CHAPTER 6

Crimes of Customs Law Violation

- Promulgated on April 24, 2023. Effective on July 1, 2023.

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Undeclared Imports, Etc. (Customs Act, Article 269, paragraph 2), Undeclared Exports, Etc. (Customs Act, Article 269, paragraph 3), Filing a False Customs Value and/or a False Tariff Rate, Etc. (Customs Act, Article 270, paragraph 1, subparagraph 1), Improper Imports (Customs Act, Article 270, paragraph 2), Improper Exports (Customs Act, Article 270, paragraph 3), Receiving the Reduction of Customs Duties by Illegal Means, Etc. (Customs Act, Article 270, paragraph 4), Illegal Customs Refunds (Customs Act, Article 270, paragraph 5), Acquiring Smuggled Goods, Etc. (Customs Act, Article 274, paragraph 1), Aggravated Undeclared Imports, Etc. (Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 2), Aggravated Undeclared Export, Etc. (Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 3), Aggravated Customs Duty Evasion (Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 4), Aggravated Improper Imports (Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 5), Collective and Habitual Customs Offender (Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8).

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 CUSTOMS DUTY EVASION

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 50 million	- 10 mos.	6 mos. - 1 yr. 2 mos.	1 yr. - 2 yrs.
2	50 million or more, less than 200 million	1 yr. 6 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.	3 yrs. - 5 yrs.
3	200 million or more	2 yrs. 6 mos. - 5 yrs.	4 yrs. - 7 yrs.	6 yrs. - 10 yrs.
4	Collective offender and Habitual offender	5 yrs. - 8 yrs.	6 yrs. - 10 yrs.	9 yrs. - 13 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Cases where profits gained from the offense are not substantial • Dolus Eventualis[1)] • Sum of evaded tax etc. is less than 50 million won (Type 4)	• Highly egregious conducts or methods • Instigating the subordinate to commit the offense • Sum of evaded tax etc. is 200 million won or more (Type 4)
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime • Has paid, or will evidently pay a substantial amount of the evaded tax	• Same-offense recidivism within the statutory recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer

1) *Dolus eventualis* (미필적고의/未必的故意) is a Latin term meaning "a form of criminal intent where

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Extenuating motives for the offense • Portion of evaded tax is collected or is expected to be collected	• Concealing property to avoid compulsory collection • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer
	Offender/ Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2 UNDECLARED IMPORTS ETC.

1. UNDECLARED IMPORTS/IMPORTED GOODS WHICH ARE DIFFERENT FROM IMPORT DECLARATION

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 200 million	4 mos. ~ 1 yr.	8 mos. ~ 1 yr. 6 mos.	1 yr. 2 mos. ~ 3 yrs. 6 mos.
2	200 million or more, less than 500 million	1 yr. 6 mos. ~ 2 yrs. 6 mos.	2 yrs. ~ 4 yrs.	3 yrs. ~ 5 yrs.
3	500 million or more	2 yrs. 6 mos. ~ 5 yrs.	4 yrs. ~ 7 yrs.	6 yrs. ~ 10 yrs.
4	Collective Offender and Habitual offender	5 yrs. ~ 8 yrs.	6 yrs. ~ 10 yrs.	9 yrs. ~ 13 yrs.

(unit: KRW)

