

**CUSTOMS TARIFF
NOMENCLATURE
CLASSIFICATION**

(HARMONIZED SYSTEM)

HARMONISED SYSTEM

DEVELOPMENT OF
INTERNATIONAL GOODS
NOMECLATURE

Objectives

At the end of the lesson, participants will be able to:

- o Define terms used in the Customs Nomenclature
- o Outline the evolution of Customs Nomenclature
- o State the reasons for tariff classification
- o Identify the uses of the Harmonized System
- o 5. Outline the structure of the Harmonised System
- o 6. Identify the concept of classification

DEFINITIONS

Nomenclature

Means a systematic naming, or enumerating of all goods found in international trade along with international rules and interpretations.

Customs tariff

Means, a systematic classification of goods entering the international trade for National interests together with rates of duties.

defn- cont

- **Classification:**

Means, a process of arriving at a particular heading or sub heading of a commodity entering the international trade.

- **International trade:**

Means, an exchange of goods between two or more countries.

HISTORICAL BACKGROUND OF TARIFF NOMENCLATURE

Reasons for tariff classification-;

- Systematic Classification of goods
- Uniform Classification of goods
- To have common Custom language
- To ensure simplification and certainty.

Important stages of hs nomenclature development

- The Harmonized System took more than 100 years to design
- Aim was to facilitate international trade
- Classification according to their alphabetical order
- In 1853-1922, -an international statistical nomenclature.
- Approved by an international convention and signed by 29 countries.

Important stages- cont

It consisted of 186 items, arranged in five groups namely;

- Live animals
- Food and beverages
- Raw and simply prepared materials
- Manufactured goods
- Gold and Silver

Important stages-cont

- In 1922, international bureau of statistics compiled commercial statistics
- Work used in the preparation of the harmonised commodity description and coding system.

Important stages cont

THE LEAGUE OF NATIONS

- League of Nations Conference 1927
- Draft Nomenclature produced 1931
- Geneva Nomenclature
- The nomenclature had 991 headings grouped in 86 chapters
- The chapters were arranged into 21 sections
- Revised in 1937
- Development stopped by world 2

Important stages cont

THE BRUSSELS CONVENTION 1950

- 1948 - European customs study group continued to work on Geneva nomenclature.
- 1950- Draft named Brussels Tariff Nomenclature (BTN)
- 1974- (BTN) renamed 'The Customs Cooperation Council Nomenclature' (CCCN).

Brussels convention cont

- CCCN Had 1241 headings
- Grouped into 99 Chapters
- Arranged in 21 Sections

Brussels convention cont

CCCN supported by:

- I. Explanatory Notes for official interpretation**
- II. Alphabetical index listing**
- III. A compendium of classification opinion**

Brussels convention cont

- **1983 CCCN was replaced by the Harmonized commodity description and coding system.**
- **1988 The Harmonized System entered into force.**

Uses of harmonized system

- Basis for customs tariff
- Collection of international trade statistics.
- Rule of origin
- Collection of government revenue
- Trade negotiations (e.g. the WTO schedule of tariff concessions)

Uses of harmonized system

- **Transport tariffs and statistics**
- **Monitoring prohibited and restricted goods**
- **As a vital element of core customs process areas of customs controls and procedures**
- **EAC CASE**

THE TARIFF STRUCTURE OF THE EAC-CU

The EAC-CU is composed of two regimes

- **The internal Tariffs**
- **The Common External Tariff (CET)**

TARIFF STRUCTURE cont

- Internal Tariff

Rate of tax of all goods tradable within the Community

Council decision- change of tariff rate.

Article 11

Goods to and from Uganda and Tanzania shall be duty free.

Goods from Uganda and Tanzania into Kenya shall be duty free.

Internal tariff cont

Goods from Kenya into Uganda and Tanzania

- CAT A

Eligible for immediate duty free treatment

- CAT B

Eligible for gradual tariff reduction

Common External tariff

Tax band

- 0% min rate- raw materials and capital goods
- 10% mid rate- intermediate product and spare parts
- 25% max rate- for finished products

Sensitive list

- Milk 60%
- Wheat grain 35%
- Wheat flour 60%
- Maize 50%
- Sugar 100%
- Worn clothing 0.75/kg 50 % or

Sensitive lists continue

Kanga, Kikoi and Kitenge

50%

Table and bed lining of cotton

Jute Bags

Primary cells

Self-testing questions

- **What is the purpose of internal Tariff?**
- **How were the Tariff lines 443 for Uganda and 880 for Tanzania arrived at?**

STRUCTURE OF HARMONIZED SYSTEM

• HS	21	Sections
	99	Chapters
	1,244	Headings
	5,224	Subheadings
Chapters: 77		reserved for future use
98&99		reserved for National Use

Structure cont

Arrangement of Harmonized system

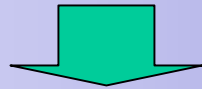
- ❑ Raw materials/ natural goods
- ❑ Un-worked products
- ❑ Semi-finished products
- ❑ Finished products

Structure conts

- Headings covering related products are grouped into chapters
-
- Chapters covering related products are grouped into Sections

Structure cont

21 Sections



99 Chapters

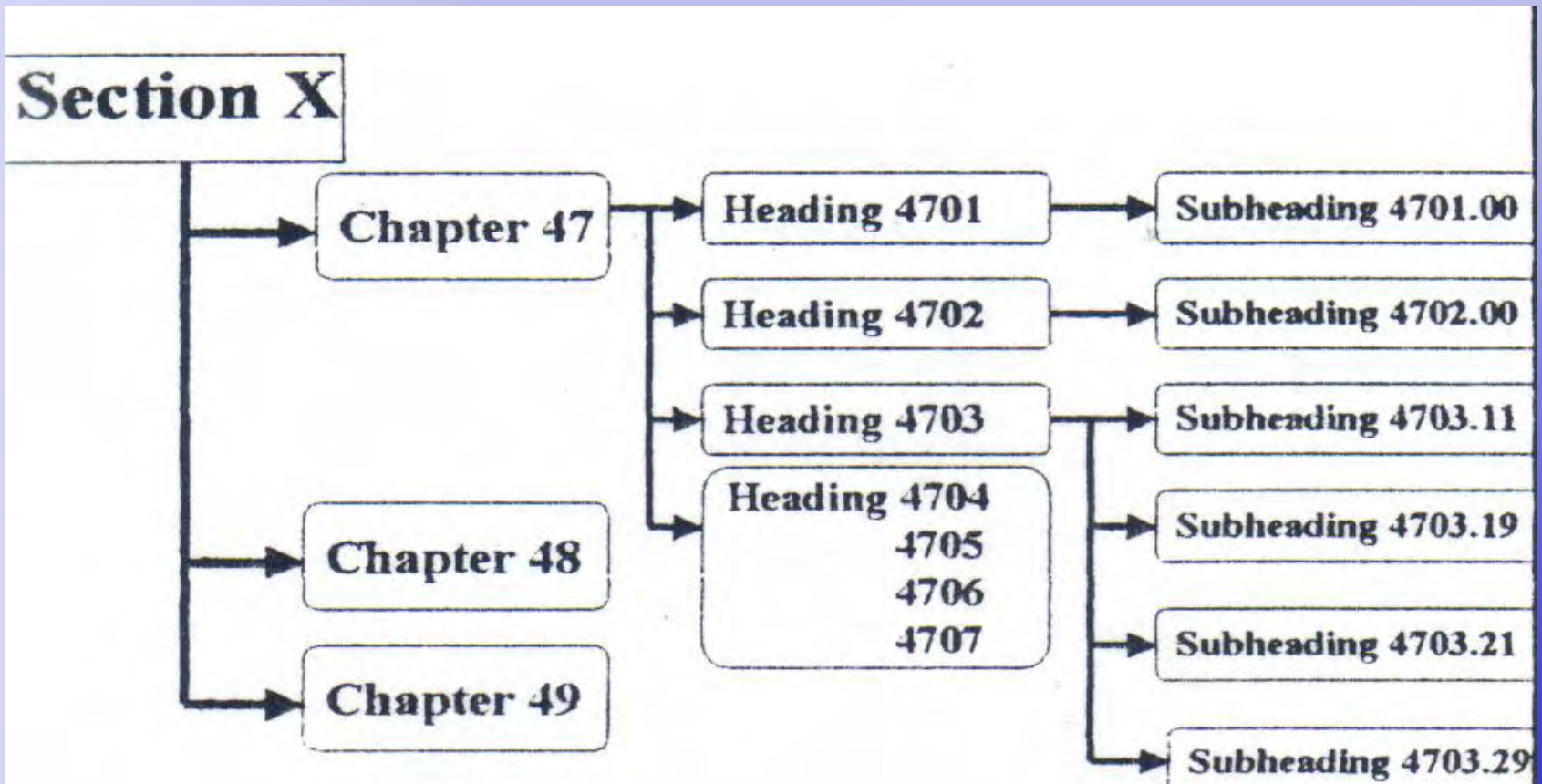


1244 headings



5224 Subheadings

Example section X



Structure cont

International – (HS)

CODE POSITIONS

Chapter

1 & 2

Heading

3 & 4

Subheading

5 & 6

Examples 1

- Live animals Section 1
- Animals hides/Skin V111
- Leather foot-ware X11

Examples cont

The same progression also exists within the headings

- Logs fall in heading 44.01
- Railway sleepers 44.06
- Wooden frame 44.14
- Statuettes 44.20

Principles of tariff classification

A commodity can be classified either by:

- Terms of heading
- Notes to sections, chapters or subheadings
- General interpretative rules

Principles cont

This can be further be expounded into five parts

- Lists of Description
- Legal Notes
- General Rules

Legal Force

Principles cont

- Explanatory notes

No legal force

- Classification Opinions

Classification of goods by terms of headings

Example: 1.2

- 02.01- Meat of bovine animal (fresh or chilled.)
- (02) indicate the chapter wherein the heading appears
- (01) indicate the position of the commodity in that chapter

Examples cont

A heading can be subdivided into one or two dash subheadings.

Illustration

- | | | |
|--------------------|------------|---------------------|
| • Section products | 1 | Live animals and |
| • Chapter | 01 | Live animals |
| • Heading mules | 0101 | Live horses, asses, |
| • Sub-Heading | 0101.11 | Horses |
| • Tariff item | 0101.11.00 | Pure-bred horses |

Example 1.3

- 0201.30- boneless meat of bone animal (fresh or chilled)

Item falls at a third one dash subheading of heading

02.01 represented by 5th digit

One dash (-) can be divided into two (- -) dash sub heading

Example cont

0301.93 (- -) Carp

- Means an item falls at the 3rd two- dash subheading of the 9th one dash subheading of heading 03.01
- For (EA) the HS (6-digit code) is subdivided into 8-digits to suit her interests

Example 1.5

- 2710.11.10 ----- Motor spirit regular
- 2710.19.22 ----- Illuminating kerosene (IK)

HS has a residual subheadings (other) identified by figure '9' or '8' in the 5th digit when figure 9 is set aside for 'PARTS'

Example 1.5

Chapter 7

Take the one- dash subheadings represented by figure 9

Chapter 84

Take the one-dash subheadings represented by figure e.g.

Heading 84.17, 84.14, 84.37, 84.38.

Examples cont

- **Heading 27.16 is the only optional heading in the harmonized system**
- **Each country can put any commodity code**
- **EA case its used for Electrical energy**

Classification by the use of section, chapter and subheading notes.

- These are legal notes which appear in front of most sections and chapters
- are known as section notes and chapter notes

Section X1 is the only section with 'subheading notes' which refer to the interpretation of subheadings

Functions of the notes

- Notes of exclusions
- Notes for definitions.
- Notes for classification provisions.
- Notes for limitation of scope
- Classification by using General Interpretative Rules. (GIR)

Examples

Notes of exclusions:

Note 1 Chapter 45

CORK AND ARTICLES OF CORK

This chapter does not cover

- a) Foot or parts of footwear of chapter 64
- b) Headgear or parts of headgear of Chapter 65
- c) Articles of Chapter 95 (for example, toys games, Sport requisites)

Examples cont

Notes for definitions

1. Note 1 to section 11 defines the term 'pallet' mentioned in (chapter 7,11 and 12) or Note5 to section XV1 define the term 'machine'

Example cont

- **Notes for classification provisions.**

These notes establish the classification of certain goods. For example Note 1 to section VII (which establishes the classification of certain goods put up in sets) or Note 4 to section XVII (which establishes the classification of “amphibious motor vehicles”)

Example cont

- **Notes for limitation of scope**

These notes limit the scope of goods to be classified in the section. For example Note 2 to section XVII (which limits the scope of the expressions “parts” and “parts and accessories”).

Examples cont

- **Classification by using General Interpretative Rules. (GIR)**

GIR are designed to ensure that a given product is always classified in the same heading and subheading with the exclusion of any other heading meriting consideration. In fact, they illustrate and provide step-by-step basis for classification of goods in the harmonized system.

GENERAL OBSERVATION

Goods in the HS are grouped in two broad categories

❑ **Goods which the earth is endowed with.**

e.g. Minerals, Animals, Plant Water etc.

❑ **Goods which are man-made**

e.g. TVs, Motor vehicles, the list is endless because of change in technologies

Observation cont

- Goods under chapters 1 to 83 are generally classified according to material of manufacture
- under chapter 84 to 96 are generally classified according to function

CLASSIFICATION PROCEDURE

- Objectives

At the end of the lesson, participants will be able to

- Identify classification procedures
- Describe the structure arrangement sections, chapters and subchapters
- Apply sections,chapter and sub-chapter notes
- Apply the General Interpretative Rules

Important Qs to ask

Before classification

- What is it?
- What material or substance is it made of?
- What are its function or use?
- In what form is it usually imported?
- Is this the only possible classification?

Example of classification

LAPTOP COMPUTER

Identify: machine

Material: various (above chap.83)

Function: data processing

Possible section XV1

Possible Chapter 84

Heading 84.74

Examples cont

Fork of wood

- Identify: article of wood
- Material : wood (below chap.83)
- Function: tableware/ cutlery

- Possible section IX
- Possible Chapter 44
- **Heading 44.19**

Self-testing questions

- **Classify the following articles**
 1. Wheelbarrow made of wood
 2. Chalk for writing on the blackboard
 3. Barometer
 4. Plying cards
 5. Plastic toys

HS FOR TARIFF CLASSIFICATION

The title of Section, chapter and sub chapter

- Ease of reference only
- Are only 'pointers' or 'labels' used to divide up the nomenclature.

- Help in directing you to areas of the nomenclature
- Have no legal standing.

The title of Section, chapter and sub chapter-cont

NOT LEGAL

They should not be quoted to support classification.

Example

E.g Section XV is entitled 'base metal and articles of base metal'

However, many articles of base metal are classified in other Sections.

Agricultural Products

- The first 24 chapters deal with agricultural products (Sec.1-1V)
- Sec 1(Chapter I to 5) covers live animals and animals' product

Self-testing questions

Classify the following commodities

- Animals of travelling circuses.
- Whale
- Meat for dolphin
- Natural butter derived from milk
- Monkey's teeth
- Hair from the neck of a lion

Agricultural Products-cont

- Sec 11 (Cap 6 to 14) covers vegetable products

Self-testing questions

Classify the following questions

- Mushrooms
- Pears
- Cinnamon
- Bamboo
- Kapok.

Agricultural Products-cont

- Sec 111 consists of a single chapter (15) covering animal or vegetable fats and oils

Self-testing questions

Classify the following

- Groundnut oil
- Sunflower oil,
- Palm kernel
- Margarine

Agricultural Products-cont

- Section (cap 16 to 24) covers beverages spirits vinegar and Tobacco.

Self-testing questions

Classify the following;

- Preserved meat
- Chemical sugar
- Brandy
- Konyagi
- Fruit juice

Mineral and chemical products

Section V (Chap 25, 26 and 27) is devoted to mineral products

Self-testing questions

Classify the following terms

- Pure sodium chloride
- Chalk
- Earth colors whether or not mixed together
- Broken pottery
- Quartzite's pebbles for road metal lining

Mineral and chemical products

Section V1 covers

- Chemical and Para chemical products.
- Separate chemically defined compounds are dealt with Chap 28- (inorganic chemicals) and Chap 29 (organic chemicals.)

Mineral and chemical products-cont

Self-testing questions

Classify the following:

- Sodium bromide in heading for bromides-
- Magnesium sulphate in heading for sulphates
- Sulphides
- Phosphinates
- Carbonates

Mineral and chemical products-cont

**Chap 30 to 38 cover other products of the chemical industries
e.g. (pharmaceutical product, paints etc)**

Case study:

**What are the distinctions between heading 30.03 and 30.04
and give similarities if any?**

Mineral and chemical products-cont

Self – testing questions;

- Systematically and logically, classify the following up to 8-digit code.
- Cement for filling the teeth
- Cinchona extract meant for therapeutic or prophylactic dissolved in water:
- A complete first Aid kit
- Cow dung
- Medicated shampoo designed for the treatment of dandruff
- Sensodyne toothpaste
- Shaving soap

Mineral and chemical products

Section V11 covers plastics and articles thereof (Chap39)
Rubber and articles thereof (Chap 40).

Self – testing questions:

- Systematically and logically, classify the following up to 8-digit code.
- Surgical gloves for referral hospital.
- Pneumatic automobile tyres
 - if new
 - if retreated or used.
 - if worn out.

Mineral and chemical products-cont

- **Section V111 covers certain animal product: Hides and Skin
(Chap 41) & Article of Leather or animal gut(Chap42).
Chap 43 covers fur skins and artificial fur.**

Mineral and chemical products-cont

Self – testing questions:

Systematically and logically, classify the following up to 8-digit code.

