

**COUNCIL OF MINISTERS**

**Decree nr. 34 / 2009**

**dated 6<sup>th</sup> July**

Having the need to revise the General Rules for Customs Clearance, in order to establish the procedures required for the implementation of the Customs Tariff, as approved by Law No. 6 / 2009, dated 10<sup>th</sup> March, the Council of Ministers, exercising the power conferred upon it by Article 3 of that Law, herein orders as follows:

Article 1. The General Rules for Customs Clearance of Commodities, as attached to this Decree, are herein approved and constitute an integral part thereof.

Article 2. The Authorized Economic Operator is introduced within the context of trade facilitation, and the Finance Minister is responsible for the approval of the respective Regulation.

Article 3. The Finance Minister is also responsible for the approval of procedures required to implement this Decree, and the establishment or modification of customs models and forms, as well as other documents required for customs clearance of commodities.

Article 4. Decree No. 30 / 2002, dated 2<sup>nd</sup> December, as well as all provisions contrary to the provisions of this Decree, are herein revoked.

Approved by the Council of Ministers, on 30<sup>th</sup> June 2009.

To be published.

The Prime-Minister, *Luísa Dias Diogo*.

## General Rules for Customs Clearance of Commodities

### CHAPTER I

#### General Provisions

#### ARTICLE 1

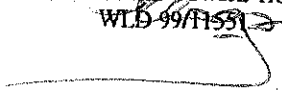
#### (Definitions)

For the purposes of these rules, the following expressions have the corresponding meaning:

- a) Customs control – means a set of measures adopted by customs authorities to ensure compliance with the legislation and regulations, whose enforcement is under its responsibility;
- b) Customs declaration – means the provision of information through which the declarant indicates the commodities and the customs regime applicable thereto, by means of completion of the Single Document (DU), the Abbreviated Single Document (DUA), the Simplified Single Document (DS), or in other manners provided by law;
- c) Customs Clearance - means a set of procedures by means of which the accuracy of the information contained in the customs declaration may be verified, in relation to the commodities and respective means of transport, to documents submitted and to specific legislation, for the purpose of customs clearance;
- d) Advanced Customs Clearance - means a set of procedures through which the accuracy of the information contained in the customs declaration is verified, in relation to the commodities, to documents submitted and to specific legislation, for the purpose of customs clearance, prior to the arrival of the commodities and means of transport into the customs territory;
- e) Customs duties and further charges – means the customs duties, taxes, and other levies that fall upon the value of the commodities to be imported or exported, and collectable by customs authorities;
- f) Customs debt - means the obligation to pay customs duties and further charges applicable to specific commodities subject to import or export, under the existing legislation;
- g) Single document (DU) – means the type of customs declaration for commodities entering or leaving the country, regardless of the customs regime applicable thereto;

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- h) Abbreviated Single Document (DUA) - means the abbreviated type of customs declaration for import and export of commodities transported in small amounts, and intended for commercial purposes. This declaration uses the same formula of the DU declaration, but with fewer mandatory boxes, and this is the type of declaration applicable at authorised borders;
- i) Simplified Single Document – means the customs declaration form to be used exclusively for import of commodities and separate baggage carried by travellers, in excess of their allowance, for personal and non-commercial use;
- j) Export – means the exit of commodities from the customs territory;
- k) Import – means the entry of commodities into the customs territory;
- l) Commodities - means all the goods that may be traded internationally, or that are likely to be imported or exported;
- m) Authorised Economic Operator - means a legal entity that, within the scope of its occupation and upon evaluation of compliance of the criteria established by the customs administration, is regarded as a reliable and trustworthy operator, and may qualify for additional benefits in the customs clearance procedures, in the course of its business as an importer or exporter;
- n) Customs regime – is a set of specific customs procedures applicable to commodities, means of transport and other commodities, by the customs authorities;
- o) Customs territory – means the entire geographic area where the Republic of Mozambique exercises its sovereignty;
- p) Traveller – means any individual who enters or leaves the national territory;
- q) Frequent traveller - means any individual who enters or leaves the national territory, and that travels more than once within a period of thirty days;
- r) Primary zone - means the area under continuous customs inspection and control, where commodities awaiting customs-approved treatment or that already have a customs-approved treatment, are under suspensive arrangement. This comprises:
  - i. the area of land and water, continuous or discontinuous, occupied by bonded ports;
  - ii. the area of land occupied by bonded airports;