the offender foresees the possibility that their conduct may cause a prohibited result, but nevertheless proceeds with the conduct, accepting or being reconciled to that risk." This term is used herein as it most closely corresponds to the concept under Korean law. The same shall apply hereinafter.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Non-distribution of imported goods • Minor profits gained from the offense • Dolus Eventualis • Sum of the prime cost of the relevant goods is less than 200 million won (Type 4)	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Instigating the subordinate to commit the offense • Sum of the prime cost of the relevant goods is 500 million won or more (Type 4)
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer
General Sentencing Factor	Conduct	• Extenuating motives for the offense • When undeclared imported goods are exempt from customs duty	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2. IMPROPER IMPORTS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 200 million	- 10 mos.	6 mos. - 1 yr. 2 mos.	1 yr. - 2 yrs.
2	200 million or more, less than 500 million	6 mos. - 1 yr. 4 mos.	10 mos. - 2 yrs.	1 yr. 6 mos. - 4 yrs.
3	500 million or more	1 yr. 6 mos. - 2 yrs. 6 mos.	2 yrs. - 4 yrs.	3 yrs. - 6 yrs.
4	Collective Offender and Habitual offender	5 yrs. - 8 yrs.	6 yrs. - 10 yrs.	9 yrs. - 13 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Non-distribution of imported goods • Minor profits gained from the offense • Dolus Eventualis • Sum of the prime cost of the relevant goods is less than 200 million won (Type 4)	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Instigating the subordinate to commit the offense • Sum of the prime cost of the relevant goods is 500 million won or more (Type 4)
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer
General Sentencing Factor	Conduct	• Extenuating motives for the offense	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation with the investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

3 UNDECLARED EXPORTS ETC.

1. UNDECLARED EXPORTS · RETURNS/EXPORTED AND RETURNED GOODS WHICH ARE DIFFERENT FROM EXPORT DECLARATION

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Less than 500 million	– 10 mos.	6 mos. – 1 yr. 2 mos.	1 yr. – 2 yrs.
2	500 million or more	6 mos. – 1 yr. 4 mos.	10 mos. – 2 yrs.	1 yr. 6 mos. – 5 yrs.
3	Collective Offender and Habitual offender	5 yrs. – 8 yrs.	6 yrs. – 10 yrs.	9 yrs. – 13 yrs.

(unit: KRW)

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Non-distribution of exported goods • Minor profits gained from the offense • Dolus Eventualis • Sum of the prime cost of the relevant goods is less than 200 million won (Type 3)	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Instigating the subordinate to commit the offense • Sum of the prime cost of the relevant goods is 500 million won or more (Type 3)
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer
General Sentencing Factor	Conduct	• Extenuating motives for the offense	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation in investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

2. IMPROPER EXPORTS

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Improper Exports	- 6 mos.	4 mos. - 8 mos.	6 mos. - 1 yr.
2	Collective Offender and Habitual offender	5 yrs. - 8 yrs.	6 yrs. - 10 yrs.	9 yrs. - 13 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Non-distribution of exported goods • Minor profits gained from the offense • Dolus Eventualis • Sum of the prime cost of the relevant goods is less than 200 million won (Type 2)	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Instigating the subordinate to commit the offense • Prime cost of the relevant goods is 500 million won or more (Type 1) • Sum of the prime cost of the relevant goods is 500 million won or more (Type 2)
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Repeated offenses of the same type within recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Extenuating motives for the offense	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation in investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

4 ACQUIRING SMUGGLED GOODS, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Acquiring Smuggled Goods, Etc.	~ 10 mos.	6 mos. ~ 1 yr. 2 mos.	1 yr. ~ 2 yrs. 6 mos.
2	Collective Offender and Habitual offender	5 yrs. ~ 8 yrs.	6 yrs. ~ 10 yrs.	9 yrs. ~ 13 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Cases where there are special extenuating circumstances that mitigate the offender's involvement in the offense • Non-distribution of smuggled goods • Minor profits gained from the offense • Cases of minor-scale smuggled goods, acquisition etc. • Dolus Eventualis	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Large scale of goods acquired • Actively provoking the person who committed the crime • Instigating the subordinate to commit the offense
	Offender /Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime	• Same-offense recidivism within the statutory recidivism period • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer
General Sentencing Factor	Conduct	• Extenuating motives for the offense	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer
	Offender /Etc.	• Sincere remorse • No prior criminal convictions • Offender's cooperation in investigation	• Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence)

