

1. **EXAMPLES: VIOLATIONS, MONETARY PENALTIES, AND ADDITIONAL PENALTIES**

The tables below indicate types of violation which may be subject to monetary penalties, and possibly also to additional penalties imposed by the competent authority.

The tables also show who – during the reconciliation procedure – makes the decision in respect of the amount of the monetary penalty (Article 387 of the Customs Act).

The violations (in the first column of the tables) are subject to the monetary penalty (in the second column). Most, but not all, of the monetary penalties are prescribed in Article 423.

The third column shows the additional penalties (mostly, the forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud) that may be imposed by the competent authority. Most, but not all, of these additional penalties are prescribed in Article 422.

**ARTICLE 361**

* The Director General makes reconciliation decisions concerning violations in paragraph 4. (Article 387 of the Customs Act).

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| **VIOLATION in Article 361** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| 4. The failure to keep the documents, files and records mentioned in this Article and in Article 127, or the refusal to submit them, as well as the failure to keep the records mentioned in the previous Article in accordance with the provision prescribed herein, as well as borrowing the name and signature mentioned in Article 129, constitute customs violations that are **sanctioned by a lump sum varying from 2 to 10 million L.B.P,** and shall be inflicted on every trip, transaction, operation or signature borrowing. In addition penalties prescribed in Article 131 above shall be applied, whenever need shall be, and every unjustifiable delay should be considered a refusal. | **Varying from 2,000,000 to 10,000,000 LBP** | None. |

**ARTICLE 421**

* Heads of Departments, upon approval of the Director General, make reconciliation decisions when the value of goods does not exceed 25,000,000 LBP, and higher values provided that the charges do not exceed 6,000,000 LBP (Article 387 of the Customs Act).
* The Director General decides when the value of goods exceeds 25,000,000 LBP, and higher value smuggling cases where goods value exceeds 100,000,000 LBP provided that the charges do not exceed 25,000,000 LBP.
* The Higher Council of Customs decides other cases on the proposal of the Director General.

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| **VIOLATION in Article 421** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| No.2 - False declarations concerning the type of goods. Shall be considered to be a false declaration concerning the type of goods the registration of prohibited or monopolized goods in the manifest or equivalent documents, under a description that conceals their type and description. | From two to three times the duty (including customs duties) on prohibited or monopolized merchandise. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.3 - False declaration concerning the type or description of goods that may result in a loss of duties. | From one to two times the duty (including customs duties) on restricted goods.  From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.4 - False declaration concerning the weight, number and measure (or any other unit) containing an increase that exceeds one tenth (1/10) of the declared weight or number or measure (or any other unit),  **except for**  the products subject to high duties or to revenue taxes, by virtue of the decision of the Higher Council of Customs, and which shall be subject to penalties prescribed in this Article if the increase in the weight, number or measure (or any other unit) exceeds one twentieth (1/20). | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized.  From three to four times the duty on highly dutiable merchandise, merchandise subject to revenue duty or merchandise subject to the control of the customs police by virtue of the decisions of the Higher Council of Customs on conditions prescribed in Article 340 of this Law. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.5 - False declaration concerning the value, containing an increase equivalent or exceeding the tithe (1/10) of the declared value. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.6 - False declaration concerning the origin, aiming at benefiting from a tariff lesser than the tariff in force. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.7 - Filing or submission of false or counterfeited documents or documents enclosing false evidence, in order to enjoy exemption from duties or tariffs or to be eligible for a lower rate of duty or fee in effect. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.8 - Discovery of false evidence concerning number, weight, value or type in the invoices submitted as original invoices. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No. 28: Exportation or attempted exportation of prohibited goods without declaration or through smuggling, or submission of false declarations upon export in connection with the type, description, nature or value, aimed at ignoring the ban. | From two to three times the duty (including customs duties) on prohibited or monopolized merchandise. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.30: Failure to carry out customs formalities or to pay duties, by means of any false or incomplete statement or any other fraudulent practice or appliance not mentioned in Articles 424 to 431 as well other violations not mentioned elsewhere. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

