

MINISTERIAL DIPLOMA 99/2003
of 13th August 2003.

Regulation of Customs Regime for Added Value (Transformation) Industry

In accordance with No. 20 of Table V of the General Rules for Customs Release approved in Decree 30/2002 of 2nd December, as well as article 2 of the same decree the Ministers of Plan & Finance and of Industry & Commerce agree the following:-

1. The following regulation is approved
2. An office for the support and implementation of the same is created within the National Directorate of Industry (DNI) comprising technicians from both that national directorate and the General Directorate of Customs
3. The instructions necessary to ensure the implementation of this regulation will be passed by either the National or General Directorate as relevant
4. This regulation comes into force thirty days after its' publication

Chapter 1
General

Article 1
Definitions

- Beneficiary:- Legal entity (either single or collective) authorized to receive fiscal benefits
- Fiscal Benefit:- Exemption from payment of Customs duties on imported materials
- Technical Production Coefficient:- The relationship between the quantities or values of materials imported and incorporated, and the final product in which they are included
- Customs Control:- The series of measures used by Customs authorities
- Duties:- Customs duties incurred on the value of imported or exported goods
- DGA:- General Directorate of Customs
- DNI:- National Directorate of Industry
- DRA:- Customs Regime Department
- Customs Regime for Value Added (Transformation) Industry:- Process of attributing duty exemptions for the items imported for value added production (*Industria Transformadora is hereafter referred to as Value Added Industry*)
- TSA:- Customs Service Tax
- Value Added:- The difference between the value of production and the costs of the incorporated goods and services in accordance with annex II of this regulation

Article 2
Scope of Application

This regulation establishes the norms and procedures for the concession of fiscal benefits on the importation of materials destined for industrial production processes.

Article 3 Nature of Benefits

The benefits authorized in accordance with this regulation are the exemption from Customs duties on the importation of materials destined for the production process

Article 4 Conditions

1. The fiscal benefits are conceded to companies which demonstrate and guarantee to maintain annual invoicing of not less than 6,000,000,000Mt (six billion meticaís), and operate in the following sectors:
 - a) Agro-industry
 - b) Food industry
 - c) Textile and clothing industry
 - d) Metal/mechanical industry
 - e) Graphic industry
 - f) Chemical, plastics and rubber industries
2. The fiscal benefit regime will be conceded to companies where the value added to obtain the final product is not less than 20%
3. The value added percentage and other criteria for the concession of fiscal benefits as defined in this regulation can be altered by joint dispatch of the ministries of Plan & Finance and of Industry & Commerce.

Article 5 Requirements for Concession of Benefits

1. Duty concessions in this fiscal regime will only be conceded to:
 - a) Legal entities (single or collective) constituted in Mozambique
 - b) Those which have no outstanding debts with the National Treasury
2. In order to benefit the entity making the request must also:
 - a) Not be a bankrupt
 - b) Not have a criminal record for contraband or other prisonable offences
 - c) Not have a criminal record for receiving of stolen goods, falsification of documents etc.
3. Additional requirements are:
 - a) Having a secure location where the goods imported can be stored
 - b) Having the capacity to provide an office with telephone and fax for use during the inspection and verification work required for issuing of the authorization
 - c) Possession and maintenance of adequate control and register of movement of entry and exit of stock, organized accounting procedures and periodic inventories and registered reconciliations

Article 6 Request for Benefits

1. The concession of benefits following compliance with the legal requirements outlined above is also conditional on the submission of the form in annex I in duplicate accompanied by:
 - a) Alvara or trade licence issued by the relevant authority
 - b) Annual production plan
 - c) Value added form as per annex II of this regulation in accordance with the General Accounting Plan
 - d) Details of the technical coefficients which describe the production process, illustrating clearly the relationship between the imported materials and the final product
 - e) List of items to be imported for use in the production process for the year for which the concession is requested, with 2 copies of forms I4 (triplicate) I4A (triplicate as per annexes III and IV of this regulation)
 - f) In subsequent years production plans, forms and lists as per this article must be submitted to the DNI in the month of October
2. If it is necessary to increase the amounts of materials listed in the plan submitted, an additional list may be submitted on form I4A (triplicate) along with a justification
3. In order to calculate the value added as referred to in line c) of No.1 of this article exclude costs related to transport not associated to production and distribution, and deductible VAT.

Article 7 Submission of Requests

1. Requests for companies located in Maputo city and provinces in the South of the country must be submitted directly to the DNI
2. The requests from companies located in other provinces must be submitted to the Provincial Directorates of Industry and Commerce. From there the request must, in the initial phase, be passed within 3 working days to the DNI, until conditions are created for evaluation of requests at local level.

Article 8 Analysis and Approval of Requests

The DGA in conjunction with the Office for the Implementation of the Regime will decide on the concession of benefits filling in for this purpose form I5 (triplicate) which comprises a generic description of the authorized goods. This will be done within ten working days.