DEFINITION OF OFFENSES

1 CUSTOMS DUTY EVASION

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Filing a False Customs Value and/or a False Tariff Rate, or Customs Duty Undeclared	Customs Act, Article 270, paragraph 1 subparagraph 1
Receiving the Reduction of Customs Duties by Illegal Means or Evades the Collection of the Customs Duties Reduced or Exempted	Customs Act, Article 270, paragraph 4
Customs Duty Returned Illegally	Customs Act, Article 270, paragraph 5
Cases where the amount of customs duties evaded is 50 million won or more, but less than 200 million won	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 4, subparagraph 2, Customs Act, Article 270, paragraph 1 subparagraph 1, paragraph 4, paragraph 5
Cases where the amount of customs duties evaded is 200 million won or more	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 4, subparagraph 1, Customs Act, Article 270, paragraph 1 subparagraph 1, paragraph 4, paragraph 5
Violation of Customs Act, Article 270 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8, Customs Act, Article 270

(unit: KRW)

(1) Type 1: This indicates cases in which the amount of duties evaded, avoided, or illegally reduced or refunded (hereinafter referred to as 'Evaded Duties, Etc.') is less than 50 million KRW.

(2) Type 2: This indicates cases in which the Evaded Duties, Etc. is 50 million KRW or more, but less than 200 million KRW.

(3) Type 3: This indicates cases in which the Evaded Duties, Etc. is 200 million KRW or more.

(4) Type 4: Regardless of the amount of Evaded Duties, Etc., this indicates cases in which customs duty evasion crimes are committed by forming an organization, a collective group, or as a habitual offense.

2 UNDECLARED IMPORTS, ETC.

1. UNDECLARED IMPORTS/IMPORTED GOODS WHICH ARE DIFFERENT FROM IMPORT DECLARATION

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Undeclared Imports/Imported Goods Which Are Different From Import Declaration	Customs Act, Article 269, paragraph 2 subparagraph 1/subparagraph 2
Prime cost of the relevant goods is 200 million or more, but less than 500 million	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 2, subparagraph 2, Customs Act, Article 269, paragraph 2
Prime cost of the relevant goods is 500 million or more	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 2, subparagraph 1, Customs Act, Article 269, paragraph 2
Violation of Customs Act, Article 269 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8, Customs Act, Article 269

(unit: KRW)

(1) Type 1: This indicates cases in which the prime cost of the imported goods is less than 200 million KRW.

(2) Type 2: This indicates cases in which the prime cost of the imported goods is 200 million KRW or more, but less than 500 million KRW.

(3) Type 3: This indicates cases in which the prime cost of the imported goods is 500 million KRW or more.

(4) Type 4: Regardless of the prime cost of the imported goods, this indicates cases in which undeclared imports crimes are committed by forming an organization, a collective group, or as a habitual offense.

2. IMPROPER IMPORTS

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Improper Imports	Customs Act, Article 270, paragraph 2
Prime cost of the relevant goods is 200 million or more, but less than 500 million	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 5, subparagraph 2, Customs Act, Article 270, paragraph 2
Prime cost of the relevant goods is 500 million or more	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 5, subparagraph 1, Customs Act, Article 270, paragraph 2
Violation of Customs Act, Article 270 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8 Customs Act, Article 270

(unit: KRW)

(1) Type 1: This indicates cases in which the prime cost of the imported goods is less than 200 million KRW.

(2) Type 2: This indicates cases in which the prime cost of the imported goods is 200 million KRW or more, but less than 500 million KRW.

(3) Type 3: This indicates cases in which the prime cost of the imported goods is 500 million KRW or more.

(4) Type 4: Regardless of the prime cost of the imported goods, this indicates cases in which undeclared imports crimes are committed by forming an organization, a collective group, or as a habitual offense.

3 UNDECLARED EXPORTS, ETC.

1. UNDECLARED EXPORT · RETURN OF GOODS/EXPORT AND RETURN OF GOODS DIFFERENT FROM EXPORT DECLARATION

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law.