- Plastic sports bags,
- Wooden suitcase
- Textile shopping bag
- Pure leather briefcase

Mineral and chemical products

.Section 1X is devoted to a group of vegetable products as follows

Chap 44 – Wood and articles of wood

45- Cork and articles of cork

46- Basket- ware and wicker-work

Mineral and chemical products

- Section X is also devoted to a group of vegetable products as follows.
- Chap - 47 Pulp
- Chap- 48 Paper and paperboard and articles thereof
- Chap- 49 Product of the printing industry

Mineral and chemical products

Self – testing questions;

Systematically and logically, classify the following up to 8-digit code.

- Untreated strips of heavy African mahogany for banquet flooring not assembled. 1.5cm thick and of rectangular cross-section throughout the length.
- Bamboo chair
- Textile printed Calendar
- Catalogue for tailoring mart.

Manufactured products

- Section X1 is reserved for Textiles and is grouped as follows.

Chap 50 Silk

51 Wool and Animal hair

52 Cotton

53 Other vegetable fibre

Manufactured products

- **Chap 54 Man made textile materials (filaments)**
- **55 Staple fibres**
- **56 Floor covering**
- **57 Special woven fabrics**
- **58 Finished articles of woven fabrics**

Manufactured products

- Chap 59 Impregnated., coated, laminated, articles of industrial use etc.
- 60 Knitted or crocheted fabrics.
- 61 Made up articles of chapter 60
- 62 Woven fabrics
- 63 Made up articles and worn textiles

Manufactured products

Self – testing questions;

Systematically and logically, classify the following up to 8-digit code.

- Typewriter ribbon.
- Knitted brassier of cotton.
- A woven fabric consisting of;
 - 40% by weight of cotton
 - 30% by weight of artificial staple fibre
 - 30% by weight of synthetic filament yarn

Describe the meaning of terms “**Suit**” and “**Ensemble**” as explained by note 3 of Chapter 61 or 62 of the Customs Nomenclature and give differences and similarities if any

Manufactured products-cont

Section X11 covers the following items.

Chap 64 footwear

65 Headgear

66 Umbrellas, walking sticks etc

67 Articles flowers and articles of human hair

Systematically and logically, classify the following up to 8-digit code.

False beard of textile

Manufactured products

- Section X111 deals with products obtained from minerals.
- Chap 68 Articles of stone, plaster, cement etc
- 69 Ceramic products
- 70 Glass

Systematically and logically, classify the following up to 8-digit code.

Bricks of cement

Manufactured products

Section X1V covers Chap 71 which deals with pearls and precious stones, precious metals, jewellery and coin.

Self – testing questions:

- Systematically and logically, classify the following up to 8-digit code.
- Two tons of banknotes imported by Bank of Tanzania.
- Plastic tiepin

Section XV covers base metals and articles of base metal.

- Chap 72 Ferrous metals
- 73 Other articles thereof
- 74 Copper
- 75 Nickel

Manufactured products

Section XV covers base metals and articles of base metal.

- **76 Aluminium**
- **77 Reserved for future use**
- **78 Lead**
- **79 Zinc**
- **80 Tin**
- **81 Other base metals and cermets**

- **82 & 83 Tools, implements, cutlery, spoons and forks**

Manufactured products-cont

Self – testing questions:

- Systematically and logically, classify the following up to 8-digit code
- Non-threaded spring washers of copper solely and principally used for the milk machine of heading 84.34.
- Reinforced tubes of vulcanized rubber

Manufactured products

Section XV1 Has two Chapters

- Chap 84 Machinery & Mechanical appliances
- 85 Electrical machinery and Equipment

Self – testing questions:

- Systematically and logically, classify the following up to 8-digit code.
- Filter for small motorcar of engine capacity note exceeding 1500cc
- Electrical dishwashing machine

Manufactured products

Section XV11 Cover the following chapters

- Chap 86 Railway rolling- stock
- 87 Motor vehicles and other special type vehicles
- 88 Aircraft and spacecraft
- 89 Ships and floating structures

Manufactured products

Self – testing questions:

Systematically and logically, classify the following up to 8-digit code.

- Aircraft seat
- Russian military tank
- Propellers of iron for a big ship

Manufactured products

Section XV111 Covers the following chapters.

- Chap 90 Measuring devices, optical devices, medical etc.
- 91 Clock and watches
- 92 Musical instruments

Manufactured products

Self – testing questions:

Systematically and logically, classify the following up to 8-digit code.

- An electric motor for cinematographic camera.
- Watch spring of copper.

Manufactured products

Section X1X covers

- chapter 93 which deals with arms and ammunition

Section XX constitute the following chapters

- Chap 94 covers articles such as furniture, lighting fittings, signs and prefabricated buildings
- Chap 95 covers toys, games and sport requisites

Manufactured products

- Chap 96 Covers miscellaneous manufactured articles
Section XX1 the last chapter covers only one chapter, 97
which deals with work of art collectors pieces and antique.

Self – testing questions:

- Systematically and logically, classify the following up to 8-digit code.
- Shotgun bullet of lead
- Sport's flag of textile

General interpretative rules of the harmonised system
General interpretative rules of the harmonised system

The rules which are six are applied in hierarchical order.

Why rules?

- **Because all goods can not be classified according to the terms of heading and any relative section , chapter or subheading notes.**

General interpretative rules of the harmonised system

Rule 1

- The titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and provided such headings or notes do not otherwise require, according to the following provisions

General interpretative rules of the harmonised system

Rule 1

A clear route to the classification of any item can be made

- **Provide authority and justification for any classification**
- **Uniform system operated throughout the world.**

General interpretative rules of the harmonised system

Rule 1

PART OF THE LEGAL FRAMEWORK OF THE NOMENCLATURE

They should be quoted to support classification.

- **The rules must be used in hierarchical order**
- All goods must be classified according to the terms of the heading texts in the nomenclature.

AND

any relative section or chapter notes.

- Where not possible, then '**according to the following provisions**'.

General interpretative rules of the harmonised system

Rule 1 -cont

- A systematic and consecutive approach to the other rules must be taken

Remember.....

- Headings and their legal note must first be considered when determining classification
- Rules 2-5 can only be used when Rule 1 has failed

General interpretative rules of the harmonised system

Example-Rule 1

Direct classification can be made

- Many items can be classified using Rule 1 only e.g.
- A live sheep is classified in 01.04
- A leather suitcase is classified in 42.02
- A base metal is classified in 83.01
- Chilled apricots are classified in 08.09

General interpretative rules of the harmonised system

Rule 1

Direct classifications are made

- Not only where the item is mentioned in the heading text
BUT
- Also after consulting the Section and Chapter Notes
- These Notes should be consulted for EVERY classification

General interpretative rules of the harmonised system

RULE 1

Direct classifications are made

- **Because of the direction given in Rule 1**
- **Use of the other rules is allowed only where classification using Rule 1 is not possible.**

General interpretative rules of the harmonised system

Rule 1

For example: The following can be classified directly

- Sodium Nitrate 31.02
- Plastic Chairs for children 94.01
- Drawing chalk 96.09
- Unprocessed Kaolin 25.07
- Woven cotton handkerchiefs 65cms x 60cms 62.14

General interpretative rules of the harmonised system

- **Rule 2**

a) any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. it shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented unassembled or disassembled.

General interpretative rules of the harmonised system

- **Rule 2**
- b) any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances, any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.

General interpretative rules of the harmonised system

RULE 2

Rule two can only be used if rule one has failed.

This rule refers to:

- **Incomplete**
- **Unfinished**
- **Unassembled or**
- **Disassembled.....Articles**

**Mixtures or combinations of materials or
substances**

General interpretative rules of the harmonised system

RULE 2

There are two parts to this rule

Rule 2 (a) & Rule 2 (b)

Rule 2 (a) covers:

Incomplete

Unfinished

Unassembled or

Disassembled.....articles

What's the difference?

General interpretative rules of the harmonised system

Rule 2

Rule 2 (a)

Incomplete, unfinished

**Classified under the same heading as the finished article
provided they have the same**

'essential character'

As the finished article

General interpretative rules of the harmonised system

RULE 2

Essential character'

e.g

- **Bottle performs of plastic in tubular shape,with one closed end and one open end threaded to secure screw type closure**
- **Motor vehicles without engine or wheels**
- **Freezer without a compressor**

General interpretative rules of the harmonised system

Rule 2

'Essential character'

Question to ask

What is the essential function of the item?

Or

What is its main purpose and use?

General interpretative rules of the harmonised system

RULE 2

'essential character'

Influencing factors:

- **The kind of goods being considered**
- **The nature of the material or components**
- **Their bulk, quality or weight**
- **The role of a particular constituent material or component in relation to the use of the goods**
- **The way the goods are packaged.....and so on.**

General interpretative rules of the harmonised system

RULE 2

'essential character'

Where you can clearly recognize in an unfinished or incomplete article, the essential character of the goods described in a particular heading.

The article only lacks a component(s) or part(s).
Classify as if complete under Rule 1 & rule 2 (a)

General interpretative rules of the harmonised system

RULE 2

Rule 2(a)

Unassembled or disassembled

A complete or finished article presented for classification in an unassembled or disassembled state is to be classified under the same heading as the assembled article.

General interpretative rules of the harmonised system

RULE 2

Rule 2(a)

Unassembled or disassembled

An incomplete or unfinished article presented for classification in an unassembled or disassembled state is to be classified under the same heading as the assembled article provided it has the same 'essential character' as the finished article

General interpretative rules of the harmonised system

RULE 2

- **Rule 2 (b) covers:**

Mixtures or combinations of materials or substances **but only if the headings or Section/Chapter Notes do not otherwise require** e.g. 15.03 lard oil, not.....mixed

Mixtures being preparations described in Section/Chapter notes or headings text are classified under RULE 1 e.g 21.03 mixed seasonings

General interpretative rules of the harmonised system

RULE 2(b)

Refers to three situations:

1. Heading reference to a material or substance e.g. 05.03 Horsehair
2. Reference to goods of a given material or substance e.g. 45.03 Articles of cork.
3. Goods consisting of more than one material or substance i.e Classifiable under two or more headings

General interpretative rules of the harmonised system

RULE 2(b)

Refers to three situations:

1. Heading reference to a material or substance 'to include mixture or combinations of that material or substance with other materials or substances'

Mixture of horsehair (60%) and wool (40%) ??

= 05.03 Horsehair.

Mixture of horsehair (50%) and wool (50%) ??

= Rule 3

General interpretative rules of the harmonised system

RULE 2(b)

2. Reference to goods of a given material or substance
'to include goods consisting partly of that material or
substance'

Example;

Classify a wooden carpenter's plane with a screw in steel
blade? 44.17?

Chapter 44 Note 5 (Explanatory Note 1 to 44.17)

Chapter 82 Note 1 (a)

Classified under 82.05

(Tool partly of base metal)

General interpretative rules of the harmonised system

3. Good consisting of **more than one material or**

- **substance i.e Classifiable under two or more headings.**

Where mixtures and combinations materials cannot be classified using the headings and legal notes (Rule 1)

Then we must go to RULE 3

General interpretative rules of the harmonised system

Rule

3.a) The heading which provides the most specific description shall be preferred to headings providing a more general description, however, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods

General interpretative rules of the harmonised system

3. b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

General interpretative rules of the harmonised system

3.c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

General interpretative rules of the harmonised system

RULE 3

Only by application of Rules 2 (b), or for any other reason, goods are classifiable under two or more headings, classification shall be effected as follows:

3 (a)

3 (b)

3 (c)

Operated in that order

General interpretative rules of the harmonised system

RULE 3

Order of priority

- (a) Most specific description
- (b) Essential character
- (c) Heading which occurs last in numerical order

Applies only if the terms of the heading and Section/Chapter Notes do not otherwise require.

General interpretative rules of the harmonised system

RULE 3

A man's car coat of knitted/crocheted fabric of 59.03

61.03 ? Which is correct

61.13 ?

61.13 Ch 61 Note 7

Rule 3 applies only if the terms of the heading and Section/
Chapter Notes do not otherwise require.

General interpretative rules of the harmonised system

RULE 3 (a)

Most specific description

Description by name better than description by class

Electric hair clippers 85.08? 83.09? 85.10?

85.10

If goods answer to description which more clearly identifies them.

Tufted textile carpet for cars 57.03 ? 87.08 ?

57.03

General interpretative rules of the harmonised system

RULE 3 (a)

Most specific description

Where two or more headings each refer to part of the materials or substances or items in a set

They are to be regarded as equally specific

Even if one of them gives a more complete description.

If so, consider Rule 3 (b) or 3 (c)

General interpretative rules of the harmonised system

RULE 3 (b)

For the purposes of this rule

Goods must be:

- Mixtures**
- Composite goods of different materials**
- Composite goods of different Components**
- Goods put up in sets for retail sale.**

General interpretative rules of the harmonised system

RULE 3 (b)

For the Purposes of this rule

Goods put up in set for retail sale means:

- Consist of at least two different articles.
- Consist of products or articles put up together to meet a particular need or carry out a specific activity.
- Are put in manner suitable for sale directly to users without repacking.

General interpretative rules of the harmonised system

RULE 3 (b)

Example

Sandwich made of beef, with or without cheese, packed with

Potato chips.

= 16.02 and not 20.04

Classification is made according to the component, or components taken together, which can be regarded as conferring on the set as a whole its essential character

General interpretative rules of the harmonised system

RULE 3 (c)

**Heading which occurs last in numerical order
Where goods cannot be classified under
Rule 3 (a) or Rule 3 (b)**

**They are to be classified in the heading which occurs last in
numerical order among those which equally merit
consideration.**

If not possible, rule 4 applies

General interpretative rules of the harmonised system

Rule 4

- Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

General interpretative rules of the harmonised system

RULE 4

Where goods cannot be classified under Rule 1, Rule 2 or Rule 3.

Commonly referred to as the 'kinship rule'

Rule 4 is rarely used, and then only with the agreement of a National Customs Authority.

Classify under the same heading as goods similar or virtually identical (most akin)

General interpretative rules of the harmonised system

Rule 5:

- a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. this rule does not, however, apply to containers which give the whole its essential character.

General interpretative rules of the harmonised system

- b) Subject to the provisions of rule 5 (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.

General interpretative rules of the harmonised system

Rule 5

Relates to packaging

There are two parts to this rule

5(a) & 5(b)

General interpretative rules of the harmonised system

RULE 5 (a)

Cases e.g (Camera, Musical instrument, Gun, drawing instrument, necklace and similar containers)

- Presented with the articles themselves
- Suitable for long term use.
- Shaped or fitted to contain a specific articles(s)
- Of a kind normally sold with the articles(s)

The rule don't apply to containers which give the whole its essential character

General interpretative rules of the harmonised system

- Example: Containers
- Jewellery boxes and cases (71.13)
- Musical instrument cases, boxes ,bags (92.02)
- Gun cases (93.03)

The rule doesn't cover containers such as

- A silver caddy containing tea,
- An ornamental ceramic bowl containing sweets

General interpretative rules of the harmonised system

RULE 5

5 (b)

Subject to Rule 5(a)

- **Packing materials and packing containers,**
- **Presented with the goods,**
- **Normally used for packing such good,**
- **Classify with the goods.**

**Doesn't apply to containers suitable for repetitive use
e.g liquefied gas cylinder, metal drums etc**

General interpretative rules of the harmonised system

Rule 6

- For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable, for the purposes of this rule the relative section and chapter notes also apply, unless the context otherwise requires.

General interpretative rules of the harmonised system

Rule 6

Classification at Subheading level

MUST already have a 4 digit classification e.g 3702 Using rules 1-5.

Classification within subheadings according to the terms of the subheading & subheading notes

General interpretative rules of the harmonised system

Rule 6

Use same rules (1-5) to determine classification at subheading level.

Only Subheadings at the same level are comparable.

General interpretative rules of the harmonised system

In this rule, relative section and chapter notes also applies, unless the context otherwise requires.

'Subheading at the same level' one-dash subheadings (level 1

Or two-dash subheadings (level 2)

General interpretative rules of the harmonised system

- **Example: Chap 71, the scope assigned to the term platinum in chapter note 4 (b) differs from that assigned to platinum in subheading note 2**
- **So interpretation of 7110.11 and 7110.9, note 2 applies and note 4 (b) is to be disregarded**

General interpretative rules of the harmonised system

Rule 6

The scope of a two- dash subheading shall not extend beyond that of the one-dash subheading to which the two-dash subheading belongs.

AND

The scope of a one-dash subheading shall not extend beyond that of the heading to which the one-dash subheading belongs

General interpretative rules of the harmonised system

Rule 6

Example

SUBHEADING AT THE SAME LEVEL

- One-dash and two-dash at subheadings level 37.02

3702.10 -X-Ray

3702.20 - Instant print level

One-dash level

General interpretative rules of the harmonised system

Example cont

- Other film, without perforation, n/e 105

3702.31 -For colour photography

3702.32 – other with Silver halide emulsion

Two- dash level

General interpretative rules of the harmonised system

Conclusion

Over 90% of goods can be classified using rule one.