- iii. bonded border posts and borders and surrounding areas;
  - iv. all areas authorized by the customs authorities to keep commodities that, having a customs-approved treatment, are under suspensive arrangement of payment of customs duties and other charges;
  - v. all areas where commodities await a customs-approved treatment.
- s) Secondary zone – consists in the areas adjacent to the primary areas, and includes the territorial waters and airspace.

#### ARTICLE 2

##### (Object)

The purpose of these general rules is the customs control and clearance of commodities and respective means of transport.

#### ARTICLE 3

##### (Scope of Application)

These general rules and other principles laid down herein shall be applicable throughout the national customs territory.

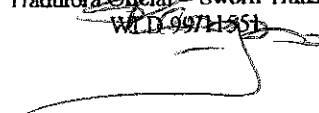
#### ARTICLE 4

##### (Entry and Exit Control)

1. The entry or exit of commodities, persons and vehicles, in respect to the customs territory, is subject to customs control, and must take place through ports, airports and customs offices duly empowered for that purpose, and in accordance with the standards established in this Decree, and additional and regulatory standards pertaining to this issue.
2. The control is performed in customs premises, including patios, warehouses, terminals and other places at primary and secondary zones with restricted access, intended for handling, storage and warehousing of commodities, whether imported or for export, which must remain under customs control, as well as sites for baggage inspection from or to be sent abroad.
3. The import or export operations, with non-commercial purposes, do not require prior licensing, except where special authorisation is required, without prejudice of other provisions.

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4. Except as expressly provided for by legislation, foreign trade operations from and to the country, are subject to customs declaration and clearance.

**ARTICLE 5**  
**(Customs Declaration)**

1. Unless otherwise established by law, the customs declaration is compulsory to authorise the entry or exit of commodities in respect of the customs territory.
2. The customs declaration is directly submitted to the Customs Authority by the importer or exporter, or by its legally qualified representative.

**ARTICLE 6**  
**(Types of Declaration)**

The types of customs declaration for commodities are as follows:

- a) Single Document (DU);
- b) Abbreviated Single Document (DUA);
- c) Simplified Single Document (DS);
- d) Others, as provided for by legislation.

**ARTICLE 7**  
**(Simplified System)**

1. The Simplified System for Import and Export constitutes the customs clearance of commodities in small amounts, for commercial purposes, using the same type of Single Document (DU) but with fewer mandatory boxes.
2. This system is applicable at authorised borders.
3. The division of commodities with the purpose of benefiting from the types of declaration established in paragraphs b) and c) of Article 6, constitutes an offense punishable under the customs legislation.

**ARTICLE 8**  
**(Assessment, Control and Inspection)**

1. Persons entering or leaving the customs territory are subject to customs control.

2. The means of transport that enter or exit the customs territory are subject to assessment, control and inspection by customs.
3. Private vehicles and means of transport of commodities shall comply with international traffic and transport regulations adopted in the country.
4. Loading or unloading of commodities or boarding or alighting of passengers shall be carried out with prior authorization from the competent customs authorities.