ELEMENTS OF OFFENSE	APPLICABLE LAW
Undeclared Export And Return Of Goods/Export And Return Of Goods Different From Export Declaration	Customs Act, Article 269, paragraph 3, subparagraph 1/subparagraph 2
Prime cost of the relevant goods is 500 million or more	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 3, Customs Act, Article 269, paragraph 3
Violation of Customs Act, Article 269 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8, Customs Act, Article 269

(unit: KRW)

(1) Type 1: This indicates cases in which the prime cost of the exported goods is less than 500 million KRW.
(2) Type 2: This indicates cases in which the prime cost of the exported goods is 500 million KRW or more.
(3) Type 3: Regardless of the prime cost of the exported goods, this indicates cases in which undeclared exports crimes are committed by forming an organization, a collective group, or as a habitual offense.

2. IMPROPER EXPORTS

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

(1) Type 1 (Improper Exports)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Improper Exports	Customs Act, Article 270, paragraph 3

(2) Type 2 (Collective Offender · Habitual offender)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Violation of Customs Act, Article 270 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8, Customs Act, Article 270

4 ACQUIRING SMUGGLED GOODS, ETC.

- This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

(1) Type 1 (Acquiring Smuggled Goods, Etc.)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Offense of Smuggling (Customs Act, Article 269) or Acquisition, transfer, transportation, storage, mediation, and appraisal of illegal import/export goods (Customs Act, Article 270 paragraph 1 subparagraph 3, paragraph 2, paragraph 3)	Customs Act, Article 274, paragraph 1

(2) Type 2 (Collective Offender · Habitual offender)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Violation of Customs Act, Article 274 is committed by forming an organization, a collective group, or as a habitual offense.	Act on the Aggravated Punishment of Specific Crimes, Article 6, paragraph 8, Customs Act, Article 274

DEFINITION OF SENTENCING FACTORS

1 CUSTOMS DUTY EVASION[2)]

1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - The offender did not plan, direct, or had leading role in the commission of the offense, but had a limited role in the offense.
  - Other cases with comparable factors.

2. MINOR PROFITS GAINED FROM THE OFFENSE

- This applies where one or more of the following are present:
  - The profit gained from the tax evasion did not benefit the offender personally, or where there is no or minimal profit obtained through the offense.
  - Other cases with comparable factors

3. HAS PAID, OR WILL EVIDENTLY PAY, A SUBSTANTIAL AMOUNT OF THE EVADED TAX

- This applies where one or more of the following are present:
  - When the offender has voluntarily paid approximately 2/3 or more of the evaded tax (including appropriation under Article 46, Payment of Customs Refunds, of the Customs Act).
  - When the offender will voluntarily pay approximately 2/3 or more of the evaded tax in the future by providing collateral, promising installment payments, or in other means.
  - Other cases with comparable factors.

2) Sentencing factors with the same designation that apply to Undeclared Imports, Undeclared Exports, Acquiring Smuggled Goods, Etc., have the same definition unless defined otherwise.

4. HIGHLY EGREGIOUS CONDUCTS OR METHODS

- This applies where one or more of the following are present:
  - The means and methods of the offense were carefully planned in advance.
  - The offense was committed by using highly sophisticated or intelligent schemes.
  - The offender created and used a new, previously unknown professional method to commit the offense.
  - Where the offense was committed in an organized manner by multiple persons with divided roles, or professional equipment or technology was used in the offense, and the offender played a leading role in planning or directing the execution of the offense, or assumed a key role
  - There was meticulous preparing of concealment of the evidence
  - Other cases with comparable factors

5. EXTENUATING CIRCUMSTANCES FOR OFFENDER'S MOTIVE FOR COMMITTING OFFENSE

- This applies where one or more of the following are present:
  - Cases where the offense was committed due to a business partner using their standing in business relations as an advantage to unilaterally reduce unit prices or determine excessively low unit prices
  - Cases where the offense was committed in dire economic circumstances such as financial distress or cash flow crisis
  - Other cases with comparable factors

6. PORTION OF EVADED TAX IS COLLECTED OR IS EXPECTED TO BE COLLECTED

- This refers to cases in which disposition for arrears was executed on the offender's property so that approximately 1/3 or more of the evaded tax was collected, or expected to be collected (including appropriation under Article 46, Payment of Customs Refunds, of the Customs Act).

7. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

8. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the offender has never committed a crime even once prior to the relevant offense. However, this excludes cases where crimes were committed repeatedly over a prolonged period.

9. OFFENDER'S COOPERATION IN INVESTIGATION

- This refers to cases where, although the offender's conduct does not amount to a "Voluntary Full Disclosure of Crime," the offender truthfully stated the facts of the offender's own offense and related subsequent offenses, thereby contributing to the investigation, including the punishment of those involved and the prevention of further offenses.

10. DELIBERATE CONCEALMENT OF PROFITS GAINED FROM THE OFFENSE TO AVOID APPROPRIATION

- This refers to cases involving deliberate concealment of profits that hinders the collection of evaded taxes. However, this excludes cases that constitute separate crimes, such as violation of Article 275-2 of the Customs Act.

2 UNDECLARED IMPORTS, ETC.

1. NON-DISTRIBUTION OF IMPORTED GOODS

- This refers to cases in which one or more of the following factors apply. However, when this factor is applied, sentencing factor for 'Minor profits gained from the offense' shall not be applied cumulatively.
  - Cases where most of the imported goods remain under the control of the offender (including co-offenders) without possession or ownership being transferred to third parties.
  - Cases where most of the imported goods have been disposed.
  - Cases where some of the imported goods were distributed but the distributed goods were voluntarily retrieved through considerable cost and effort
  - Other cases equivalent to the above

2. MINOR PROFITS GAINED FROM THE OFFENSE

- This applies where one or more of the following are present:
  - Cases where there are no or minimal profits actually obtained through the offense, such as when benefits from undeclared imports do not accrue to the individual offender.
  - Other cases with comparable factors

3. SERIOUS HARM RESULTING FROM THE OFFENSE OR OFFENSE INVOLVES A HIGH RISK

- This refers to cases in which one or more of the following factors apply. However, this factor shall not be applied when a separate offense is established and Guidelines On Multiple Offenses are applied.
  - Cases where direct harm to the life and health of the people has occurred or there is a very high risk of occurrence
  - Cases where there is a very high risk of significantly disrupting or harming national security, economic order, or social and cultural order
  - Cases where serious harm has been caused or there is a very high risk of causing serious harm to competing domestic industries
  - Other cases with comparable factors.

4. EXTENUATING CIRCUMSTANCES FOR OFFENDER'S MOTIVE FOR COMMITTING OFFENSE

- This applies where one or more of the following are present:
  - Cases where the offense was committed due to demands from business partners in a superior position for undocumented transactions
  - Cases where the offense was committed to comply with delivery deadlines with business partners and minimize disadvantages from violations thereof, in situations where the planned import schedule was disrupted due to unforeseeable disasters or calamities
  - Cases where the offense was committed in situations where normal procurement of raw materials was impossible, when securing the minimum volume necessary for factory operations due to circumstances such as insufficient funds
  - Other cases with comparable factors.

5. UNDECLARED IMPORTED GOODS ARE EXEMPT FROM CUSTOMS DUTY

- 'Goods exempt from customs duty' means goods that had a customs duty rate of 0% or could have been granted customs duty exemption at the time of import (this does not apply to goods prohibited from import under the Customs Act and other statutes).

6. DELIBERATE CONCEALMENT OF PROFITS GAINED FROM THE OFFENSE

- This applies where one or more of the following are present:
  - Cases where profits from the offense were deliberately concealed to avoid execution of fines or confiscation and collection orders.
  - Other cases with comparable factors.