CUSTOMS IN INTERNATIONAL CONTEXT

COURSE OBJECTIVES

At the end of the course, trainees should be able to-;

- Name international organizations involved in trade facilitation
- Outline the role played by the international organizations in trade facilitation
- Define terms commonly used in international trade
- Become familiar with commonly used abbreviations
- Outline the objectives of the international organizations

Definitions

Customs Duty:

- A kind of duty imposed on merchandise transported from one place to the other in connection with a commercial transaction. Customs is said to be as old as commerce itself.
- **Ad valorem duty:**
A duty rate expressed as a percentage of the value
- **Specific Duty:**
A duty rate expressed as a specific charge on goods to be imported.
- **Tariff :**
A customs duty on imported merchandise

Abbreviations:

CCC: Customs Cooperation council

- ICC: International chamber of commerce
- GATT: General Agreement on Tariffs and Trade
- MFN: Most Favoured Nation
- MTN: Multilateral Trade Negotiations
- WTO: World Trade Organization
- DSM :Dispute Settlement Mechanism

Historical Background

- After World War 1
- League of Nations 1920
- World War II and after
- United Nations Conference on Trade and Employment
Havana, Cuba 1947

The GATT-1947

- General Agreement on Tariffs and Trade (GATT).
- Drastic tariff reductions
- organized seven rounds of trade negotiations,
- Geneva Round in April to October in 1947
- Uruguay Round concluded in April 1994 in Marrakesh,
- Morocco establishing the WTO.

THE WORLD TRADE ORGANIZATION (WTO)

Established-1st Jan 1995 by the Uruguay Round

- Trade in goods, services and international property
- WTO permanent institution
- GATT Agreements incorporated in WTO
- Has 149 members
- 29 countries in accession

WTO OBJECTIVES

- Raise Standards Of Living
- Ensure full employment
- expand production and trade
- Protect & preserve environment

SECRETARIAT

- provides technical support
- provides technical assistance to developing countries
- analyzes world trade
- provides public relations for WTO

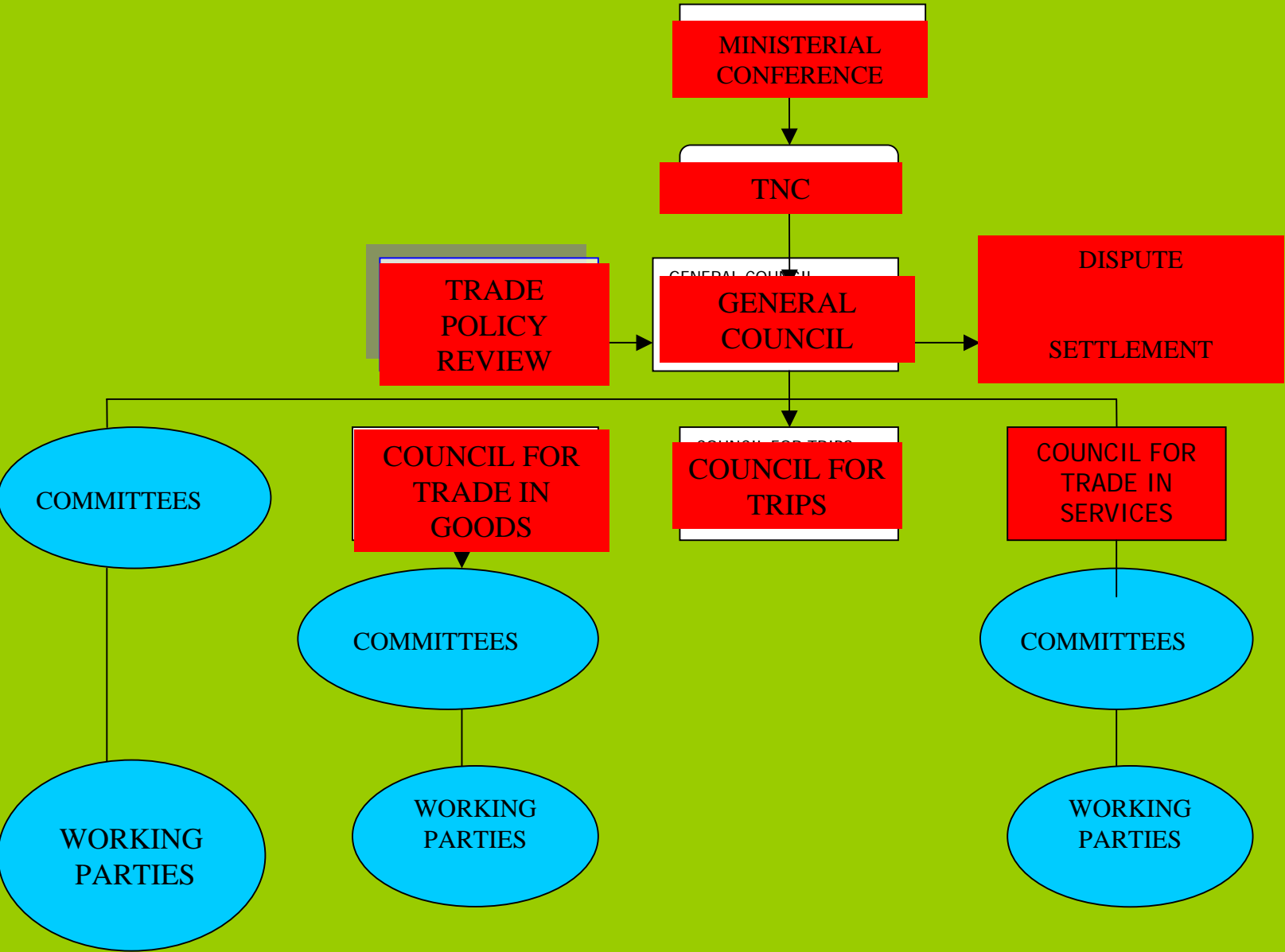
PRINCIPLES OF THE WTO

- Protection through tariffs
- Reduction and binding of tariffs
- Most Favored Nation (MFN)
- National Treatment
- Transparency

FUNCTIONS OF WTO

- Forum for international cooperation on trade related policies
- Development of code of conduct for members
- Administers WTO trade agreements
- handles trade disputes
- monitors national trade policies
- technical assistance and training
- cooperates with international organizations

WTO ORGANIZATION



Council for trade in goods- committees.

- Agriculture
- Sanitary and phytosanitary
- Technical Barriers to trade
- Subsidies and countervailing measures
- Anti Dumping
- Customs valuation
- Rules of origin
- Import Licensing
- Trade Related investment measures
- Safeguards

Ministerial Conferences

- Singapore (1996)
- Geneva (1998)
- Seattle (1999)
- Doha ,Qatar(2001)
- Cancun, Mexico(2003)
- Hong Kong (2005).

THE WORLD CUSTOMS ORGANIZATION

INSTITUTION OF CUSTOMS

- Critical institution to
 - good governance,
 - prosperity and
 - protection of society.

Manages physical movement of goods, people and conveyances across borders and frontiers.

HISTORICAL BACKGROUND

- In 1947, 13 governments
- Committee for European Economic Co-operation
- Set up a study group establishing one or more European Customs Union based on the principles of GATT.

BACKGROUND-cont

- 1948- Economic committee -Customs committee.
- Customs committee became Customs Co-operation council (CCC)
- 1952 -CCC formally established
- 1953-CCC inaugural Session of the Council in Brussels
- 1994- adopted the Working Name, World Customs Organization

Membership

- 159 members
- Customs Administrations carry out policy priorities of their respective Governments on all continents.
- Represents all stages of development.
- WCO responsible of processing > 95% of all international trade

STRUCTURE OF WCO

- Helm-The council
- Next-Policy commission
- Then-other committees e.g.
 - Enforcement committee
 - Permanent technical committee
 - Technical committee on rules of origin
 - Harmonised system committee
 - Finance committee

WCO

- Led by secretary general
- Assisted by 3 officials.
- Deputy secretary general
- Director of compliance and facilitation
- Director of tariff and trade affairs

Official languages

- English
- French
- Spanish used for some technical meetings

Roles/Benefits of WCO

- Develops/implements action plans .
- Customs Enforcement network(CEN) using a modern database.
- Supports intelligence collection through a world-wide network of RILOs (Regional Intelligence Liaison Offices):
- advices members on bilateral and multilateral cooperation through other WCO instruments

Roles-cont

- Performs needs analysis to assist members in strengthening their enforcement structure and techniques
- Recommends control techniques based on risk management and selectivity
- Provides members with strategic assessments and risk profiles
- Draws attention of members to new enforcement techniques at regional and national level

Roles-cont

- Hosts and participates in international meeting concerning transnational crime and Customs enforcement
- Draws up a memorandum of understanding with various bodies for cooperation and mutual assistance
- Forum for dialogue, exchange, and sharing for Customs administrations and professional life of every customs Officer.

Objectives of WCO

- Set up proper balance for facilitation and enforcement
- Promote co-operation amongst member administrations and with other relevant organizations
- Assists members with all type of customs offences through technical and training assistance programs

Partners of WCO

- Interpol
- UNDCP
- WIPO
- WTO
- UNESCO
- ICMPD (International Centre for Migration Policy)

Future programmes

- Enhance customs business partnership concept
- Encourage universal use of controls utilizing risk assessment profiling, and selectivity based upon intelligence collection and analysis
- Promote the use of up-to-date systems (CEN: Central Enforcement Network)to exchange information and intelligence

MODULE 3

RULES OF ORIGIN

Objectives

By the end of the course, trainees should:-

- Outline the criteria of conferring origin.
- Outline points to comparison with criteria in advance countries.
- Outline various regional bodies and their rules of origin criteria.
- Enumerate various rules to be observed while conferring origin.

Introduction

The Kyoto Convention (International Convention on the simplification and Harmonization of Customs procedures, 1974) defines Rules of Origin as:-

- The specific provisions, developed by principles established
- by national legislation or International agreements applied by
- a country to determine the origin of goods.

Definitions :

- Preferential rules of origin
- Change in Tariff Criteria
- **Substantial transformation Criteria**
- Non-preferential rules of origin

Preferential Rules of Origin application

- The North America Free Trade Area (NAFTA)
- The European Free Trade Area (EFTA)
- The Economic Community of West African States (ECOWAS).
- The European Union (EU)
- The Common Market for Eastern and Southern Africa (COMESA)

Methods of Determining Origin

- Goods wholly produced in the country of Export
- The substantial transformation rule
- Value-added Percentage Test
- Change in tariff classification

EACCU RULES OF ORIGIN

- Purpose-;
 - Implement the provisions of Article 14 of the protocol and to ensure that there is uniformity among partner states in the application of the Rules of Origin .
 - Ensure that to extent possible the process is transparent, accountable, fair, predictable and consistent with the provisions of the protocol.
- Contain criteria to enable the authorities in Partner State to determine which goods qualify as originating in any of the Partner States.
- Four in number and only one of them must be complied with for any goods to qualify for preferential treatment

The four criteria are: -

- Goods wholly produced as provided for in Rule 5 of EAC Rules
- The C.I.F value of any foreign materials does not exceed 60%
- The Value Added accounts for at least 35% of the ex-factory cost of the goods;
- The goods are / become classifiable under a tariff heading other than the tariff heading under which they were imported.

COMESA RULES OF ORIGIN.

- Treaty establishing the COMESA sets out Rules of Origin with respect to products originating in the member states.
- Essential for proper functioning of COMESA for member states, to observe these rules of origin.
- Intra-COMESA Trade involves the participation of all member states as exporters or importers.
- The Rules contain criteria to enable the authorities in member state to determine which goods qualify as originating in any of the member states
- Five in number and only one of them must be complied with for any goods to qualify for COMESA tariff treatment.

The five criteria

- Goods wholly produced
- Goods produced in the member states and the C.I.F value of any foreign materials used (that is non-COMESA) does not exceed 60% of the total cost of all materials.
- Goods produced in member states whose Value Added results from the process of production accounts for at least 35% of the ex-factory cost of the goods;
- Good produced in member states and are classified or become classified under a tariff heading other than the tariff heading under which they were imported: or
- Goods of particular importance to the economic development of the member states and containing not less than 25% value added notwithstanding the provision in (c) above.

Relevance of rules of origin :

- Determination of a country of Origin of a product is relevant to Customs, trade policy and the trading public.
- helps in the proper classification of goods, the basis not only for declaration of goods in general, but the collection of import and other duties
- Facilitates the determination of the correct values for the goods
- Helps in collection of accurate trade statistics

cont

- Helps solve trade disputes between member states in terms of trade policies
- Rules of Origin-important trade and commercial measures.
- Although not trade instruments, frequently used to address different trade policy instruments.

Certificate of Origin

- Exporter in a COMESA member state intending to Export goods to another COMESA State must obtain a Certificate of Origin from the issuing authority in his state.
- To obtain a COMESA Certificate of Origin, exporter must present to Issuing Authority in his country evidence that the goods have been produced in conformity with the specified conditions

Certificate of Origin through non exporters

- Where the goods have been produced by a company or enterprise that is not the exporter, a declaration by producer is to be issued, containing the information about the specific origin of goods being exported.

Measures

- Measures designed to give preference to products from developing countries or beneficiary countries in regional cooperation agreement
- COMESA tariff treatment
 - Exporter/Importer is free to base his claim to COMESA tariff treatment on any one of the five criteria described above.

Trade measures :-

- Imposition of :-
 - Countervailing
 - Anti-dumping duties
 - against imported products causing material injury to Domestic industry.

Economic consequences of Rules of Origin

- Allocation of resources e.g. in strategic location of Industries for the purpose of attaining economics of scale.
- Reinforcing measures against market distortions resulting from dumped or subsidized imports.
- Effects on investment.
- Restrictive origin and anti-circumvention regulations can affect investment flows

Module 4

AGOA: African Growth Opportunity Act

Introduction

- The trade and Development Act (the Act) signed into law-**May 18, 2000**.
- **Title 1 of the Act**, entitled “African Growth and Opportunity Act (AGOA)
 - extends certain trade benefits to sub-Saharan Africa

Sub-Title A of Title 1

- Authorizes President to designate a sub Saharan country as an 'eligible Sub-Saharan African Country if the President determines that the country meets the specified eligibility requirements
- Requires president to terminate a designation if the president determines that an eligible country is not is not making continual progress in meeting those requirements

Amendments

- November 13, 2002-modify the treatment accorded to certain textile and apparel articles imported from beneficiary AGOA countries.
- July 13, 2002, further amendments
 - (AGOA III), extends preferential imports until September 30, 2015 and extends third country fabric provisions until September 2007

Appendix 1

- Covers countries (or any other successor political entities) that are included in the act as “sub-Saharan African” countries

sub-Saharan African countries

- Angola
- Benin
- Botswana
- Burkina Faso
- Cameroon
- Cape Verde
- Chad
- DR Congo
- Congo
- Gambia
- Djibouti
- Ethiopia
- Gabon
- Ghana
- Guinea
- Guinea Bissau
- Kenya
- Lesotho

cont

- Madagascar
- Malawi
- Mali
- Mauritania
- Mauritius
- Mozambique
- Namibia
- Niger
- Nigeria
- Rwanda
- Sao Tome and Principe'
- Senegal,
- Seychelles,
- Sierra Leone'
- South Africa,
- Swaziland,
- Tanzania,
- Uganda,
- Zambia

Note:

AGOA eligibility does not automatically imply eligibility under the textile and apparel provisions, which require the implementation of an effective visa system and an enforcement mechanism to prevent illegal transshipment.

- Countries eligible for the textile and apparel provisions of AGOA as of June 23, 2003, are listed above.

AGOA Section 2

GENERAL SYSTEM OF PREFERENCES (GSP)

- 'Designation of Sub- Saharan Countries for Certain Benefits'

Section 2.1 articles covered

- Duty- free treatment is allowed for any article described in section 503 (b) (1)(B) through (G) of the GSP statute that is the growth, product, or manufacture of a beneficiary Sub-Saharan African country.
- Provided that the product is not import sensitive in the context of imports from beneficiary Sub-Saharan countries.

Exclusions from duty free treatment

- Watches, except?
- Import sensitive electronic articles
- Import sensitive steel articles

exclusions

- Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of the GSP on January 1, 1995 as the GSP was in effect on that day
- import sensitive semi-manufactured and manufactured glass product
- Any other articles determined to be import-sensitive in the context of the GSP

Rules

- Duty- free treatment will apply to any designated article that meets the requirements of the basic GSP origin and related Rules and AGOA specific additional rules-;
 - Article must have become the growth, product, or manufacture of a beneficiary sub-Saharan African Country by some process other than a simple combining or packaging operation or the mere dilution with another substance that does not materially alter the characteristic of the article

cont

- Article must be imported directly from a beneficiary country sub-Saharan country into the customs territory of the United States,
- the article must have at least 35% of its appraisal value attributed to the sum of the direct costs of processing operations performed in the beneficiary sub-Saharan African country

Rules-cont

- or in any two or more beneficiary sub-Saharan African countries that are members of the same association of the countries .
- and are treated as one country under section 507(2) of the GSP statute plus the cost or value of the material produced in the beneficiary sub-Saharan African country

Appraisal Value

- **Taken to mean the Transaction value which includes:-**
- Packing costs incurred by the buyer
- Selling commission incurred by the buyer
- Value of any assistance provided to the producer free of charge by the buyer
- Royalty or license fee that the buyer is required to pay as a condition of the sale
- Proceeds accruing to the seller of any subsequent resale disposal or use of the imported merchandise.

Cost of processing.

- These includes all costs whether directly incurred in or those that can be reasonably allocated to the growth, production, manufacture, or the assembly of the merchandise in question.
- These include:-
 - Actual labor, fringe benefits, and on the job training costs
 - Engineering supervisory, quality, control and similar personnel costs
 - Dies ,moulds, and tooling costs, as well as depreciation of machinery and equipment
 - Research, development, design, blue prints and engineering and inspection and testing

Not included in direct costs

- Profit and general expenses
- Business overheads such as administrative salaries, casualty and liability insurance, advertising
- Sales representative's salaries , commissions or expenses

Procedure and Record keeping

Textile and Apparel Products

Section 112 of the Act sets forth rules that provide for preferential treatment of certain textiles .