**ARTICLE 423**

* Heads of Departments, upon approval of the Director General, make reconciliation decisions when the value of goods does not exceed 25,000,000 LBP, and higher values provided that the charges do not exceed 6,000,000 LBP (Article 387 of the Customs Act).
* The Director General decides when the value of goods exceeds 25,000,000 LBP, and higher value smuggling cases where goods value exceeds 100,000,000 LBP provided that the charges do not exceed 25,000,000 LBP.
* The Director General decides on violations in the last paragraph of the 2nd column (goods of unknown type and value).
* The Higher Council of Customs decides other cases on the proposal of the Director General.

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| **Nature of VIOLATION** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| Notwithstanding the regulatory forfeitures, the monetary penalties prescribed in Article 421 shall be determined as follows: |  |  |
| 1- Cases involving seizure of goods and means of transport used to conceal the fraud: | A- From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized.  B- From three to four times the duty on highly dutiable merchandise, merchandise subject to revenue duty or merchandise subject to the control of the customs police by virtue of the decisions of the Higher Council of Customs on conditions prescribed in Article 340 of this Law.  C- From two to three times the duty (including customs duties) on prohibited or monopolized merchandise.  D- From one to two times the duty (including customs duties) on restricted goods. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| 2- Cases involving relief of merchandise, means of transport and things used to conceal the fraud. |  | In order to compensate forfeiture, the court may impose on the violator a penalty up to the value of the goods, means of transport and things used to conceal fraud in addition to the monetary penalties mentioned here above (including customs duties), according to the price in effect in national market at the time of the fraud.  Whenever the assessment of the value of goods and things relieved from seizure seems impossible, the penalty amount should range from **1,000,000 to 10,000,000 L.B.P**. |

**ARTICLE 424**

* Heads of Departments, upon approval of the Director General, make reconciliation decisions when the value of goods does not exceed 25,000,000 LBP, and higher values provided that the charges do not exceed 6,000,000 LBP (Article 387 of the Customs Act).
* The Director General decides when the value of goods exceeds 25,000,000 LBP, and higher value smuggling cases where goods value exceeds 100,000,000 LBP provided that the charges do not exceed 25,000,000 LBP.
* The Higher Council of Customs decides other cases on the proposal of the Director General.

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| **VIOLATION in Article 424** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| No.1 - False declaration aimed at illegal drawback of all duties or part thereof in any manner whatsoever even if such duties are deposited in the form of guarantees. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.2 - False declaration concerning the type, description, number, quantity, measurement, volume, weight or origin of goods, aimed at drawing back duties in excess to the allowable duty drawback. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.3 - False declaration concerning the value of goods, aimed at drawing back duty in excess to the allowable duty drawback, if the declared value exceeds the value determined by customs by 1/20. | From two to three times the duty if the seized merchandise is not prohibited restricted or monopolized. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

**ARTICLE 425**

* Heads of Departments take the final reconciliation decisions (Article 387 of the Customs Act).

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| **VIOLATION in Article 425** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| No.3 - False declaration concerning the type, description, origin, quantity, or value of duty-free merchandise. | **100,000 LBP** penalty | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

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| No.8 - Any lack, error or negligence of evidence or information that should be contained in the manifest or other equivalent documents, whenever such lack or error or negligence does not affect the imposition of due duties or restrictions in respect thereof, evidenced by the master of the vessel through the documents in his possession | **100,000 LBP** penalty | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

**ARTICLE 426**

* Heads of Departments, upon approval of the Director General, take the reconciliation decisions (Article 387 of the Customs Act).