3 UNDECLARED EXPORTS, ETC.

1. NON-DISTRIBUTION OF EXPORTED GOODS

- This refers to cases in which one or more of the following factors apply. However, when this factor is applied, sentencing factor for 'Minor profits gained from the offense' shall not be applied cumulatively.
  - Cases where most of the exported goods have been disposed
  - Cases where some of the exported goods were distributed but the distributed goods were voluntarily retrieved through considerable cost and effort
  - Other cases with comparable factors.

2. MINOR PROFITS GAINED FROM THE OFFENSE

- This applies where one or more of the following are present:
  - Cases where there are no or negligible profits actually obtained through the offense, such as when benefits from undeclared exports do not accrue to the individual actor
  - Cases where there are no or negligible profits from distribution due to no significant difference between the cost-to-market price ratio of exported goods and normally cleared goods
  - Other cases with comparable factors.

3. SERIOUS HARM RESULTING FROM THE OFFENSE OR OFFENSE INVOLVES A HIGH RISK

- This refers to cases in which one or more of the following factors apply. However, this factor shall not be applied when a separate offense is established and Guidelines On Multiple Offenses are applied.
  - Cases where direct harm to the life and health of the importing country's citizens has occurred or there is a very high risk of occurrence
  - Cases where there is a very high risk of significantly disrupting or harming the importing country's security, economic order, or social and cultural order
  - Cases where serious harm has been caused or there is a high risk of causing serious harm to competing industries in the importing country, or there is a very high risk of causing serious harm to Korean companies that have developed markets in the importing country
  - Cases where there is a very high risk of significantly undermining or harming Korea's national credibility, such as by drastically reducing Korea's export quotas in the importing country
  - Other cases with comparable factors.

4. EXTENUATING CIRCUMSTANCES FOR OFFENDER'S MOTIVE FOR COMMITTING OFFENSE

- This applies where one or more of the following are present:
  - Cases where the offense was committed due to demands from business partners in the importing country in a superior position for undocumented transaction
  - Cases where the offense was committed to comply with delivery deadlines with business partners in the importing country and minimize disadvantages from violations thereof, in situations where the planned export schedule was disrupted due to unforeseeable disasters or calamities
  - Other cases with comparable factors.

4 ACQUIRING SMUGGLED GOODS, ETC.

1. NON-DISTRIBUTION OF SMUGGLED GOODS

- This refers to cases in which one or more of the following factors apply. However, when this factor is applied, sentencing factor for 'Minor profits gained from the offense' shall not be applied cumulatively.
  - Cases where most of the smuggled goods remain under the control of the offender (including co-offenders) without possession or ownership being transferred to third parties
  - Cases where most of the smuggled goods have been disposed
  - Cases where some of the smuggled goods were distributed but the distributed goods were voluntarily retrieved through considerable cost and effort
  - Other cases with comparable factors

2. MINOR PROFITS GAINED FROM THE OFFENSE

- This applies where one or more of the following are present:
  - Cases where there are no or minimal profits actually obtained through the offense, such as when benefits from acquiring smuggled goods do not accrue to the individual offender
  - Cases where there are no or negligible profits from distribution due to small difference between the cost-to-market price ratio of smuggled goods and normally cleared goods
  - Other cases with comparable factors

3. MINOR-SCALE SMUGGLED GOODS, ACQUISITION ETC.

- For Type 1 offenses, this refers to cases where the value of smuggled goods is less than 30 million KRW (Prohibited Goods under Article 269, Paragraph 1 of the Customs Act) or where the prime cost of goods is less than 200 million KRW (Undeclared or Improper Goods under Article 269, Paragraphs 2 and 3, and Article 270, Paragraphs 2 and 3 of the Customs Act).
- For Type 2 offenses, this refers to cases where the total value of smuggled goods is less than 30 million KRW (Prohibited Goods under Article 269, Paragraph 1 of the Customs Act) or where the total prime cost of goods is less than 200 million

KRW (Undeclared or Improper Goods under Article 269, Paragraphs 2 and 3, and Article 270, Paragraphs 2 and 3 of the Customs Act).