Certificate of Origin

Must comply with customs procedures similar in all material respects to the requirements of article 502(1) of the NAFTA as implemented by regulations.

ACP /EU ECONOMIC PARTNERSHIP GROUP

- Established in 1975 through the George Town Agreement.
- Now operates under a revision of the Agreement made in 1992.
- General secretariat-located in Brussels.
- included 46 countries
- expanded to 77 members
 - 48 from Africa
 - 15 states from the Caribbean
 - 14 states from the Pacific.

ACP-EC PARTNERSHIP AGREEMENT

- Framework for trade and economic cooperation between the ACP states (except Cuba) and the European Community
- Entered into force on 1 March 2000 for twenty years as the successor to the Lomé Convention.

AGREEMENT

- Based on five pillars:
 - A comprehensive political dimension
 - Participatory approaches to ensure the involvement of civil society in beneficiary countries
 - A strengthened focus on poverty Reduction
 - A framework for economic and trade cooperation
 - A reform of financial cooperation

ACP STATES

- The African, Caribbean, and the Pacific states associated with the European Community through the ACP Partnership Agreement

-gives them preferential Access to the European community Markets and other benefits.

-Members-77

- Cuba- member of the ACP States BUT NOT a member of the ACP-EU partnership Agreement.

ACP-EC-Sugar protocol

- 1st concluded in 1975 as protocol 3 to the Lome Convention .
- Now part of the ACP-EC partnership agreement .
- Instrument of indefinite duration.
- Through this protocol, the European community undertakes to purchase at guaranteed prices, specific quantities of sugar, raw or white, originating in ACP States.

Sugar quantities that apply:-

COUNTRY	QUOTA
Barbados	49,300 tonnes
Fiji	163,000 tonnes
Guyana	10,000 tonnes
Jamaica	118,300 Tonnes
Kenya	5,000 Tonnes
Madagascar	10,000 Tonnes
Malawi	20,000 Tonnes
Mauritius	487,200 tonnes
Swaziland	116,400 Tonnes
Tanzania	10,000 Tonnes

SPECIAL PREFERENTIAL SUGAR AGREEMENTS

- Agreement in the form of exchange of letters
 - European Community as the importer, some of the ACP states and India wherein which the Community allocates to them a special tariff quota for the import of raw cane sugar
- ACP states party to this arrangement:
 - Barbados, Belize, Republic of Congo, Fiji, Guyana, Cote de Voire, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Suriname. St. Kitts and Nevis, Swaziland, Tanzania Trinidad and Tobago, Uganda, Zambia, and Zimbabwe

Sugar Agreements

- 1st concluded for the years 1995-2001.
- Renewed for the years 2001 to 2006.
- Sugar quantities from the ACP States enjoying preferential access to the European Community
- Fixed annually in the light of import needs.
- Indian special tariff quota is 10,000 Tonnes, but it may be higher.
- rate of duty within the special quota is zero.
- Import refineries must pay a minimum purchase price



THANK YOU

WTO VALUATION

INTRODUCTION

1. Value

Customs Value of imported goods Customs Valuation.

Introduction-Cont

The importance of Customs Valuation:

- enhances the international trade
- facilitates the flow of trade
- protects domestic industries
- encourages the importation of certain products
- facilitates the collection of revenue
- makes it possible to use 'ad valorem' system

Evolution of the Customs Valuation :

- Unstable systems of Customs Valuation;
- 1st unsuccessful attempt: League of Nations;
- 1947 : GATT Agreement (Article VII)
- 1947 : European Customs Union Study Group at Brussels;

Cont

1950 / 1953 : Brussels Definition of Value (BDV).

-1973 / 1979 : Tokyo Round i.e.Multilateral Trade Negotiations within GATT.

-1981: GATT Agreement on Customs Valuation.

-1995 : WTO-ACV.

Summary Of Valuation Articles

Article 1- Transaction Value Method.

Article 2- T.V. of Identical Goods Method.

Article 3- T.V. of Similar Goods Method.

Article 4- Trying Art.6 before 5 upon
Importer's request.

Article 5- Deductive Value Method.

Article 6- Computed Value Method.

Article 7- Fallback Method.

Article 8- Adjustments to T. Value.

Articles-Cont

Article 9- Conversion of Currency.

Article 10- Confidentiality of information.

Article 11- Appeal without penalty.

Article 12- Publication of Laws,
Regulations, etc.

Article 13- Release of goods under guarantee

Article 14- Interpretative Notes form an integral part of this
Agreement.

Articles-Cont

Article 15-Definition of terms:-

- i) Customs Value of imports.
- ii) Country of importation,
- iii) Produced,
- iv) Identical Goods,
- v) Similar Goods,
- vi) Goods of the same class & kind
- vii) Related Parties, etc.

Articles-Cont

Article 16- Right of importer to request in writing a written explanation from Customs Administration as to how the customs value of his/her was determined.

Article 17- Right of Customs Administration to be satisfied with the truth or accuracy of any document presented for customs valuation purposes.

Article 18- Establishes two committees:

- i) Committee on Customs Valuation (The Committee).
- ii) Technical Committee on Customs Valuation (TCCV).

Article 19- Consultations and Settlement of Disputes by the TCCV.

Articles-Cont

- Article 20- Allows delayed application for a period not exceeding five years to the Developing Countries once they become members.
- Article 21- Any reservations by a member state must have consent of other members.
- Article 22- Laws, Regulations and Administrative procedures of each member state must conform with the provisions of the Agreement.
- Article 23- Allows annual review of the Agreement by The Committee.
- Article 24- Allows the WTO Secretariat to service the Agreement, except those responsibilities assigned to the TCCV.

Adjustments To The T.Value

- Inclusions
 - i) Mandatory Additions
 - ii) Optional Additions
- Exclusions

Valuation Declarations

- In prescribed format
- Terms of payment
- Terms of sale (incoterms)
- Any relationship
- Any restrictions on disposal or use of the goods
- Any condition or consideration

METHOD 1

TRANSACTION VALUE

- Basis of Customs Value
- Definition of Transaction Value
- Evidences of Sale
- Elements of the Transaction Value
- Importations without Sales

Basis Of Customs Value & Definition Of Transaction Value

- The basis of Customs Value is the 'Transaction Value'.
- 'Transaction Value'
 - is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8.

Evidences Of Sale

- Commercial Invoices,
- Sales Contract,
- Bank Remittances Slips,
- Export Price List.

Importations Without Sale

- Gifts,
- Donations,
- Trade samples furnished free of charge,
- Goods imported on Consignment,
- Goods imported by Branch Offices which are not considered legal entities,

Importations Without Sale (Conts.)

- Goods imported under hire, lease or loan,
- Goods imported for exhibitions,
- Motor Vehicles & their spares parts imported for safari-rally,
- Personal effects,
- Etc.

Four Conditions Or Limitations

1st- No restrictions as to the disposition or use of the goods by the buyer that can affect the value of the goods;

condition or consideration for which a value cannot be determined,

- 3rd- No part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless proper adjustment can be made as per Article 8
- 4th- The buyer & seller are not related, unless the buyer can demonstrate that their relationship did not influence the price.

ADJUSTMENTS TO T.VALUE

- OBJECTIVE DATA, i.e. based solely on facts, and
- QUANTIFIABLE DATA, i.e. capable of being measured by using real or actual numbers and figures.
- Types of Adjustments:-
 - i) Inclusions,
 - ii) -Exclusions.

Adjustments to T.Value (Conts.)

- Inclusions (Compulsory Adjustments):-
 - i) Selling Commissions,
 - ii) Brokerages,
 - iii) The cost of containers,
 - iv) The cost of packing (Labour or Materials),
 - v) Assists,
 - vi) Royalties & License Fees,
 - vii) Proceeds of any subsequent resale. \

Adjustments to T.Value (Conts.)

- Inclusions (Optional Adjustments):-
 - i) Freight,
 - ii) Insurance,
 - iii) Loading, Unloading, & Handling Charges.

Adjustments to T.Value (Conts.)

- Exclusions;-
 - i) Buying Commissions,
 - ii) Discounts,
 - iii) Dividends,
 - iv) Interest Charges on Finances,
 - v) Marketing Activities undertaken by the Buyer,
 - vi) Post importation costs,

Adjustments To T.Value (Conts.)

- Exclusions:-
 - vii) Transport costs in the country of importation,
 - viii) Duties & Taxes in the country of importation,
 - ix) Taxes paid in the country of exportation, but refunded before exportation.

Agents

- Buying Agents;
- Selling Agents;
- Brokers or Independent Agents.

Role Of The Buying Agent

- Represents the Buyer,
- Finds Suppliers,
- Obtains samples from the Suppliers,
- Arranges for transport costs,
- Negotiates lowest price,
- Helps prepare documents,
- Consolidates shipments.

Role Of The Selling Agent

- Represents the Seller,
- Finds customers (Buyers),
- Maintains samples,
- Arranges for transport costs,
- Negotiates highest price,
- Helps prepare documents,
- Separate shipments,
- Prepares invoices.

Role Of The Independent Agent (Broker)

- Acts for both the Buyer and the Seller
- Connects both parties to the transaction
- Specializes in certain types of goods
- Finds buyers for his goods
- Negotiates his own terms of sale
- Confirms all sales
- Arranges for the shipping of the goods

ASSISTS—ARTICLE 8.1b

- Meaning of Assists
- Categories of Assists
- Valuation of Assists
- Examples of how to value Assists
- Apportionment of Assists

Meaning Of Assists

`Assists'

- is the value of goods and services
- supplied directly or indirectly by the Buyer free of charge or at reduced cost to the Seller or Producer
- for use in connection with the production and sale for export of the imported goods.
- Must be based on objective and quantifiable data.

Categories **Of** Assists

- I- Materials, components, parts and similar items incorporated in the imported goods;
- II- Tools, dies, moulds and similar items used in the production of the imported goods;
- III- Materials consumed in the production of the imported goods;
- VI- Engineering, development, artwork, design work & plans and sketches undertaken elsewhere other than in the country of importation and necessary for the production of the imported goods.

Valuation Of Assists

- i) Only added if not already included in the price actually paid or payable,
- ii) Only added if supplied by the Buyer either free of charge or at reduced cost,
- iii) Only added if supplied directly or indirectly by the Buyer to the Seller,
- iv) Only added if for use in the production and sale for export of imported goods

Examples Of Assists

- i) If the Assist had been previously used, adjust the value downward to reflect that usage.
- ii) If the Assist was rented or leased, the value would be the cost of the lease or the rental.
- iii) If the Assist had been repaired or modified, its value should reflect the cost of repairs or the modification.
- iv) Under all categories, add:
 - Cost to acquire,
 - Cost to produce,
 - Transport costs,
 - Duties and other taxes.

ROYALTIES & LICENSE FEES; PROCEEDS

- Royalty or License fee covers payments made for the right to use, produce or sell a given product.
- Must be based on objective data and quantifiable data.
- Add to if:-related to the imported goods,
 - -it is a condition of sale,
 - -it is not already included.

Royalties & License Fees (Conts.)

Examples:-

- i) Payments in respect to Patents, Trademarks & Copyrights.
- ii) Charges for the right to reproduce the imported goods in the country of importation.
- iii) Payments made by the Buyer for the right to distribute or resell the imported goods.

Royalties & License Fees (Conts.)

Patent:

-Is a document issued by a government office which describes an invention and creates a legal right on it.

-Invention is a novel idea which results from an inventive activity and is capable of industrial application.

Trademark:

-Is a particular sign or logo which serves to distinguish the goods of an industrial or commercial enterprise.

-It requires registration with a government entity to protect it from copying by any unauthorized firm or person.

Royalties & License Fees (Conts.)

Copyright:

-Is a reserved right which protects the holder from unauthorized use of his work from reproduction, copying or translation. -It protects works like literary, musical, artistic & photographic works, maps & technical drawings and motion pictures.

Proceeds Of Resale, Disposal Or Use

- No part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made.
- Proceeds based on the resale, disposal or use of the imported goods paid by the Buyer to the Seller must be added.

Proceeds (Conts.)

- Proceeds should not be confused with the flow of dividends made to the Seller that do not relate directly to the imported goods
- Proceeds can be established some time after importation and entry of goods which might cause a delay in valuation

FREIGHT,INSURANCE & OTHER CHARGES

- Are optional adjustments
- National Administrations can choose to include or exclude them
- Adjustments for such costs are to be made only on the basis of objective and quantifiable data (i.e. actual costs).

Cost Of Transport (Freight)

- Includes those costs that physically move the goods from the factory of manufacture through the port of loading to the port of discharge in the country of importation.
- Such costs or charges include:-
 - -inland freight (trucking),
 - -rail freight,
 - -ocean freight,
 - -air freight.

Cost Of Insurance

- Includes costs or charges that cover any risk on the goods being transported from the place of manufacture in the country of exportation to the country of importation.
- Such costs or charges include:-
 - land insurance,
 - marine insurance,
 - air insurance.

Loading, Unloading & Handling

- Loading & unloading include costs or charges for the movement of goods onto or off from any conveyance (vessel, truck or aircraft).
- Handling costs or charges include:-
 - -preparation of manifests,
 - -preparation of bills of landing,
 - -preparation of customs documents,
 - -obtaining export licenses, etc.

Importation

- It is the act of bringing any goods into a customs territory.
- The time of importation may include the time of entry for customs purposes.
- Note that:-
 - the definition of the term `importation' depends on the national legislation or regulations of each country.

Terms Of Sale

- Refers to the time line and put in the various terms,i.e.where the liabilities begin and end for the Buyer and the Seller.
- Such terms are various and endless in any transaction regarding importation.
- Terms as per INCOTERMS-2000 are:-
 - i) EXW—Ex Works,
 - ii) FCA—Free Carrier,

Terms Of Sale (Conts.)

- iii) FAS—Free Alongside Ship,
- iv) FOB—Free On Board,
- v) CFR—Cost & Freight,
- vi) CIF—Cost, Insurance & Freight,
- vii) CPT—Carriage Paid To,
- viii) CIP—Carriage & Insurance Paid,
- ix) DAF—Delivered At Frontier,
- x) DES—Delivered Ex Ship,
- xi) DEQ—Delivered Ex Quay,
- xii) DDP—Delivered Duty Paid.

Incoterms 2000: Decision Chart For The Buyer

EXW—Ex Works,

FCA—Free Carrier,

FOB—Free On Board,

CPT—Carriage Paid To,

CIF—Cost, Insurance & Freight,

Incoterms 2000: Decision Chart For The Seller

DDP—Delivered Duty Paid,
CIF—Cost, Insurance & Freight,
CFR—Cost & Freight,
CPT—Carriage Paid To,
CIP—Carriage & Insurance Paid,
FOB—Free On Board,
FCA—Free Carrier,
EXW—Ex Works.

Storage

- Are costs or charges to warehouse goods and include the movement into and out of the warehouse.
- It does not cover activities which may occur in the warehouse, e.g. sorting, cleaning or repacking.
- Cases of storage:-
 - i) Goods are stored abroad at the time of the sale for export to the country of importation,
 - ii) Goods are stored abroad subsequent to their purchase but prior to their export to the country of importation.
 - iii) Goods are stored in the country of importation prior to their clearance for home use.
 - iv) Goods are temporarily stored incidental to their transport.

RELATED PARTIES

- Related party transaction is one of the conditions under which transaction value is not acceptable unless the buyer demonstrates that their relationship have not influenced the price of the goods.
- Article 15 defines `related parties' as persons who are:-
 - i) officers or directors of one another's business;
 - ii) legally recognized partners in business;
 - iii) employer and employee;
 - iv) directly or indirectly owning, controlling or holding 5% or more of the voting stock or shares of both of them;
 - v) directly or indirectly controlling each other;

Related Parties (Conts.)

- vi) directly or indirectly controlling a third person together;
- vii) members of the same family;
- viii) directly or indirectly being controlled by a third party.

N.B.: The term `persons' includes legal persons where appropriate.

Control Over Another

- Is legal or operational position to exercise restraint or direction over the other.
- It also refers to cases where parties are free to:-
 - i) negotiate or not negotiate;
 - ii) enter or not enter into a contract;
 - iii) renew or terminate the contract.

Sole Agent, Sole Distributor & Sole Concessionaire

They are not automatically related to the seller, but they can be related when :-

- i) they are directors of each other business;
- ii) there could be an exchange of voting stock or shares;
- iii) there could be a third party controlling both;
- iv) they may be partners.

Branch Offices

- Some countries do not consider a branch as a separate entity from the parent company under national legislation.
- In such cases, no sale is occurring and there would be no transaction value.

WTO TRADE FACILITATION

WHAT EXACTLY IS TRADE FACILITATION?

- Making trade procedures as efficient as possible through rationalization of procedures, documents and information flows
- According to **HOEKMAN, MATTOO and Phillip England-**
 - Trade facilitation involves reducing all the transaction costs associated with the enforcement, regulations and administration of trade policies.
- They call it the 'plumbing' of business

OBJECTIVES OF TRADE FACILITATION

- Reduce the cost of doing business
- Eliminating unnecessary administrative burdens associated with bringing goods and services across borders
- Modernization of the customs and automation of import procedures
- Adoption of international standards
- Improve compliance
- Use of risk analysis techniques

HISTORICAL BACKGROUND

- 1st Ministerial Conference held in Singapore in December 1996
- Trade Facilitation proposed by EU for inclusion as one of the four Singapore issues.
- Why Singapore issues?.

THE FOUR AREAS

- Trade and investment
- Trade and investment policy
- Transparency in Government procurement
- Trade Facilitation

Included in Negotiations after fifth session of Ministerial conference.