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| **VIOLATION in Article 426** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| No.1: lack of parcels mentioned in the manifest or other equivalent documents, discovered after unlading the means of transport of any type whatsoever.  These violations shall be incurred by the party in charge of the vehicle, the carrier or any other responsible party, and in general against all parties mentioned in Article 417.  Manifest discrepancies occurring before delivery of merchandise to customs may be justified if evidenced to occur outside the territorial borders of the country or outside customs territory. | The **100,000 L.B.P** penalty shall be fined on each lost parcel. | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

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| No.2: Late filing of entry or exit manifest or equivalent forms or encompassing false labels of packages in the manifest. | **100,000 L.B.P** penalty | Forfeiture of means of transport, merchandise and things of any kind whatsoever used to conceal fraud.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| No.3: Transportation of passengers or goods within the Lebanese territory in foreign vehicles mentioned in Article 284. This violation shall lead to the levy of customs duties on these vehicles in addition to the monetary penalty. | **100,000 L.B.P** penalty | This violation shall lead to the levy of customs duties on these vehicles in addition to the monetary penalty. |
| No.4: Insults, offenses, threats and mistreatment addressed to customs employees as well as the objection and disturbance that they encounter while exercising their assignments. This fine shall be inflicted on those who commit such acts and their partners, in addition to penalties prescribed in the Penal Code. | **100,000 L.B.P** penalty | None. |

**ARTICLE 429**

* Heads of Departments, upon approval of the Director General, make reconciliation decisions when the value of goods does not exceed 25,000,000 LBP, and higher values provided that the charges do not exceed 6,000,000 LBP (Article 387 of the Customs Act).
* The Director General decides when the value of goods exceeds 25,000,000 LBP, and higher value smuggling cases where goods value exceeds 100,000,000 LBP provided that the charges do not exceed 25,000,000 LBP.
* The Higher Council of Customs decides other cases on the proposal of the Director General.

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| **VIOLATION in Article 429** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| 1- In cases where customs discovers during vessels inspection on conditions prescribed in Articles 69,70,72 and 79, one or more of these violations: |  |  |

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| 3- Discovery of unmanifested merchandise | Masters of vessels may incur a penalty up to value of the unmanifested merchandise.  Master will incur penalty of **400,000 LBP** | Vessel subject to seizure to secure payment of monetary penalties in 2nd column; and  Prohibited or monopoly goods in excess to the manifest forfeited.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| 4- Manifest description inconsistent with the actual merchandise. | Masters of vessels may incur a penalty up to value of merchandise | Vessel subject to seizure to secure payment of monetary penalties in 2nd column; and  Prohibited or monopoly goods in excess to the manifest forfeited.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |
| 5- Failure to submit manifested merchandise for inspection. | Masters of vessels may incur a penalty up to value of merchandise | Vessel subject to seizure to secure payment of monetary penalties in 2nd column; and  Prohibited or monopoly goods in excess to the manifest forfeited.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

**ARTICLE 430**

* Heads of Departments, upon approval of the Director General, make reconciliation decisions when the value of goods does not exceed 25,000,000 LBP, and higher values provided that the charges do not exceed 6,000,000 LBP (Article 387 of the Customs Act).
* The Director General decides when the value of goods exceeds 25,000,000 LBP, and higher value smuggling cases where goods value exceeds 100,000,000 LBP provided that the charges do not exceed 25,000,000 LBP.
* The Higher Council of Customs decides other cases on the proposal of the Director General.

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| **VIOLATION in Article 430** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| In cases where customs finds during vessels inspection on conditions prescribed in Articles 69, prohibited, monopolized, highly dutiable merchandise or merchandise subject to revenue tax, on board of such vessels whether declared in the manifest or not, the vessel and the cargo so laden shall be subject to forfeiture and the vessel masters shall be liable for a penalty of **100,000 L.B.P.** | Vessel master liable for a penalty of **100,000 L.B.P.** | Vessel and cargo subject to forfeiture.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

**ARTICLE 431**

* Heads of Departments, upon approval of the Director General, take the reconciliation decisions (Article 387 of the Customs Act).

