

CPD 1937/68

MEMORANDUM FOR CABINET PRESENTED BY  
THE MINISTER OF FINANCE AND CUSTOMS

Right of Appeal in Customs Matters

On the 6th June, 1967, the Customs Co-operation Council of Brussels adopted a Recommendation inviting members to grant the Right of Appeal in Customs matters.

The Recommendation enjoins member states to grant the Right of Appeal to persons aggrieved by a decision, act or omission of the Customs authorities, and to provide for appeals to be determined by a competent authority. This authority may be either a Customs authority or an arbitral, administrative or judicial authority independent of the Customs Administration.

The Recommendation also provides that the goods which become the subject of the Appeal before the competent authority as a result of a dispute arising during their clearance should be released subject to the following conditions:-

- a) that release would not prejudice consideration of the appeal;
- b) that there is no suspicion of fraud;
- c) that the goods are neither considered to be prohibited goods, nor subject to import or export prohibitions precluding their release;
- and
- d) that an amount adequate to cover the duties and taxes as assessed by the Customs authorities is paid or security for that amount is provided.

As already specified above, the Recommendation enjoins member states to provide for appeals to be determined by a competent authority, judicial authority being one of the listed alternatives. According to our law any person who feels aggrieved by a decision of the Comptroller of Customs may challenge such decision before our courts of civil jurisdiction and has also a right of appeal from the decision of the court of instance to Her Majesty's Court of Appeal.

There is therefore no need for any amendment to the Import Duties Act.

The Crown Advocate General has been consulted on the matter under reference and has advised that the Malta Government may adhere to the Recommendation in question.

Hon. Ministers are requested to signify their approval of Malta's acceptance of this Recommendation.

10 OCT 1967