- November 2001, Doha “Round” of trade negotiations launched
- Conference results-
 - undertake Multilateral Trade Negotiations as per the work program specified in article 27 of the Doha Declaration also called Doha Development Round.

ELEMENTS OF TRADE FACILITATION

Specific focus

- Article V Freedom of Transit
- Article VII Fees and formalities
- Article X Publication of Trade Regulations

MAIN PROBLEMS FOR TRADERS

- Excessive Documentation Requirement
- Burdensome Border crossing procedures
-
- Lack of automation and scarce/limited use of Information Technology (IT)
- Delays: Time lost at borders - transport time.
- Delays translated to costs
- Lack of transparency and predictability

INSTITUTIONAL CHALLENGES

- Labour, human resource management and institutional barriers
- Poor staffing, management and training.
- Lack of competence results in arbitrary implementation, discretionary decision-making
- Too few officers to handle the work load speedily.
- Lack of co-operation and co-ordination

OTHER ISSUES ON TF

- Corruption
- Infrastructure deficiencies
- Illicit Trade
- Security Concerns

STATE OF PLAY

- Following discussions in July 2004, the General council agreed to adopt the *July package* that would now guide the next phase of the WTO round of negotiations making reference to Article 27 of the Doha ministerial declaration.

LEGAL FRAMEWORK

- The existing WTO rules on Trade facilitation form the legal framework. Article V that covers *Freedom of transit*, Article VII, *fees and formalities connected with Importation and Exportation* and Article X-*Publication and Administration of Trade regulation*
- Gaps are said to exist. It is argued that some areas like Customs Valuation, specific rules exist but as regards customs procedures, documentation and transparency only basic prescriptions exist to date.

ARTICLE V OF GATT 1994

- Barcelona Convention on freedom of transit (Barcelona on 29th April 1921).
- Apply to goods of another member passing through its territory to a third destination.
- Excludes movement of persons
- Basic objective-
 - allow for freedom of transit through the territory of each member.

ARTICLE V-OBLIGATIONS

- **Each member shall grant freedom;-**
 - via routes most convenient for international transit
 - with no distinction based on-
 - (i) flag of the vessel,
 - (ii) origin,
 - (iii) departure,
 - (iv) entry,
 - (v) exit,
 - (vi) destination or
 - (vii) ownership of goods

- Article v prohibits-;
 - unnecessary delays or restrictions,
 - imposition of customs duties, transit duties or other charges,
 - Except charges for transportation and those commensurate with administrative

ARTICLE VIII OF GATT 1994

- **Origin**-US, 1946 as proposal
- aimed at reducing consular fees in connection with issuance of visas for commercial travellers and consignments
- Seeks to limit the costs & complexity of the importation and exportation process
- penalties to be imposed for minor breaches of customs procedures
- reduce number/complexity of import- and export-related fees and formalities.

- Fees/charges within scope of Article VIII include-;
 - license fees,
 - document fees,
 - consular invoices,

Article VIII - WTO Member requirements

ARTICLE X OF THE GATT 1994

- Based on the Havana Charter
- Objective-
- **Requirement**
- THE JULY PACKAGE

END



PROHIBITIONS AND RESTRICTIONS

OBJECTIVES

-By the end of this lesson, you should be able to:

- ❖ Define the terms;
 - goods
 - cargo
 - prohibited goods
 - restricted goods

Con't

- ❖ Identify international conventions on prohibited and restricted goods
- ❖ Mention drugs of Abuse
- ❖ Give EAC legal reference to prohibitions and restrictions
- ❖ List EAC prohibited and restricted goods
- ❖ Give reasons for the imposition of prohibitions and restrictions
- ❖ Enumerate goods under Customs Control

DEFINITIONS

❑ Goods-

includes all kinds of articles, wares, merchandise, livestock and currency, and, where any such goods are sold under this Act, the proceeds of such sale.

❑ Cargo-

includes all goods imported or exported in any aircraft, vessel or vehicle other than such goods as required as stores for consumption or use by or for the aircraft, vehicle or vessel, its crew or passengers.

Con't

❑ Prohibited goods-

Any goods the importation, exportation or carriage coastwise, of which is prohibited under the EAC CMA or any Customs law for the time being in force in the Partner States.

❑ Restricted Goods

-Any goods the importation, exportation, transfer or carriage coastwise, of which is restricted, save in accordance with any conditions regulating such importation, exportation, transfer, or carriage coastwise and any goods the importation, exportation, transfer, or carriage coastwise, of which is in way regulated by or under the customs laws.

LEGAL FRAMEWORK

INTERNATIONAL CONVENIONS ON PROHIBITED GOODS

- Narcotic drugs—global concern
- 1st international conference-
-Shanghai in 1909
- International control system built step by step
-from 1920-League of Nations
-since 1946-United Nations

Con't

- Treaties adopted require that;
 - govts exercise control over production & distribution of narcotic drugs & psychotropic substances
 - govts combat drug abuse & illicit traffic
 - govts report to international organs on their actions.

Conventions

- SINGLE CONVENTION ON NARCOTIC DRUGS, 1961;
 - Had 177 member as at 1st July,2005
 - Replaces treaties made before 2nd World War on Opiates, Cannabis and Cocaine.
- Control exercised over more than 116 narcotic drugs
 - includes opium& its derivatives
 - synthetic narcotics e.g methadone and pethidine

CONVENTION ON PSYCHOTROPIC SUBSTANCES, 1971

- Had 176 party states as at 1st June 2005
- Controls drugs not covered by previous treaties e.g;
 - hallucinogens, amphetamines
 - barbiturates, non-barbiturates
 - sedatives, tranquilizers.
- 105 psychotropic substances controlled.
- Most in pharmaceutical products acting on central nervous system

UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS & PSYCHOTROPIC SUBSTANCES, 1988

- 172 states-1st June 2005
- Prevents laundering of money obtained from illicit trafficking
- Provides concrete instruments for international law enforcement cooperation

Con't

- Provisions for;
 - tracing
 - freezing
 - confiscation

Of proceeds/property due to drug trafficking.

OTHER INTERNATIONAL CONVENTIONS/AGREEMENTS (MEAs)

Cites

-endangered species

Basel(1992)-

-hazardous wastes /disposal

Stockholm(2004)-

-Persistent Organic Pollutants
(POPs)

-prior informed consent on chemicals

Rotterdam

-ozone depleting substances

Montreal(1987)-

-weapons

Chemical weapons conventions

Lusaka task force

- Specimens from these species are also restricted from importation or exportation.



-International Property right Organization



-Trade Related Aspects for Intellectuals
Property rights.

DRUGS OF ABUSE

The term **DRUG** has a variety of meanings.

❖ **In the medical profession**

- any substance with medicinal and therapeutic properties

❖ **In Law**

- any substance is 'drug' which is defined by law as 'drug', whether it has medicinal properties or not.

❖ In the context of drug as a social problem.

➤ the term 'drug' refers to certain chemical substances that have psychoactive effect

❖ Psychoactive drug

➤ is any chemical substance that alter mood, perception, consciousness or behavior as a result of alterations in the brain.

Definition by W.H.O.

Drug

‘ A chemical of synthetic, semi-synthetic or natural origin intended for diagnostic, prophylactic, therapeutic or palliative use or otherwise modifying physiological functions of man or animals. ’

Definitions

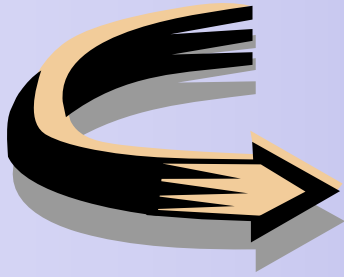
- ❖ a drug can be defined as a natural or synthetic substance that is used to produce physiological effects in man.
- ❖ But in modern context drugs mean something different to each person



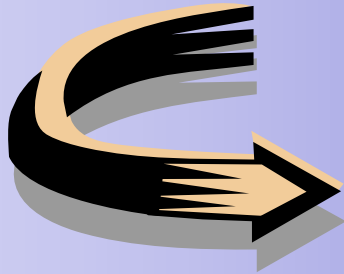
❖ to some, drugs are a necessity for sustaining and prolonging life, to others drugs provide an escape from the pressures of life.

❖ The law enforcement agency is concerned with the latter type of drug, which is widely abused.

Classification:



In accordance to their effect
upon a person's mental activity
and psychic state



In accordance to the
material from which they
originate

First Method: Drugs are divisible into :-

• Depressant

- of the central nervous system, which slow down mental activity

• Stimulants

- of the central nervous system, which cause states of excitement

• Hallucinogens

- which produce hallucinations or illusions, ie. Distortion of the senses

• Cannabis

- which in small amount acts as a depressant, but in larger doses has effects similar to those of a hallucinogen

2nd Method

Drugs may be divided into :-

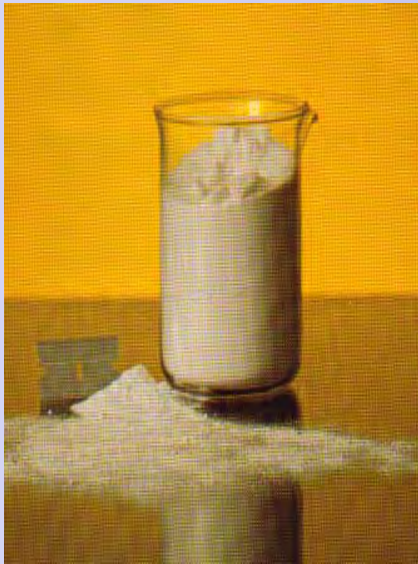
• Natural

- *drugs, which are either still in their natural state or derived comparatively simply from plant material*

• Synthetic

- *drugs, which are made in laboratories by chemical processes*

Depressants

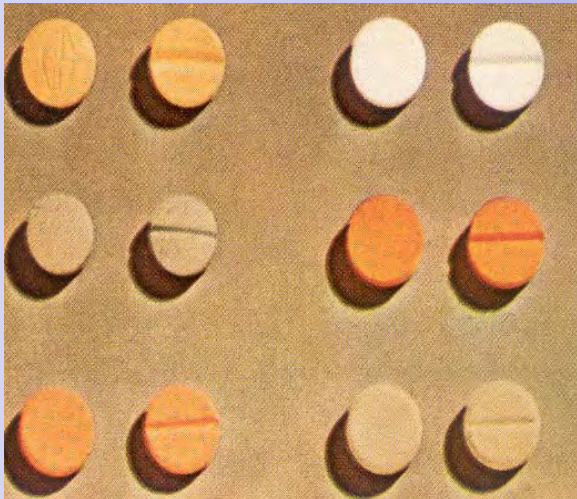


- act upon the central nervous system and slow down its activity.
- drug abusers term it as ‘HIGH’ which means a state of well-being and comfort – an escape from the reality with which they cannot cope.
- this imagined state of mind is called *euphoria*.

The following drugs fall in this category :-

- OPIUM
- MORPHINE
- HEROIN
- CODEIN
- SYNTHETIC OPIATES
- BARBITURATES

Stimulant



- ❑ excite or stimulate the central nervous system
- ❑ can be obtained from natural sources and can be synthesized .e.g
 - COCAINE
 - AMPHETAMINE
 - METHAMPHETAMINE

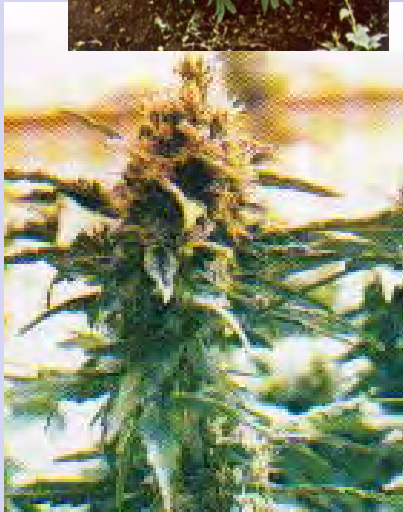
Hallucinogen



- consist of natural and synthetic substances which alter sensory perception
- it alters visual perception resulting in illusions
- makes it difficult to differentiate reality from fantasy
- taken in large doses, these substances cause hallucinations

Cannabis

- derived from the plant CANNABIS SATIVA
- cultivated in most tropical or temperate climates
- full grown cannabis plant will reach a height of 90 cm to 5 m
- bushy green plant with characteristic leaves made up of 4-8 lance-shaped leaflets with saw-toothed edges



Effects of Cannabis

- changes perception of time and distance as well as impairing short-term memory and coordination
- feeling of 'high' lasts between 2-3 hours after a single cannabis joint
- also causes a sudden panic reaction
- chemical substances found in cannabis accumulates in the human body
- 30 – 50% THC remains in the body one week after smoking a single joint

Drugs

A chemical substance of Synthetic, Semi-Synthetic or Natural origin intended for diagnostic, prophylactic, therapeutic or palliative use or otherwise modifying physiological functions of man or animals (def. W.H.O)

1st method



Classification

2nd method



In accordance to their effect upon a person's mental activity and psychic state;

- Depressant
- Stimulants
- Hallucinogens
- Cannabis

or

In accordance to the material from which they originate ;

- Natural drug
- Synthetic drug

EAC LEGAL REFERENCE ON PROHIBITIONS AND RESTRICTIONS

Sec 18

- (1) The goods specified in Part A of the Second Schedule are prohibited goods and the importation thereof is prohibited.

- (2) The goods specified in Part B of the Second Schedule are restricted goods and the importation thereof, save in accordance with any conditions regulating their importation, is prohibited.

Con't

Sec 19.

- (1) The Council may by order published in the Gazette amend the Second Schedule so as to provide that the importation of any goods or class of goods
 - a) is prohibited, either generally or in relation to any Partner State;
 - b) is prohibited, save in accordance with any conditions regulating their importation, either generally or in relation to a Partner State.

Sec 19 con't

(2) -The Council may, by order published in the Gazette-

- a) provide that the importation into a Partner State, or any area thereof, of any goods, or class of goods, shall be prohibited or shall be prohibited save in accordance with such conditions as may be specified in such order;
- b) limit in respect of a Partner State the application of the provisions of the Second Schedule in respect of all or any of the goods specified therein;
- c) and thereupon in respect of such goods the provisions of this Act shall apply as if such goods are, or are not, as the case may be, included in the Second Schedule.

Sec 19 con't

(3)- An order made under this section may specify goods, or any class of goods, either generally or in any particular manner and may prohibit or restrict the importation thereof either from all places or from any particular country or place.

Section 20.

- (1) Subject to subsection (2), sections 18 and 19 shall not apply to goods imported in transit, or for transshipment, or as stores of any aircraft or vessel, unless such goods come within paragraph 2 of Part A of the Second Schedule, or are goods of which the importation in transit, or for transshipment, or as stores for any aircraft or vessel, is expressly prohibited or restricted in any order made under this Act prohibiting or restricting the importation of goods.

Sect 20 -con't

- (2) Where, under subsection (1), sections 18 and 19 do not apply to any goods imported in transit, or for transshipment, or as stores for any aircraft or vessel, then such goods shall be duly re-exported within such time and subject to such conditions as the Commissioner may specify; and where such goods are not so re-exported, then, as from the last date on which they should have been so re-exported, they shall be deemed to be prohibited goods, or restricted goods, as the case may be, and to have been imported on that date.

Sect 70-Exports

- (1) The goods specified in Part A of the Third Schedule are prohibited goods and the exportation of the goods is prohibited.
- (2) The goods specified in Part B of the Third Schedule are restricted goods and the exportation of the goods, save in accordance with any conditions regulating their exportation, is prohibited.

EAC prohibited and restricted goods

As found in the 2nd and 3rd schedules of the EAC CMA Act

EXAMPLE OF RESTRICTED GOODS

- All goods the importation of which is for the time being regulated under this Act by any written law for the time being in force in the Partner State.
- Postal franking machines except and in accordance with the terms of a written permit granted by a competent authority of the Partner State.

Con't-restricted goods

- Traps capable of killing or capturing any game animal except and in accordance with the terms of a written permit granted by the Partner State.
 - Unwrought precious metals and precious stones.
 - Arms and ammunition specified under Chapter 93 of the Customs Nomenclature.

EXAMPLE OF PROHIBITED GOODS

- All goods the importation of which is for the time being prohibited under this Act, or by any written law for the time being in force in the Partner State.
- False money and counterfeit currency notes and coins and money not being of the established standard in weight or fineness
- Pornographic materials in all kinds of media, indecent or obscene printed, paintings, books, cards, lithographs or other engravings, and any other indecent or obscene articles.

Con't-prohibited goods

- Matches in the manufacture of which white phosphorous has been employed.
- Narcotic drugs under international control
- All soaps and cosmetic products containing mercury.
- Used tyres for light Commercial vehicles and passenger cars.

RESTRICTED AND PROHIBITED EXPORTS

- **Examples of restricted Exports**
 - All goods the exportation of which is regulated under this Act or of any law for the time being in force in the Partner States;
 - Waste and scrap of ferrous cast iron;
 - Timber from any wood grown in the Partner States
 - Fresh unprocessed fish (Nile Perch and Tilapia);
 - Wood charcoal.

Con't

- **Examples of Prohibited Exports**

- All goods the exportation of which is prohibited under this Act or by any written law for the time being in force in the Partner States.

REASONS FOR IMPOSITION OF PROHIBITIONS OR RESTRICTIONS

- Political Reasons
- Economic Reasons
- Social Reasons
- Security Reasons
- Health Reasons
- Agriculture Reasons



Thank you
Thank you

IMPORTS

Objectives

At the end .