4. SERIOUS HARM RESULTING FROM THE OFFENSE OR OFFENSE INVOLVES A HIGH RISK

- This refers to cases in which one or more of the following factors apply. However, this factor shall not be applied when a separate offense is established and Guidelines On Multiple Offenses are applied.
  - Cases where direct harm to the life and health of Korean citizens or importing country's citizens has occurred or there is a very high risk of occurrence
  - Cases where there is a very high risk of significantly disrupting or harming Korea's or the importing country's security, economic order, or social and cultural order
  - Cases where serious harm has been caused or there is a very high risk of causing serious harm to competing domestic industries or industries in the importing country, or Korean companies that have developed markets in the importing country
  - Cases where there is a very high risk of significantly undermining or harming Korea's national credibility such as by drastically reducing Korea's export quotas in the importing country
  - Other cases with comparable factors

5. LARGE-SCALE SMUGGLED GOODS, ACQUISITION ETC.

- For Type 1 offenses, this refers to cases where the value of smuggled goods is 100 million KRW or more (prohibited goods under Article 269, Paragraph 1 of the Customs Act) or where the prime cost of goods is 500 million KRW or more (undeclared or improper goods under Article 269, Paragraphs 2 and 3, and Article 270, Paragraphs 2 and 3 of the Customs Act).
- For Type 2 offenses, this refers to cases where the total value of smuggled goods is 100 million KRW or more (prohibited goods under Article 269, Paragraph 1 of the Customs Act) or where the total prime cost of goods is 500 million KRW or more (undeclared or improper goods under Article 269, Paragraphs 2 and 3, and Article 270, Paragraphs 2 and 3 of the Customs Act).

6. ACTIVELY PROVOKING THE PERSON WHO COMMITTED THE CRIME

- This refers to cases where the offender actively induced the offender by making the possibility of acquiring smuggled goods known in advance through methods such as advertising on the internet, distributing business cards, or proposing payment to lure the principal offender (Offenses of Prohibited Import/Export, Undeclared Import/Export, and Improper Import/Export under Articles 269 and 270 of the Customs Act). However, this factor shall not be applied when the separate crime of instigating the principal offender is established and the sentencing guidelines for that crime and/or Guidelines On Multiple Offense are applied.

7. EXTENUATING CIRCUMSTANCES FOR OFFENDER'S MOTIVE FOR COMMITTING OFFENSE

- This applies where one or more of the following are present:
  - Case where the offense was committed due to demands from business partners in a superior position for acquiring, transporting, or storing smuggled goods
  - Cases where the offender has a special personal relationship with the principal offender (family relationships as defined in Article 328, Paragraph 1 of the Criminal Act, family relationships other than those in Article 328, Paragraph 1 of the Criminal Act, *de facto* marriage relationships, etc.) and was compelled to commit the offense of acquiring smuggled goods due to such personal relationship making it difficult to refuse the principal offender's request
  - Other cases with comparable factors

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE SCOPE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE SAME-OFFENSES

- For concurrent same-offense among Customs Duty Evasion offenses, Undeclared Import/Import of Goods Different from Declaration offenses, Improper Import offenses, and Undeclared Export/Return Export/Export of Goods Different from Declaration offenses, the following method of aggravation for multiple offenses shall apply.
  - ❶ The Type of offense shall be determined based on the aggregate amount of evaded tax or prime cost of goods. Within that Type, the sentencing range

shall be selected by the judges taking into account all relevant circumstances.

❷ (1) Where the aggregation of criminal gain results in an offense Type one level higher than that of the most severe single offense among offenses of the same Type, the lower end of the sentencing range shall be reduced by 1/3. (2) Where the aggregation of criminal gain results in an offense Type two levels or more higher than that of the most severe single offense, the lower end of the sentencing range shall be reduced by 1/2. However, the reduced lower end of the sentencing range shall not fall below the lower end of the sentencing range of the offense Type applicable to the most severe single offense.