Article 9 Unapproved Requests

1. Requests which do not fulfill the requirements of articles 4,5, and 6 of this regulation will be rejected
2. The rejection of the first request does not preclude the applicant from resubmitting having fulfilled the necessary conditions

Article 10 Communication of Decision

1. Form I5 (Triplicate) with the concession will be sent to the company making the request within three working days
2. If the request is rejected the DNI will inform the company within the same period detailing the reasons for rejection

Article 11 Obligations

Those authorized to operate under this regime are required to:

- a) Obey and ensure compliance with the law, Customs regulations and any other applicable legislation
- b) Maintain security at their factory or warehouse
- c) Hold insurance cover against the loss of goods, fire, theft and also insurance covering duties owed to Customs
- d) Supply quarterly reports to DNI by the 10th of the month following the period to which the report applies, as per annex VI of this regulation
- e) Maintain organized accounts, and adequate registers for the type of business undertaken, allowing for the identification of volumes and generic designation of goods, as well as their location in stores, and production documents which illustrate the approved use of these goods
- f) Allow the DGA and DNI access to their computer system and data bases respectively when control and movement of stock is computerized
- g) Provide the technical and human resources judged necessary for the inspection and verification carried out by the DGA and DNI

Article 12 Guarantees

1. The special condition for the concession of benefits under this regime is the provision of a guarantee which covers the amount at risk. This may be made available in the following ways:
 - a) Cash deposit
 - b) Deposit of Treasury Title
 - c) Recognized bank guarantee
 - d) Term of Responsibility either in terms of an actual value or of property with value sufficient to cover the amount to be guaranteed

2. The guarantee must be valid for a period which, at the minimum covers the period of the concession given
3. The calculation of the amount of the guarantee, is a percentage of the duties owed, corresponding to the values of the imports planned for a period of three months according to the following conditions:
 - a) Equal to or less than 500,000US\$ or metical equivalent, a guarantee of 20%
 - b) Over 500,000US\$ or less than 1,000,000US\$, 10% in addition to the category above on the difference in value
 - c) When the value is over 1 million US\$ the guarantee is 3% in addition to the previous categories, on the difference in duty values
4. In any case should the beneficiary not comply with the conditions of the Customs law the Director General of Customs can, without prejudice to any legal action, increase the level of the guarantee to 100%
5. If the beneficiary does not use the imported goods for the approved purpose the guarantee will be actioned. If the guarantee is insufficient to cover the total responsibility of the beneficiary, without prejudice to any eventual prosecution, all goods in stock may be confiscated
6. In the case of No. 5 above the removal and transport of the goods will be for the cost of the beneficiary

Article 13 Registered Losses

1. Any losses occurring in the warehouses and factories covered by this regime are liable for the payment of duties
2. Exceptions not covered by No. 1 above are:
 - a) Losses of goods stored in bulk or in liquid form which are subject to variation in volume. In this case the Director General of Customs will issue instructions on the operationally permitted losses in accordance with internationally recognized norms
 - b) Losses resulting from the production process within the limits reflected in the forms submitted in the original request
3. The beneficiary may, on the basis of a technical justification, request the Director General of Customs request the consideration of special losses with reference to specific goods

Article 14 Alteration of Use of Imported Goods

The alteration of use of imported goods is covered by the rules established in article 22 of decree 30/2002 of 2nd December

Article 15 Penalties

1. Without prejudice to relevant criminal or civil prosecution, non-compliance with the present regulation will be dealt with in terms of the Customs legislation
2. Any serious infraction which involves any type of fraud will lead to the immediate cancellation of the concession without prejudice to the payment of duties on all goods in stock

Chapter II Customs Procedures

Article 16 Import Procedures

1. Each import to which these fiscal benefits apply is subject to the normal procedures for import of goods with Customs exemptions
2. Any alteration to this procedure may be introduced by the Director General of Customs
3. The beneficiary may acquire to goods required for the production process directly from a bonded warehouse, and these may also be covered by the same benefits

Article 17 Payment of TSA

In all cases of import duty exemption the beneficiary must pay TSA when importing goods

Article 18 Verification of Beneficiary's Factory/Site

1. The DGA and DNI are the authorities jointly responsible for verifying the correct use of the goods imported under this regime
2. Whenever necessary specialist technical assistance may be requested to assist in the verification process
3. This verification comprises an inspection of registers and accounts related to the production process, which must be made available for inspection at the production site
4. The inspection and verification report resulting from this process is signed by the relevant functionaries
5. If all requirements are complied with the inspection authorities will issue an exemption certificate valid for six months

Article 19 Inspections

1. In addition to the normal rights of Customs in terms of inspection of imported goods, Customs officials accompanied by DNI officials may:
 - a) enter and inspect any site where goods are transformed, processed or stored under the terms of the present regulation or other relevant legislation, within normal or convenient hours
 - b) Examine, count, weigh, divide or collect samples of goods destined for production contained within the warehouses or production locations
 - c) Inspect the production process
 - d) Inspect, copy, or remove any document, register or correspondence related to the goods stored or the production process. This right covers access to computer records, programmes and data which the beneficiary is obliged to maintain
 - e) In the case of removal of documents the inspectors must supply a receipt drawn up in duplicate which lists the items removed. This receipt must be signed by the inspectors and the beneficiary, the beneficiary retaining the duplicate copy
 - f) Request verbally or in writing information on any person, be they importer, or worker, or producer of the goods imported under the terms of this regulation, or anyone involved in the receipt, warehousing, processing or movement of goods. They may also request any documents related to such a person
2. Inspections will only be carried out in locations not covered by normal Customs control following a specific written authorization by the Director General of Customs and the National Director of Industry or their delegates
3. The Area Head of Customs for a given area will hold an outline for each industry within that area falling within this regime containing the following information:
 - a) Authorisation and supporting documentation
 - b) Dispatches for the entry of goods into the warehouse
 - c) Register of inspections carried out
 - d) Annual reports on the operation of the relevant installations
 - e) Register of any other occurrences related to the beneficiary

Article 20

Annual Revision and Cancellation of Benefits

1. For each authorization the DGA and DNI will annually analyse the compliance with this regulation based on the forms provided as per line d) of article 11
2. In the case of any significant failings the Director General of Customs and The National Director of Industry may jointly cancel the concession