- ❖ Define the term import.
- ❖ Describe inward and outward report.
- ❖ Identify and properly fill the customs prescribe report forms.
- ❖ Identify the customs controls on inward and outward report

Objectives-cont

- ❖ Outline the reasons for control.
- ❖ Outline customs procedures on arrival and departure overland.
- ❖ Compute accurately customs duties.
- ❖ Define the term carriage coastwise and transfer.

Definition

The term 'import' means-

- ❖ bring or cause to be brought
- ❖ into the Partner State.
- ❖ from a foreign country.

Inward report of vessels/aircraft/vehicles

From foreign report to appointed ports,

- ❖ Straight to mooring areas
- ❖ Landing or boarding
- ❖ Cannot depart – permission

Outward report of vessels/aircraft/vehicles

- ❖ Once departs to foreign
- ❖ not allowed to call at any place within the country
- ❖ proper officer grant permission.
- ❖ The proper direct the vessels or aircraft
place of mooring or discharging its cargo.

(Section 21 (1) and (2)) of the EACCMA 2004

Report, prescribed forms and customs controls

Types of reports:

- ❖ Air for aircrafts
- ❖ Water for vessels
- ❖ Overland i.e. for vehicles, train, pipeline and persons.

Reporting Procedures

The Master of the vessel, Aircrafts or vehicle when arriving from foreign must;

- ❖ furnish a formal report
- ❖ within 24 hours.
- ❖ store, pkg without Bill of lading
- ❖ tendered on prescribed customs forms.

Prescribed report forms

C2 - Vessel -cargo manifest for vessel

C3 - Parcel list

C4 - Inward Rep of an Aircraft (General declaration)

C5 - Cargo report.(for aircraft).

cargo manifest attached to C4 or C2

Pages:Signed, initialed numbered, sealed

Prescribed report forms.

C6 -List of passengers disembarking/remain on board. (vessel)

C7 – Statement of Store Vessel

C8 – Declaration of consumable stores

C9. Crew declaration dutiable

C10 – Application- break bulk prior to report/unload prior to entry.

Amendment of the report

- ❖ C11 – Amendment of report. Sec. 24(4) CMA.
 - ❖ Obvious errors, omissions, accident or
 - ❖ supplementary report submitted.

Conditions:

- ❖ Not shipped
- ❖ Landed at a previous port
- ❖ Over-carried-landed subsequent port
- ❖ If over carried have been returned to port in the territory

C12: Declaration by Overland Routes

- ❖ Vehicle road manifest.
- ❖ overland must report
- ❖ vehicle and goods nearest Customs House
- ❖ The temporary importation paper for report purposes without C12.

Form C.12

Required in respect ;

- ❖ Load carrying vehicle, laden or unladen
- ❖ Private vehicle used exceptionally for the carriage of trade goods
- ❖ Vehicle entered for home consumption, warehousing or transit.

Customs controls

- ❖ Goods in transit and transshipment
- ❖ Initialling of pages
- ❖ Landing Permit
- ❖ Goods in transit shed

Arrival by overland route

- The person in charge of any vehicle before unloading or deposing the vehicle or any good therein:
 - ❖ Report his/ her arrival
 - ❖ Furnish information in prescribed form
 - ❖ Make and subscribe a declaration
 - ❖ Answer all relevant questions
 - ❖ Produce all consignment form
 - ❖ Make entry of the vehicle

Clearance by Pipeline

Operator shall-;

- ❖ -Report quantities of goods
- ❖ -record quantities of goods imported or exported through a pipeline
- ❖ -provide apparatus
- ❖ -provide appliances for records and making reports- section 32

Unloading and Removal of Cargo

Conditions for unloading of goods;

- ❖ -dully entered
- ❖ -at an approved place of unloading
- ❖ -at a sufferance wharf
- ❖ -prescribe time

Unloading at Approved Place or Suffrance Wharf

- ❖ unloaded from aircraft or vessel into another vessel
- ❖ goods reported for re-exportation by another aircraft or vessel
- ❖ must sign and transmit to the proper officer at the place at which the goods are to be landed
- ❖ Application form C13

Unloading and Removal of Cargo-cont

- ❖ Goods Reported to be Unloaded
- ❖ Entry of Goods Prior to Unloading
- ❖ Unloading of Broken Packages
- ❖ Goods Unloaded to be conveyed to Customs Area
- ❖ Goods Unloaded Deemed on Board

Landing permits

Unaccompanied or un-manifested packages;

- ❖ small quantities of provisions required by ships agents;
- ❖ returned empty drums and bottles;
- ❖ wireless sets, typewriters and similar articles landed for repairs
- ❖ small parcels carried in favour of ships' Captains;
- ❖ small packages of unaccompanied and un-manifested baggage

ENTRY OF IMPORTED GOODS

- ❖ EAC Customs Management Act, 2004
(Section 34)
- ❖ no goods may be removed
- ❖ unless they have been duly reported
- ❖ entered and the proper officer has given authority for their removal or delivery.
- ❖ supporting documents

Goods may be cleared for;

- ❖ Home consumption
- ❖ Warehousing
- ❖ Transshipment,
- ❖ Transit
- ❖ Export Processing Zone

Delivery prior to entry declaration.

- ❖ Personal baggage- passengers – crew
- ❖ Goods for sale or delivery-passengers or crew.
- ❖ Mail bags postal articles
- ❖ Upon an application and to an undertaking to furnish necessary entry within 48 hours.

Processing of imports

- ❖ Manifest
- ❖ SAD/DDCOM/SED
- ❖ Entered within 21 days
- ❖ If not, then prov sec. 42 EACCMA. (c/whse)
- ❖ VALUE – CIF
- ❖ Agreement in customs valuation

Processing of imports-cont

- ❖ Invoices
- ❖ English translation
- ❖ Original invoice
- ❖ Copies (sec 234)

Points to be observed

- ❖ Prohibited - seize
- ❖ Restricted- Conditions
- ❖ Columns completed
- ❖ Classification/Tariff
- ❖ Description of goods
- ❖ Quantity and quality
- ❖ I/D - VAT - E/Duty Rates - Susp – duty
- ❖ Weight/measurement
- ❖ Sign - Authority Signatories

Entry of goods

Goods deemed to be entered

- ❖ Entry made, signed,
- ❖ accepted and signed by the proper officer
- ❖ Duty or deposit paid

Goods entered for home consumption

- ❖ Declared for use in p/state
- ❖ Above have been fulfilled

Entry of goods-cont

- ❖ Time of importation
- ❖ Time of entry

Time of entry

- ❖ Importation by post
 - time when duty is assessed (sec 94) (a)
- ❖ Exportation by post
 - time of posting of the goods
- ❖ Importation overland
 - time when import duty thereon is paid.

Time of entry-cont

- ❖ Declaration is done prior to arrival of the goods
 - arrival of such vessel/aircraft (sec. 2)
- ❖ Goods arrived before processing of entry
 - entry is passed and taxes paid.
- ❖ Export duty.
 - entered for export.

Customs examination of goods

- ❖ Powers (Legal Authority) under the EAC
- ❖ loading, unloading, sorting, removal transfer, unpacking
- ❖ samples of goods
- ❖ implements for examination
- ❖ repacking

The purpose of Examination

- ❖ To confirm description, value, tariff classification,
- ❖ Quantity and quality.
- ❖ Record is made for each examination performed.
- ❖ To control prohibitions, restrictions

The purpose of Examination

- To correct and rectify discrepancies
- To check mis-declaration.
- To check insufficient particulars provided by the importers. - Pre-verification.

Stopping of Entries for Examination

- ❖ scrutinizes entries and invoices
- ❖ determining the risk involved
- ❖ computerized system
- ❖ risk Factors
- ❖ Risk managements

Computation of Duty

- ❖ Determination of customs value
- ❖ Apply the current exchange rate
- ❖ Determine the tax rate
- ❖ Determine taxes applicable on imported goods

Calculation of taxes:

Import duty (ID) = ID rate x Customs value (CIF)

ED value = import duty + Customs value

Excise duty (ED) = ED value x ED rate

VAT value = Customs value + ID + ED

VAT = (CIF + ID + ED) x VAT rate

Cal- without excise duty then:

VAT = (ID + CIF) x VAT rate i.e. (ID + 0 + CIF) x VAT rate.

In case ID is nil then VAT = CIF VAT rate i.e. (CIF + 0 + 0) x
VAT rate

Carriage coastwise

- ❖ goods conveyed by sea or air from any part
- ❖ Partner State to another part
- ❖ coasting aircraft or vessel
- ❖ conveyance by inland waters
- ❖ Limitation

Exemptions Regime

- Two types of exemptions:
 - Specific exemptions
 - General exemptions
 - Fifth schedule of the EACCMA, 2004.

Specific exemptions

Cover goods imported or purchased before clearance through the Customs by or on behalf of privileged persons and institutions e.g.

- The presidents
- Partner States armed Forces
- Commonwealth and other governments
- Diplomatic and First arrival privileges
- International and regional organizations
- The war Graves Commission
- Disabled, blinded and physical handicapped persons
- Rally drivers

- Cover goods imported or purchased before clearance through Customs e.g.
 - Aircraft operations
 - Containers and Pallets
 - Deceased person's effects
 - Fish Crustaceans and mollusks
 - Passengers Baggage and personal effects
 - Samples and miscellaneous articles
 - Ships and other vessels

THANK YOU

*THANK
YOU*

Temporary Importation

OBJECTIVES

- ❖ Define temporary importation term
- ❖ Mention reasons for temporary importation
- ❖ Identify the legal framework for temporary importation
- ❖ Describe procedures and controls for Temporary importation
- ❖ Mention the limitations for temporary importations

Introduction

- ❖ Commercial travelers
- ❖ Sports
- ❖ Tourism
- ❖ Educational/Research
- ❖ Regional integrations SADC/COMESA/EAC

Definition

- ❖ Temporary imports
- ❖ Pass sheet-Triptydue
- ❖ Pass Book-" Carnet de Passage en Douane
- ❖ Commercial travelers

Legal framework

Sec. 117 of EACCMA,2004

Conditions;

- ❖ temporary use or purpose
- ❖ deposit or given security
- ❖ Temporary importation papers
- ❖ exported within such period, not exceeding twelve months

Goods imported under temp-use

- ❖ Commercial traveler's samples
- ❖ Goods incl. Stage properties for exhibition or entertainment
- ❖ For renovation or repair
- ❖ Touring propaganda materials – Not prohibited.
- ❖ Vehicle and goods
- ❖ Goods- COMESA/SADAC
- ❖ Any other as allowed by the Commissioner

Documents

- ❖ SAD/SED/DDCOM
- ❖ C12
- ❖ C47
- ❖ C48
- ❖ C49
- ❖ Pass sheet
- ❖ Pass book

Procedure and control -import

Arrival - C-12

- ❖ C -47-48-49 duplicate
- ❖ Period of stay
- ❖ Exportation date/station
- ❖ Examination
- ❖ Valuation-Deposit
- ❖ Recording
- ❖ release

Procedure and control -Exportation

- ❖ C47,C48,C49

- ❖ Examination

- ❖ Released

- ❖ Records

Restrictions

- Non exportation
- Lent, sold, hired, exchange, given away
- ❖ Offence
- ❖ 20% fine
- ❖ forfeiture

Conclusion and Challenges

- ❖ Summary
- ❖ New regulation
- ❖ Changes-forms
- ❖ Revisit

REVENUE AND NON REVENUE FUNCTIONS

Revenue and non revenue functions

The functions of the modern customs administration are:

- ❖ Revenue collection for the state budget
- ❖ Facilitation and simplification of trade
- ❖ Enforcement of state laws and trade policies
- ❖ Prevention of smuggling
- ❖ Provision of trade statistics
- ❖ Foster economic integration
- ❖ Prevention of international terrorism , security and money laundering

Revenue Functions

Developing countries

- ❖ revenue collection
- ❖ determining tax base imports and exports
- ❖ import duties, excise duties Value added Tax on imports
- ❖ stipulated in the national legislatures and also enforceable by these laws.

Non- Revenue Functions

- (I) Enforcement of compliance with import and export legislation
- (ii) Promotion of export and imports
- (iii) Promotion of the Single market, the monetary and economic Union
- (iv) Range of Volatility of import and export legislation
- (v) Enhance security to the World

Enforcement of compliance with import and export legislation

- ❖ collecting revenue is no longer a primary objective
- ❖ to serve as state agent for enforcing legislation
- ❖ protect the society than revenue collection

protect the society against

- ❖ Dumping measures
- ❖ Dangerous goods against health or life
- ❖ Counterfeit and goods violating intellectual property rights
- ❖ Export and export of arms and ammunitions
- ❖ Import and export of embargoes and endangered species.

Promotion of export and imports

- Relieve excise duties on exports and refund on duty paid on exports
- Granting tariff preferences to developing countries - competitive advantages
- Creating Customs Union and free trade area within which no Customs duties are collected and no tariff barrier create economic integration

Promotion of export and imports

- mutual reduction of Customs duties and international trade barriers
- create access to foreign market
- Sanctioning dumping practices of foreign exporters
- Regulating and monitoring of foreign trade as part of monetary, economical and fiscal policy, providing necessary information for policy decision, economic and political stability.
- Exempting Customs duties for the aim of promoting tourism, science, and disaster relief.

Promotion of the Single market, and economic Union

- ❖ Promote the effective functioning of the single market
- ❖ Removing trade barriers as a tool for promoting economic integration

Range of Volatility of import and export legislation

Wide range of legislation to be complied on Customs duties and formalities

- ❖ Other taxes like VAT and Excise duties
- ❖ Export refunds
- ❖ Import quotas, restriction and embargoes
- ❖ Export quotas, restriction and embargoes

Enhance security to the World

- ❖ Promote laws on fighting against terrorism
- ❖ Laws governing security for checking the goods moving around the world
- ❖ Security to the people moving around the world

Responsibilities

- -Perform risk assessment, verification and valuation of goods
- ❖ -Check tariff classification, administer warehousing, EPZ, and Free ports
- ❖ -Processes tax exemption
- ❖ -Plan and executes post clearance audit
- ❖ -Clear passengers and their accompanied baggage

Responsibilities cont

- ❖ -Patrol, surveillances, gate check, and interception
- ❖ -Boarding and rummages of ships and aircrafts
- ❖ -Compilation of customs offence report
- ❖ -Manifest compilation
- ❖ -Compile daily records of ship/aircraft movement in the port/airport

Responsibilities cont

- ❖ -Control of aircraft and ships stores
- ❖ -Witness destruction of condemned goods
- ❖ -Anti smuggling patrol
- ❖ -Control shipment of ship's stores
- ❖ -Keep records at the entry points/exit
- ❖ -Baggage inspection

Responsibilities

- ❖ -perform preventive duties at the airport, seaports, gate, customs warehouse, transit stations and dry ports
- ❖ -Guards and escort goods under customs control
- ❖ -Perform gangway duties on ship and aircraft

Responsibilities

- ❖ Administration of external tariff
- ❖ Information technology
- ❖ Collection of taxes

Responsibilities

- ❖ Queries raised by both employees and the public
- ❖ Interpretation of Customs Laws and tariff
- ❖ Appraise and initiate disciplinary action
- ❖ Preparation of periodic performance and other report
- ❖ Keeping records and documents

Responsibilities cont

- ❖ Facilitation of international trade
- ❖ -Restrictions and prohibitions
- ❖ -Training
- ❖ -tax compliance
- ❖ -Trade statistics
- ❖ -Customs negotiations
- ❖ -Customers services

THE END

THANK YOU

TRANSIT AND TRANSHIPMENT PROCEDURES

OBJECTIVES

-At the end of this lesson participants should be able to:

- Define transit and Transshipment
- Outline the types of transit and transshipment
- Identify the control measures for goods in transit

Cont-Objectives

- **Outline treatment of goods in transit**
- **Give reasons for controlling goods in transit**
- **Outline the transit procedures at the point of exit**
- **Identify challenges of transit goods in East Africa**

DEFINITIONS

- a) Transit-Goods are transported under customs control
 - (i) From one customs office to another
 - (ii) Movement of imported goods from foreign to foreign destinations

- b) Transshipment-Goods are transferred under customs control from one customs office from an importing vessel to an exporting vessel

TYPES OF TRANSSHIPMENT

- Direct transshipment
- Indirect transshipment

TYPES OF TRANSIT

- Through transit
- Inward transit
- Outward transit

FACILITATION OF TRANSIT GOODS

- Computerized systems
- Coordination of trade and transport
- Adaptation of common standard of trade documents

TREATMENT OF TRANSIT AND TRANSSHIPMENT GOODS

- Exempted from import duty and taxes (section 85 of EACCMA 2004)
- Must report on arrival to a proper officer
- Must be entered in a single administrative document

Content of the single administrative document

- Bill of lading number
- The registration number
- Name and address of exporter, importer and agent
- Port of importation and exportation
- Date of departure

con't

- **Destination of goods**
- **Country of origin**
- **Marks and numbers of packages**
- **Full description of goods**
- **HS Code**

cont

- CIF value
- Port of exportation
- Frontier office
- Amount of cash deposit or bond executed

EXAMINATION

- Exempted from full examination
- Only external features of containers are checked

CONTROL OF GOODS IN TRANSIT

- Goods imported to a foreign port shall be entered by the owner or agent.
- Give security in either cash deposit or
- Security bond (CB8)

OTHER CONTROLS OF TRANSIT GOODS

- Transit check points
- Radio system
- Customs enforcement unit
- Convoy
- Escort

WHY THE CONTROLS?