- For concurrent offenses between Customs Duty Evasion offenses, Undeclared Import/Import of Goods Different from Declaration offenses, Improper Import offenses, and Undeclared Export/Return Export/Export of Goods Different from Declaration offenses, Improper Export offenses, and Acquisition of Smuggled Goods offenses, the following methods of 'Determining the Sentencing Range for the Concurrent Multiple Different-Offense' shall apply.

4 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE DIFFERENT-OFFENSES

- Except for concurrent different-offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply.

❶ The sentencing range for multiple offenses involving two offenses shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest upper end of the sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest upper end of the sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

- However, where the concurrent multiple offenses include same-offense concurrences among Customs Duty Evasion offenses, among Undeclared Import/Import of Goods Different from Declaration offenses, among Improper Import offenses, and among Undeclared Export/Return, among Export/Return of Goods Different from Declaration offenses, the sentencing range shall first be determined in accordance with 'Determining the Sentencing Range for Concurrent Same-Offenses', and the aggravation method for Different-Offense set out above shall then be applied to the sentencing range determined.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

1 CUSTOMS DUTY EVASION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Highly egregious conducts or methods • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Cases with special extenuating circumstances that mitigate the offender's involvement • Minor profits gained from the offense • Dolus Eventualis • Has paid, or will evidently pay a substantial amount of the evaded tax • Offender stopped or troubled the performance of the crime by the co-offender • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime • No prior criminal convictions
General Circumstances	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer • Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Absence of sincere remorse • Prior convictions or summary disposition for same-offenses, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties	• Extenuating motives for the offense • Portion of the tax evaded is collected or is expected to be collected • Offender's cooperation in investigation • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Stable social/family ties • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on offender's family members

2 UNDECLARED IMPORTS, ETC.

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Cases with special extenuating circumstances that mitigate the offender's involvement • Non-distribution of imported goods • Minor profits gained from the offense • Dolus Eventualis • Offender stopped or troubled the performance of the crime by the co-offender • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime • No prior criminal convictions
General Circumstances	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer • Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Absence of sincere remorse • Prior convictions or summary disposition for same-offenses, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties	• Extenuating motives for the offense • Offender's cooperation in investigation • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Stable social/family ties • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

3 UNDECLARED EXPORTS ETC.

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Cases where there are special circumstances that extenuate the offender's involvement in the offense • Non-distribution of exported goods • Minor profits gained from the offense • Dolus Eventualis • Offender stopped or troubled the performance of the crime by the co-offender • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime • No prior criminal convictions
General Circumstances	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer • Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Absence of sincere remorse • Prior convictions or summary disposition for same-offenses, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties	• Extenuating motives for the offense • Offender's cooperation in investigation • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Stable social/family ties • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

4 ACQUIRING SMUGGLED GOODS ETC.

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Highly egregious conducts or methods • Serious harm resulting from the offense or offense involves a high risk • Customs violation instigated by a Licensed Customs Broker or offense committed by a customs officer • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Cases where there are special circumstances that extenuate the offender's involvement in the offense • Non-distribution of Smuggled goods • Minor profits gained from the offense • Dolus Eventualis • Offender stopped or troubled the performance of the crime by the co-offender • Voluntary surrender to investigative authorities, internal whistle-blowing, or voluntary full-disclosure of organized crime • No prior criminal convictions
General Circumstances	• Deliberate concealment of profits gained from the offense • Continued offense notwithstanding the ongoing customs investigation or examination by customs officers • Commission of crime through collusion with customs officer • Post-offense evidence tampering or attempt to conceal or destroy evidence, or obstructing customs examination. • Absence of sincere remorse • Prior convictions or summary disposition for same-offenses, or two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties	• Extenuating motives for the offense • Offender's cooperation in investigation • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • Stable social/family ties • The offender's physical condition is severely impaired • Cases where detaining the offender would impose excessive hardship on dependent family members

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.