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| **VIOLATION in Article 432** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| Should masters of vessels resist the investigation of customs employees during vessels inspection prescribed in Articles 429 and 430 of the present law, before or after the interference of the General officer in accordance with provisions of Article 73 of this Law, the master will be subject to a **penalty of 100,000 LBP**. In this case the vessel and the cargo so laden may be subject to seizure to secure the payment of the penalty. | Master subject to penalty of **100,000 LBP.** | Vessel and cargo subject to seizure to secure the payment of the penalty. |

**ARTICLE 432**

* Heads of Departments, upon approval of the Director General, take the reconciliation decisions (Article 387 of the Customs Act).

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| **VIOLATION in Article 432** | **MONETARY PENALTY** | **FORFEITURE provisions** |
| Failure to register the merchandise in the lists prescribed in Article 71, and any lack in these lists discovered upon departure of the vessel shall be incurred by masters of vessels in charge of transportation or by their authorized agents and shall lead to the penalties prescribed in Article 430, plus penalties prescribed in Article 431, as deemed necessary. | Master subject to penalty of **100,000 LBP.** | Vessel and cargo subject to forfeiture.  **The value of forfeited goods shall be added to the amount of the monetary penalty.** |

1. **FINAL DECISION ON THE AMOUNT OF PENALTY TO BE PAID UNDER THE RECONCILIATION PROCESS**

The Customs Administration takes the final decision on the amount of penalty to be paid under the reconciliation process. Most, but not all, of the monetary penalties are prescribed in Article 423.

In deciding the size of the penalty to be paid, Customs will consider a number of issues, including the circumstances which contributed to the contravention. Customs will, for instance, take account of:

* The person’s previous compliance history
* The nature of the goods
* The intention of the person when committing the violation
* The person’s social and financial circumstances
* The degree of co-operation given to Officers once the person’s liability to a penalty has been established
* Any remedial action the person undertakes to prevent similar contraventions in the future
* Any other relevant circumstances

The reconciliation agreement only applies to the Customs action, and takes account of:

* Customs Duties / Taxes
* The monetary penalty
* The nature of the violation
* The nature of the goods
* The means of transport

The reconciliation agreement might specify the timescale in which the penalty must be paid, and the conditions under which the means of transport will be returned, together with the person’s agreement to waive his rights to the goods. The duty / taxes must always be paid.

Once the monetary penalty, and any other conditions, have been advised in writing to the person, the person may – if he wishes – submit a written “mercy” request to the competent authority that decided the penalty. The request might, for example, ask for the penalty to be re-evaluated for compassionate reasons, such as his financial or social circumstances, social circumstances, together with his proposals for payments by instalments. The competent authority will review the person’s request, and may accept or refuse the request.

If the person agrees to a reconciliation procedure, but does not agree the monetary penalty, Customs must immediately send the case to the Customs Court.

1. **CRIMINAL PROSECUTION**

Criminal prosecution is generally reserved for the more serious offences. The Customs Administration does not take charge of any criminal prosecution actions.

If the investigation is conducted with a view to bringing criminal charges against a person, the Customs Officer will liaise with the appropriate Public Prosecutor in the appropriate Court, to determine who will take charge of the primary offence.

The Customs Brigade is left to take charge of the secondary offence – the Customs offence element – which, for example, might be the importation of prohibited goods (Article 421 of the Customs Act).

Examples of the appropriate Public Prosecutor in the appropriate Court that the Customs Officer must contact are as follows:

* Drugs: the Appeal Public Prosecutor. The criminal offence (the primary offence) will be sent to the Central Office for Drug Control, Internal Security Forces
* Arms and ammunition: the Military Public Prosecutor
* A military person involved in smuggling: the Military Public Prosecutor
* Fraudulent medicines (these pose a considerable public health threat as they can fail to cure, may harm and even kill patients): the Appeal Public Prosecutor
* Out of date (expired) food products: the Appeal Public Prosecutor.
* Intellectual Property Rights: the Appeal Public Prosecutor.

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