- Protection of public morality and other public interests
- Security reasons
- Health and hygiene
- Economic reason

PROCEDURES AT THE TRANSIT POINTS

- Transit goods must be produced to the proper officer at the point of exit with a copy of transit entry
- It is compared with the advance copy

cont

The following are checked;-

- marks and numbers of the container
- Description of packages
- Number of packages
- Seal number, whether broken or intact

CHALLENGES OF TRANSIT GOODS IN EAST AFRICA

- Forgeries
- Fraud due to collusion
- Under valuation
- Improper record keeping
- Diversion



THE END

IMPORTATION BY POST

OBJECTIVES:

At the end of this lesson the participants will be able to:

- Define terms.
- Describe procedures involved in clearance of post parcels
- Explain the delivery procedures of post parcels
- Explain the procedures of accounting for revenue from post parcel transaction.
- Explain the process of courier services

DEFINITION OF TERMS.

- Courier Services
- Mail
- Consignment:
- Assess parcel:
- Trade parcel:
- Frank De Droits Parcel (F.D.D.):
- Import duty schedule
- Customs Entry:

LEGAL AUTHORITY

- 93 to 95 of the EACCMA, 2004.
 - Sec93- Application of Act to postal articles.
- - sec94.- Time of entry of postal articles.
 - Sec95-. Registered courier companies to land, store, etc.

CONTROL OF POSTAL ARTICLES

- **Goods imported by post**

On arrival

At the parcel office

After sorting and numbering

EXAMINATION PROCEDURES

- Post parcels may be, when required, examined by the proper officer.
- Goods produced for examination by the post office officials
- Assess parcel may be cleared without examination
- Trade parcels , examination necessary

ATTENTION ON EXAMINATION

- Goods must agree with description
- Accurate record for each examination performed.
- Check prohibition or restriction
- For restricted goods, check conditions relating to the restriction

MAIL REGISTRATION

- Parcels office to keep a register of mails
- Recording of particulars
- Mail to be accounted for
- seizure of postal mail

ASSESS PARCEL

- If the particulars declared on the parcel advice sufficiently accurate, customs officer-;
- enter the declared particulars
- value of goods,
- the rate of duty
- amount of duty payable
- sign, date the original parcel advice
- NB: Cost of postage same as FREIGHT to normal importation.

ASSESS PARCEL- cont

- If declaration not clear-;
 - parcel be opened by post officer
 - duty be assessed on value appraised.

Duty assessed on any FDD parcel to be shown on the parcel advice under the import duty schedule procedures

TRADE PARCEL

- The importer prepares import entries
- Supporting documents
- Valuation of goods with the value of \$ 5000 or more.
- The duty is paid by the importer (Agent) through bank

DELIVERY AND ACCOUNTING

If the parcel is addressed to an importer who resides in an area where there is a customs officer,

- The original parcel advice-post office
- The duplicate parcel advice- parcels counter
- presentation of the original parcel
- particulars agree and duties are collected
- signs and dates both the original and duplicate
- RELEASE
- Distribution of the parcel advise

DELIVERY AND ACCOUNTING

If the parcel is addressed to an importer who resides in an area where there is no customs officer ;

- Import duty schedule
- Goods are free of duty
- In case a mistake is made
- Verification of post parcel advices
- Collection and banking

REDIRECTED PARCELS

Where an importer requests the post office to redirect a parcel to another parcel office:

- The customs officer withdraw the duplicate advice from the file
- stamp the original and duplicate parcel advice “**REDIRECTED IN BOND**”
- hand the duplicate to the post officer
- send it to the parcel office to which the parcel is to be redirected.

REDIRECTED PARCELS (cont.)

- The parcel placed in a mailbag labelled '**NOT RELEASED BY CUSTOMS**'
- on arrival at the parcels
- original importation from foreign.
- redirection of parcels, already been entered on an import duty schedule
- treatment of unclaimed or not delivered parcels within the prescribed period

WAREHOUSING

- When an importer wishes to warehouse goods imported by parcels post
 - The value should be correctly determined and shown on the entries and advices.
 - enter those goods in the parcel advice for warehousing
 - execute the security bond.
 - The original parcel advice original warehousing entry
 - cargo receipt will be attached to the original parcel advice.

PART CONSIGNMENTS

When a consignment of trade goods arrives in parts:

- declaration and payment of the duty
- part of the consignment not arrived
the customs officer
 - declaration certificate
 - distribution of copies
- balance of the consignment

DUTY ON LOST OR MISSING PARCELS

- The postmaster general liability
- Importer presents his/her original parcel advice;
- customs officer
 - Compare the particulars with those in the retained duplicate parcel advice
 - Inform the post officer to deliver the relevant parcel upon satisfaction,

Post officer fails to produce the parcel,

- Assumed that the parcel has been delivered without the authority
- immediately report to the commissioner
- request payments of assessed duty from the post master general.

PROCESS OF COURIER SERVICES

- Definition
- The registered courier companies such as DHL, EMS/goods under customs control.
- goods imported through a registered courier,
- Examination and assessment of duty.
- A customs declaration made by the sender of the goods

PROCESS OF COURIER SERVICES (cont.)

- Parcel contains goods of commercial nature,
- Courier bags under customs control
- Courier articles -examination
- Courier article, or its contents found conveyed contrary to the law



The end

EXPORTS

Objectives

At the end of this lesson, the students should be able to:

- Define customs terms used in exportation of goods.
- Identify legal references and types of export entries.
- Describe customs procedures for loading goods for export.
- Mention goods, which are exempted from SBE requirements.
- Explain customs procedures for exporting bonded goods.
- Explain the departure overland procedures

Definition of terms.

- Exportation
- Outright Exportation
- Temporary Exportation
- Temporary Exportation

Definitions cont

- Prohibited Goods
- Restricted Goods
- Sufferance wharf
- Stores

Customs procedures for exports

- Registration
- All goods for export shall be loaded on to any aircraft or vessel departing to a foreign part within the boundaries of the port.
- **EACCMA 2004** stipulates prohibited exports (part A of 3rd Schedule)

Exceptions

- Goods in transit
- transshipment
- goods exported as stores of vessel or aircraft
- However the goods should be exported within such time as the Commissioner may specify.

Entry outwards

- Entered on the export single bill of entry (SBE) in quadruplicate copies
- owner required to furnish full particulars, supported by documentary evidences.
 - e.g. Export licence,
 - Commercial invoices,
 - Permits,
 - Receipts
 - etc

Export categories

Grouped into three according to Customs procedure codes (CPC):-

- Exports of domestic goods free of duty.
- Exports of domestic goods liable to export duty
- Re-exportation of goods not under drawback

Entry contents

- Name and address of exporter.
- Name and address of importer.
- Name and address of customs agent.
- Country of destination.

Entry contents cont

- Commodity code and description of goods.
- Value of goods and total amount of duty payable.
- Marks and number of transporting vessel, aircraft, or vehicle.
- Total number of packages.

Clearance for export

Master or agent of every aircraft/vessel or vehicle shall-

- make entry outwards to the proper officer on the prescribed form
- made after the whole of the cargo reported for discharge has been discharged.

RE-EXPORTATION

- Customs procedure;-
 - Imported for temporary purpose,
 - To be exported.
- Section 115 of EACCMA 2004, exempts from import duties.
- Condition;-
 - bond or cash deposit

Goods which qualify for exemption

- Commercial traveler's sample
- Goods, including stage properties
- Goods imported for renovation
- Touring materials etc.

Controls

On importation-

Prescribed form in duplicate stating;-

- ❖ Period of stay
- ❖ Exportation date/station

-Examination report

Controls **cont**

- Report to indicate :
 - Marks
 - number of packages,
 - Quantity
 - description of packages
 - HS
 - Value, Duties and taxes payable
- Amount of cash deposit paid and the payment receipt number.

On re-exportation

- Exporter presents his/her copy of the form and the goods
- Examination
- Compare with original examination
- Re-exported the goods within specified time.
- Deposit refunded or
- Payment of taxes at the rate in force.

- Conditions to be fulfilled before loading-;
 - Goods **only enter** **Loading of goods under Section**
 - within the time prescribed by the Commissioner.
 - from an approved place of loading or from a sufferance wharf.
 - after an entry outward of such vessel has been made.
 - within the limits of the port

Conditions-con't

- No goods, put on board any aircraft or vessel for export shall be discharged at any place within the Partner States without a written permission of the proper officer.

Exemptions from export entry

- The bonafide personal baggage of the passenger or members of the crew.
- Goods intended for sale or delivery to passengers or members of the crew.
- Mail bags and postal articles in the course of transmission by post.
- Upon an application and to an undertakings being given by the owner to furnish necessary entry within 48 hours or such further time as the proper officer may specify.

Export of bonded goods

- Before any warehoused goods are entered for exportation,
 - the owner shall give security
 - conditions as the proper officer may think fit.
- Export certificate may be issued

Storage

- Goods stored in customs area
 - At owners risk.
 - In case the loss is caused by negligence of the proper officer, Commissioner will be liable to compensate the owner.

Export duty

- Goods, liable to export duty,
 - Amount shall be stated on the export entry
 - Goods shall not be exported until such export duty is dully paid.
- Export duty on goods grown, produced, or manufactured in another partner state.

Departure overland

- **A person shall:**
 - Report intended departure to customs officer.
 - Furnish on the prescribed forms all information related to the vehicle and goods for exports.
 - Fully and immediately answer all relevant questions put to him/her by the proper officer.
 - Produce any consignment notes or any relevant documents demanded by the proper officer.
 - Make due entry of the vehicle and goods for exports.

A blue scroll graphic with a dark blue border and a lighter blue gradient fill. The scroll is unrolled, with the top and bottom edges curled up. The text "The End" is written in a black, elegant cursive font in the center of the scroll.

The End

CUSTOMS SECURITY BOND

Objectives:

- At the end of this lesson, the trainees should be able to:
 - Define terms used in security bonds
 - Identify common types of bond securities
 - Explain the procedure for bond execution
 - Identify the benefits and challenges of bond securities

Definitions

- Cash deposit
- Bond security
- Penalty of the bond
- The Principal

CLASSES OF BONDS

- **Particular bonds:**
 - These are bonds that cover only single specified transactions.
- **General bonds:**
 - These are bonds that cover many transactions

Types of bonds securities

- Differ from country to country
- Examples of types of bonds(Kenya)
 - CB03 security warehousing and removal between bonded wares
 - CB08 security of goods in Transit
 - CPZB security of goods imported under EPZ program

Bond Execution

- Signing of Bonds
- Attachments to the bond
- The Seal
- Signature by the Principal

Signature by the Principal

- Registered Company
- Partnership
- Limited Partnership
- Other forms Of Businesses

- Utilization of bond securities
- Enforcement of bond security
- Discharge or cancellation of bonds and refund of deposits
- Renewal of security bonds

Benefits

- **Benefits of bond security are as follows:**
 - Sort of credit to importers
 - Trade facilitation
 - Convenient to manufacturers importing raw materials
 - Guarantee of recovery of revenue

Challenges

- Can be used by dishonest business people to evade tax.
- Revenue authorities have no control of insurance companies if they are liquidated.
- Tax revenue remains uncollected for a long time.
- They increase administrative cost.

Self test questions

- Discuss the procedures for execution and cancellation of bond securities
- Outline the benefits and challenges of bond securities

Further reading

- EAC CMA(2004)
- National legislations

THE END



MODULE 2

CUSTOMS AND GOVERNMENT WAREHOUSING PROCEDURES

Objectives

- At the end of this lesson, the trainees should be able to:
- Define the terms used in Customs and Government Warehouse Procedures
- Outline the warehousing procedures
- Identify the conditions governing auction sale
- Identify the types of operations carried out in the warehouse

Definitions

- **Warehouse** :A building where goods are stored.
- **Warehousing**:A customs procedure whereby goods liable to import duty may on first importation be warehoused without payment of duty in a Government warehouse or a Bonded warehouse.
- **Customs warehouse**:Any place approved by the Commissioner for the deposit of un entered, un claimed, un examined, abandoned, detained or seized goods for the security thereof and for protection of customs duties thereon

Reasons for warehousing

- To Facilitate trade
- To safeguard government revenue
- To provide Safe custody of goods
- To minimize customs administration costs

- **Warehousing procedures:**

- For duty protection purposes etc, goods not brought to the customs proper officer must be under strict customs control.
- After the expiry of a specified period set to enter goods for clearance, The landing officer declares the customs warehousing date that the un entered goods must be sent to the customs warehouse.

- **Customs warehouse date**

- Normally the 21st day (excluding Sundays and public holidays) after the commencement of discharging goods from the importing vessel or aircraft and in the case of importation by land it is the day of the arrival of the goods at the frontier station.

- Unentered and un claimed goods are sent to the customs warehouse vide WANT OF ENTRY LIST prepared by port authorities. Other goods are sent to the customs warehouse vide their respective documents e.g. Notice of seizure, goods deposited note, etc.
- Receiving customs warehouse officer must make a thorough internal examination and compare same with accompanying documents.
- Results of the correct description and actual quantity of the goods received shall be recorded in respective registers.

Types of Want of Entry Registers

- Seizure Note register
- Un claimed and Abandoned goods register
- Bonded goods register
- Deposit register
- Postal packages for re-exportation register
- Arms and Ammunition register.

NB: Countries may have different registers with different names

Period of warehousing and clearance of warehoused goods

- Normally goods deposited in a customs warehouse must be delivered or removed within 30 days from the day of entry subject to order from the Commissioner to extend the period of stay
- Commissioner may grant extension upon request
- Goods that are not lawfully removed from the customs warehouse within a specified period shall be deemed to have been abandoned and hence be sold by public auction or in any manner as the Commissioner may direct.

Disposal of goods from the warehouse

- Section 33 (4) of EACCMA, 2004 goods shall not be removed from a customs warehouse unless such goods have been duly reported and entered.
- For dutiable goods, which were warehoused to protect the loss of government revenue, shall be delivered from the customs warehouse upon presentation of customs entry showing a payment of all customs duty and taxes.
- For Seized and Detained goods, shall be delivered from the customs warehouse upon presentation of the order written by the Commissioner.

Entry of Government warehoused goods

- Goods owner/Agent completes a warehousing entry form in respect of the goods.
- Attaches to the entry all relevant supporting documents e.g.
 - Invoice
 - Bill of lading
 - Clean report of finding
 - Import declaration form
 - Packing list.

Operations in the Government warehouse

- On receiving a copy of passed warehousing entry, goods owner /agent proceeds to the loading station to prepare and present the goods to the proper officer of customs for examination which is carried out according to the laid down procedure.
- Process meant to ascertain that there is no discrepancy between the goods, entry declarations and particulars in the supporting documents.
- If the proper officer approves the examination of goods, he releases the goods.
- Under no circumstances should the goods be released if there is any discrepancy until same is resolved.

Auction sales procedures, distribution of proceeds of sale and net proceeds

- The Commissioner shall give 30 days notice by publication in the Gazette to the public stating his or her intention to auction the deposited goods after the expiry of such period from the period of the notice if goods shall not be lawfully removed.
- Prohibited goods shall either be re-exported or destroyed depending on the Commissioner's decision.
- Perishable goods, Plants or Animals may be sold without any notice.
- Seized goods will be sold after clearance from the Commissioner on account that such goods might be under appeal or court proceedings.

Reserve price

- A minimum disposable price that includes customs duty and taxes and other charges due to the Commissioner and Port Authorities.
- Confidential to the department and no way should it be disclosed to the public.
- During auction sale a bid must be equal or higher than the reserve price.
- Goods are normally sold in lots as indicated in bill of lading or individual deposit or seizure notice.

Conditions of auction sale

- Before bidding the Commissioner (or his representative) announces to the public that a bid shall not necessarily be accepted and should there be any discrepancy between the quantity stated in the sale list and the actual quantity available, the Customs shall not be bound to deliver more than the quantity available for sale.
- Making a bid shall imply acceptance of the conditions of sale.
- The highest bidder shall be the purchaser of the goods and shall be no withdrawal when accepted as a purchaser.
- No warranty shall be given by the Customs as to the quality, quantity, packaging conditions and any other particulars of the goods offered for sale.

- A non refundable deposit as determined by the Commissioner shall be paid in cash at the fall of the hammer and the balance shall be paid within forty eight (48) hours after the sale, failure to that, the goods shall be re-offered for sale at the next auction sale.
- Goods purchased shall be removed from the customs warehouse within three (3) days, failing of which the purchaser shall be liable to pay the warehouse rent and other charges with effect from the date of sale up to the date of removal.
- The Customs shall not be responsible for any damage that occurs to goods during their removal by the purchaser or his/her Agent.
- Any goods remaining in the customs warehouse after sale, shall remain at the purchaser's risk.

Proceeds of sale

Proceeds obtained shall be applied in the following order:

- The discharge of duty and taxes
- The discharge of sales and handling expenses.
- The discharge of warehouse rent and other charges due to customs.
- The discharge of the Port charges.
- The discharge of the freight and other charges if any.

Net proceeds and refund

- Net balance, if any, shall be paid to the owner of goods only if he/she does not have any tax liability to the government. He/She should lodge an application for payment of the balance in a prescribed form within twelve months from the date of sale. Failure to that the balance shall be paid into customs revenue.

MODULE 3

CUSTOMS BONDED WAREHOUSE

Objectives

At the end of this lesson, trainees should be able to:

- Define the terms used in Customs bonded Warehouse
- Outline the licensing procedures of bonded warehouse
- Explain the duties of the warehouse keeper
- Explain the operations carried out in the bonded warehouse

Definition and classification of bonded warehouse

Bonded warehouse

- Any warehouse licensed by the commissioner of customs and excise department for the deposit of imported dutiable goods whose duty has not yet been paid and have been entered for warehousing.

General Bonded Warehouses

- Used for warehousing of general goods. Operate on commercial basis. Imports by the licensees are not allowed in the warehouses they operate. They may warehouse in general bonded warehouses operated by other licensees.