CHAPTER II  
Custom Charges

ARTICLE 9

(Charges Pertaining to Imports and Exports)

1. Customs debt derives from customs duties payable for the import and export of commodities, and it becomes taxable through accounting and assessment made by the customs authorities.
2. The charges imposed on the import and export of commodities are as follows:
  - a. Customs duties;
  - b. Anti-dumping duties;
  - c. Excise tax (ICE);
  - d. Surcharges;
  - e. Value Added Tax (VAT);
  - f. Customs Services levy;
  - g. Broadcast tax;
  - h. Overvaluation tax;
  - i. Other charges as approved by law.
3. On import and export customs clearance the following expressions have the corresponding meanings:
  - a) Zero rate: that applicable to commodities, established in the customs tariff as being 0%;
  - b) Exempt commodities: those benefiting from non-payment of customs duties and further levies, according to the legislation;
  - c) Tax-free commodities: those free of taxes, due to being out of field of incidence;
  - d) Commodities with reduced duties: those benefiting from a reduction of the amount of customs duties, as established by law.

4. The charges mentioned in this article, when due, are specified under the terms described in the Preliminary Instructions of the Tariff.

#### ARTICLE 10

##### (Tariff Rates and Other Import Duties)

The tariff rates and other charges applicable for imports are those included in the Customs Tariff, at the date of acceptance of the customs declaration by customs authorities.

#### ARTICLE 11

##### (Custom Services Levy)

The Custom Services Levy (TSA) in accordance with Law No. 6 / 2009, dated 100<sup>th</sup> March, is established in the amount of 2 500.00 Mt (two thousand and five hundred Meticaís), for each duty free import operation, and is charged in respect of all DUs and DUAs, payable to the Mozambican Tax Authorities.

#### ARTICLE 12

##### (Liability for Payment of the Customs Debt)

1. The importer, producer or exporter is responsible for the payment of customs duties and other charges when these become due.
2. Those who, not being the importer, the exporter or producer, assume the responsibility for the payment of customs debt, are also responsible for the payment of customs duties and other charges, by law.
3. The following individuals are jointly liable, together with the importer, producer or exporter:
  - a) The Customs Clearing Agents, when they practice acts that exceed their legal powers and duties, or when, by their negligence or malpractice, or that of their employees, cause losses to the treasury;
  - b) A tax authority official whose conduct is deemed intentional or negligent and has contributed to costs to the treasury;
  - c) Company managers, directors or officers, when the company does not carry out the payments;
  - d) Individuals whose commodities are seized when illegally entering the country, or whose commodities have been subject to misuse as regards to their intended purpose;



- e) Carriers or trustees, as provided by law;
- f) The successors.

**ARTICLE 13**  
**(Extinction of Customs Debt)**

1. The extinction of a customs debt that is legally constituted, may occur in the following manners:
  - a) Payment;
  - b) Compensation;
  - c) Transfer in lieu of payment;
  - d) Misunderstanding;
  - e) Extinction due to bankruptcy or insolvency, and
  - f) Prescription.
2. The exemption from payment of customs debt, as legally constituted, occurs only by a provision expressly contained in the legislation or court order, in that regard, which became final.
3. The extinction mentioned in paragraph c) of No. 1 shall comply with the conditions established for that purpose by the Finance Minister.

**ARTICLE 14**  
**(Suspension of Customs Debt)**

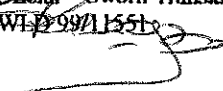
1. The granting of exemptions or special customs regime of a suspensive nature, suspends the enforceability of the customs debt, without extinguishing it.
2. The enforceability of the suspended debt is automatically reinstated if the conditions for granting it are not complied with.

**ARTICLE 15**  
**(Guarantees pertaining to the Customs Debt)**

1. The delivery of commodities under clearance may only be carried out upon payment of the customs debt, or submission of a guarantee to ensure its payment.

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2. The commodities and means of transport account for the rights appertaining thereto on the import and export.

**ARTICLE 16**

**(Refund of unauthorized charges)**

1. Customs debts charged incorrectly or in excess are refundable to those eligible thereto, in cash, check, other securities, automatically or by request of the concerned party, to be formalized in accordance with the law.
2. The deadline to apply for the refund of amounts paid incorrectly or in excess, expires in five years, counting from the date when the payment took place.

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