Private Bonded Warehouse

- Used for warehousing of goods, which are properties of the licensee. Private bonded warehouses are for such goods as raw materials, motor vehicles, duty free shops and petroleum products.

Procedures for Licensing Bonded Warehouses

- Application for approval and licensing of any premises must be submitted by its owner to the commissioner of customs and excise.
- A copy of the building/warehouse plan must be attached to the application form.
- Customs inspection of the proposed building to verify space, accessibility, security, health and safety etc
- Licensing upon bond execution, payment of licensing fees, marking of main entrance as "CUSTOMS BONDED WAREHOUSE"

Warehousing of goods

Goods not allowed to be warehoused in bonded warehouses :

- Duty free goods.
- Goods whose duty has already been paid.
- Perishable/inflammable goods excluding petroleum which is housed in a special kind of bonded hydrocarbon warehouse.
- Arms and ammunition imported for trade customs may from time to time declare to be unsuitable for warehousing

Licensee Responsibilities

- To provide suitable office facilities and equipment required by the proper officer in charge so as to enable him to perform his duties effectively.
- To keep record of all goods warehoused in his bonded warehouse and make the records available whenever needed by the proper officer for inspection.
- To stack and arrange the goods in the bonded warehouse in proper way to fasten efficient access to them at any time by the proper officer.
- To provide all necessary labour and materials needed for treatment, sorting, packing, examining, weighing and storing as stipulated by customs law.
- To ensure that packages containing warehoused goods are in proper state.
- To provide his own lock and key for securing the doors of his bonded warehouse.

Customs' Officer Responsibilities

To ensure that:

- all goods entered for warehousing are deposited into the warehouse.
- warehouse licensee gives delivery of goods only against approved warrants (i.e. entries that have been properly passed and the due compliance of any instruction on the warrant).
- warehouse Landing Account Books (avis d'arrives) are being kept securely, properly maintained and up to date all the times.
- the weekly submission of the certificate of receipt
- the warehouse keeper complies with all provisions related to warehousing of goods as per EACCMA 2004.

- managers are notified on the failure to deposit goods so entered within the prescribed period.
- proper stacking of goods in the warehouse so that stocks can be easily and quickly checked.
- proper stack cards are prepared for each consignment and to report immediately to the Manager any negligence on the part of the warehouse licensee in fulfilling his/her statutory obligations.
- all damaged and stack packages are reported at once in view of speedy repair

Guarantor Responsibility

- To pay specified amount of money if any of the conditions of the contract is not met.

Entry Declaration

- Entry for Warehousing is done on Single Bill of Entry (SBE) Single Administrative Document (SAD), Single Entry Document (SED) and –DDCOM)
- All the attachments applicable on entry for home use Plus Cargo Receipts and Landing Account Book (LAB) must be available, that is:
 - Bill of lading
 - Invoice
 - Packing, list
 - D & Dos' (Delivery and Disposal Orders)
 - Entry movement sheet
 - Any certificate applicable
 - Cargo receipts
 - Landing Account Book (LAB)
 - COMESA Declaration form, etc

Removal of goods

- **Cargo Receipts**

- Are prepared in duplicate by the Customs officer at the Warehousing Section and attached to the SBE-DDCOM before it is dispatched to the landing station.
- Upon release of the goods, the releasing officer must note on both copies of cargo receipt time and date of release. Both copies are dispatched to the officer in charge of the warehousing section as soon as the bonded goods are released from the landing station.
- As soon as the goods are received into the bonded warehouse the bond officer issues a receipt on both copies of cargo receipts indicating date and time of receipt.

- Original copy of cargo receipt is sent to the warehousing section for bond cancellation and the duplicate is dispatched to the landing station to be filed in the ship's file.
- Goods covered by cargo receipts are to be received in bonded warehouses within (3) days from the date they are released. In case the goods are not delivered fully to the bonded warehouse, the bond officer must notify the officer in charge of the warehousing section who will notify the collector in writing for further action

Receipt of warehoused goods

- After delivery of goods to their owner by the landing contractor, the most direct route must be used. On arrival at the warehouse goods are presented to the customs proper officer at the warehouse before being warehoused.
- Here, verification ensures that the goods have not been interfered with during transportation from the landing contractor to the bonded warehouse in question.
- In case of no fault, the goods are accepted and deposited into the warehouse. Both the proper officer of customs and the warehouse keeper enter the particulars of goods.
- No one is allowed to interfere with warehoused goods unless permitted by the proper officer.

Operations in customs bonded warehouse

- On receiving a copy of passed warehousing entry, the owner of the goods proceeds to the loading station to prepare and present the goods to the proper officer of customs for examination, which is carried out according to the laid down procedure.
- Main reason for examination is to ascertain that there is no any discrepancy between the goods and entry declarations and also particulars in the supporting documents.
- If the proper officer approves the examination of goods, he releases the goods and then the landing contractor (Kenya Ports Authority) delivers the goods to the owner or his authorized agent.
- Under no any circumstances should the goods be released if there is any discrepancy. The problem must be solved first.

Period of warehousing and delivery

- Refer to EACCMA 2004
- All warehoused goods which have not been removed from a bonded warehouse within three months from the date on which they were warehoused may with the written permission of the Commissioner be re-warehoused for a further period of three months.

Disposal procedures of Warehoused Goods

Warehoused goods may be delivered from a bonded warehouse for 4 main reasons:

- Home use
 - Exportation
 - Removal/transfer
 - Use as stores in aircraft or ship
- Respective registers are filled.

Removal of bonded goods from one warehouse to another:

- Ex-warehousing SBE for removal under bond is submitted in quintuplicate if it is between warehouses located in the same customs station.
- Cargo receipts are to be prepared for removals between warehouses at the same station.
- The officer in charge of the bonded warehouse from which the goods are being removed must prepare a new Landing Account Book (LAB). The LAB must be referenced to the removal entry and give full particulars of the removed goods. The information on the new LAB must include any instruction concerning the goods and particulars of any shortage or breakage that appear in the first LAB.

- The tax liability on any goods removed under bond must be secured by bond security.
- The allocated bond will be cancelled after the officers in charge of the bonded warehouse to which the goods are removed have certified receipts.
- For goods warehoused on approximate value and removal is desired prior to the adjustment of the warehousing entry, an ex-warehousing removal entry may be prepared on approximate value.
- Only intact package to be delivered

Aircraft Stores Ex-Bonded Warehouse:

- Goods may be delivered without entry provided that:-
 - Ship/Aircraft stores delivery register is to be kept.
 - The goods are delivered to ship/aircraft representative.
 - The ship/aircraft representative gives receipt for the goods in the register.
 - Consolidated entry will be prepared on weekly basis.
 - A register will be filled.

Re-warehousing and stocktaking:

- Application done on a single bill of entry or DDCOM in quintuplicate, plainly endorsed "NOT TO BE TAKEN INTO STATISTICS". The goods will be examined to establish the following:-
 - Whether the goods are fit for re-warehousing.
 - The nature and extend of any losses or deficiency.
 - If the goods are foodstuffs, whether are fit for human consumption.
- In addition,
 - All the packages are to be examined internally unless they are similar. Otherwise the examination may be restricted to the following scale.
 - Re-warehousing entries are numbered in the normal monthly series.
 - New Landing Account Book must be prepared
 - Any particular instruction on the first LAB must be reproduced on the new LAB.
 - The old LAB is to be dispatched to the warehousing section.

Stocktaking

- The warehouse keeper ensures stock taking of all goods warehoused in his bonded warehouse and makes the records available whenever needed by the proper officer of inspection.

Sample Questions

- Explain the differences between customs warehouse and bonded warehouse
- Outline the licensing procedures for a bonded warehouse
- Identify goods that are not allowed in a bonded warehouse
- Explain the advantages of stock taking of warehoused goods
- Outline the disposal procedures of goods from bonded warehoused

MUB
FREE PORT EPZ

Objectives:

- Define the terms manufacturing under bond, Export Processing Zone and Free Port
- Outline the Licensing procedures and control of manufacturing under bond factories
- Outline the benefits and challenges of export promotion schemes
- Outline in-ward and out-ward processing

Definitions:

- Manufacturing Under Bond (MUB)
- Export Processing Zones (EPZ)
- Free Port

Manufacture under Bond

Definition

- **MUB- A facility extended to manufacturers to import plant, machinery, equipment and raw materials tax free, for exclusive use in the manufacture of goods for export**

Application, Licensing and approval of M.U.B.

- **Make application to Investment Promotion Centre or board**
- **I.P.C/board, analyses the project**
- **Makes recommendation to Minister for Finance for Approval**

Conditions of licensing MUB

- Permanent and Habitable building
- Lockable windows and doors
- Adequate security bond
- Suitable accommodation for customs officer
- ◆ Information must be furnished to the commissioner
- Premises must be approved by commissioner before use

Controls on entrance up to delivery

- Subject to entry documentation formalities
- bond security
- Goods removed from M.U.Bs for exportation/ local market.
- Waste restricted to about 5%
- above this-viewed with suspicion.

EXPORT PROCESSING ZONES

Application, Licensing and approval of EPZ

- Applications to the relevant Authority.
- considered to be foreign territories for the purposes of the application of the Customs
- from port to EPZ enterprise-bond security.
- On leaving the Zone-into the country considered as imports and subject to importation rule
- Local goods supplied to EPZ enterprises considered as exports.
- Must comply with all conditions governing such exports.

Benefits and challenges of MUB, EPZ

Benefits

- Trade facilitation
- Employment
- Development of the economy

cont

- **Challenges**
 - **Cost to customs administration**
 - **Control problems**

Inward processing

Inward processing

Commissioner given power to authorise inward processing

- Inward processing carried out under a contract to re-export goods
- Commissioner may allow the importation of equivalent goods to replace the temporarily exported goods for outward processing.

Definitions:

- ◆ Inward processing
- ◆ Replacement system
- ◆ Equivalent goods

Procedure of operation

- Operator-;
 - applies for authorization
 - to commissioner
 - in prescribed form
 - to carry out the inward processing operations.

Conditions for granting an authorization

- Applicant offers necessary guarantee for proper conduct of operation
- Administrative arrangements/supervision of the process not disproportionate to economic needs of applicant.
- Applicant is established in the community except where imports of non commercial nature are involved
- Imported goods can be identified in the processed products
- Applicant has provided customs security.

Other procedures

- Entry and examination of goods
- Time limit for inward processing
- Exportation of compensating products
- Compensating products entered for home consumption

Outward processing

Definition

- Means the customs procedures under which goods which are in free circulation in a partner state may be temporarily exported for manufacturing, processing or repair outside the partner state and then re-imported.

Authority

- Commissioner shall only authorise goods to be exported temporarily from the partner state when:
 - Exporter confirms that the compensating product shall result from the processing operation
 - Outward processing procedure does not affect the interest of the partner state
 - Compensating products shall be re-imported within a period of one year from the date of export

Re-importation

- compensating products may:
 - Be re-imported through customs office other than the customs office through which the goods were exported either in full or in partial consignment under separate entries
 - Be re-imported in an un-altered state.
 - be granted total or partial relief from payment of duty when are cleared for home consumption

THE END



CUSTOMS ENFORCEMENT AND FACILITATION

MODULE 1

CUSTOMS AGENTS

Objectives

- Define the term customs agent
- Outline the licensing procedures of customs agent.
- Explain the conditions that govern the licensing procedures of customs agents.

Introduction

- ❖ Trade
- ❖ Agencies and service providers
- ❖ Effective operations
- ❖ Joint force

Definition

- ❖ Customs Agent means any person-;
 - ❖ licensed by Commissioner
 - ❖ for transacting business relating to declaration or clearance of goods or baggage
 - ❖ subject to customs control

Legal framework

- ❖ Section 145-Licensing agents
- ❖ Section 146-Authority of an agent
- ❖ Section 147-Liability of the agent
- ❖ Section 148-Liability of the owner

Licensing procedures

- Application for licence in prescribed form to Commissioner.
- application fee
- On approval, pay licence fee
- Execute a security bond

Conditions for licensing

- ❖ Capability
- ❖ Office equipment
- ❖ Registered office and documents
- ❖ Transact business in accordance with Act
- ❖ Letter of appointment

Liability of an authorized Agent

- o Payment of any duties and taxes
- Answer all questions

Liability of the owner

- ❖ liable to declaration by the agent
- ❖ Be prosecuted for any offence committed by such agent

THE END



POST-CLEARANCE AUDIT



OBJECTIVES

Define terms used in Post Clearance Audit system.

- Outline the procedures for Post Clearance Audit.
- Identify the rights and obligations of the auditor and the client.
- Apply the post clearance concepts to facilitate international trade.
- Identify administrative issues related to clearance of goods.

Definitions

Trade facilitation

Analyzing

Post clearance audit

Profiling

Risk

Selectivity

Accounting principles

Trade facilitation

- Facilitated through:
 - Document reduction
 - Trade and transport co-ordination
 - common customs documentation and procedures
 - clear declaration/ description
 - Customs support infrastructure

Post clearance audit

- Purpose-;
 - Verify accuracy and legality of import/export activities of person being audited.
 - strengthen customs supervision and control
 - maintain the legal rights/interests of person concerned
 - safeguard government revenue
 - facilitate international trade.

Laws and regulations supporting audit functions

- Customs laws of partner states.
- Regulations for imposing penalties under customs laws of partner states.
- Common external tariff
- Accounting and auditing principles.
- Post clearance audit procedures

Procedures

- Inspection audit

examination of;

- ❖ the truth and **legislation** of the cargo
- ❖ relative documents
- ❖ enterprise's internal control system
- ❖ working procedures

Inspection or audit

- Verify accuracy
 - books, records, computer stored information, business systems, customs documents, commercial documents
- Question any person
- Inspect the premises
- Examine the goods

Rights and obligations

❖ Rights

❖ Of customs:

- ❖ Examine- make copies of contracts, accounts - invoices, books of accounts
- ❖ Enter the Auditee's premises and storage area
- ❖ Inquire the Auditee's representatives
- ❖ Access to the Auditee's banking account

Obligations

- ❖ Of customs:
 - ❖ abide by the legal procedures
 - ❖ protect the rights of clients
 - ❖ the result of auditing in time.

Rights of Auditees

- ❖ Being notified.
- ❖ Statement and appeal.
- ❖ Requesting Customs to abide the legal procedures

Obligation of the Auditees

- ❖ Maintain-accounting books, vouchers, statements - import and export
- ❖ accept the auditors and provide
- ❖ should not refuse, delay, conceal
- ❖ clients' legal representative mandatory during auditing functions .



THE

END

CUSTOMS OFFENCES AND ENFORCEMENT

Objectives:

- At the end of this lesson, trainees must be able to:
 - Define the terms used in the subject.
 - Identify the legal provisions commonly contravened
 - Outline the procedures for compounding offences.
 - Explain the court procedures.

Definitions

- **Offence**

- Means an illegal act, crime or failure to comply with any written law for which a penalty is provided.

Customs offence

- Means any breach or attempted breach of customs laws.

- **Person:**

- Means an individual (natural man), or any legal entity, which has a power to sue or to be sued, such as a company, association, corporate or un incorporate

- **Investigation**

- Means a careful search or examination in order to discover facts or information about something.

- **Compounding of offence:**

Means a settlement of offences/cases committed by a person out of the court.

- **Customs Enforcement:**

- This refers to the ways and means of ensuring that the customs laws or regulations are obeyed and strictly followed.

- **Customs control:**

- This refers to the measures applied to ensure compliance with the laws and regulations which customs are responsible for enforcing.

Types of offences.

- The Act and Regulations provide that any person who contravenes the various provisions, which govern the customs procedures, will be guilty of an offence and liable on conviction to the prescribed fines.
- . Certain provisions of the Act and Regulations either prohibit persons from doing something or require persons to do something before carrying out any business transaction.

Legal provisions commonly contravened

- Section 195:
 - Offences related to a person removing or defacing customs seals
- Section 200:
 - Offences related to prohibited, restricted, and un- customed goods
- Section 203:
 - Offences related to the use false documents

- **Offence related to prohibited goods**

- **NB:**

Unless the goods involved in the offence are prohibited goods or are ordered to be forfeited, under the law, the person is liable to pay duty on the goods in addition to the fine.

Section 210: goods liable to forfeiture

- Any prohibited goods.
- Any restricted goods, which are dealt with contrary to any conditions regulating their importation or exportation.
- Any uncustomed goods.
- Any goods, which are imported, exported or transferred, concealed in any manner or packed in any package with the intention to deceive any officer.

Goods liable to forfeiture

- Any goods, which are imported, exported or transferred contained in any package of which the entry, application for shipment or application to unload does not correspond with such goods.
- Any goods subject to customs control, which are moved, altered or in any way interfered with.
- Any goods in respect of which any entry, declaration, certificate, application or other document, which is knowingly false or incorrect in any particular, has been delivered.
- Any goods in respect of which any drawback, rebate, remission or refund of duty has been unlawfully obtained.

DETECTION OF OFFENCES

- Time of entering imported goods or after importation
- Time of exporting goods or after exportation.
- proper officers during physical examination on imports or exports against their descriptions in the entries,
- During patrols carried out by preventive officers.

DISCHARGE OF CUSTOMS OFFENCES

- By deterrent sanctions, e.g
 - imposition of administrative penalties
 - Educating the importers/ exporters or agents about the offences that results from non compliance with customs procedures.
 - Publicity of offenders and the actions taken against them.
 - Settlement of cases by commissioner
 - Compounding of offences

Settlement of cases

by the Commissioner

- Compounding of offences
- Sec 219 of the EACCMA
- offender admits in writing
- the person is competent to represent the offender
- delegation of powers
- done using prescribed forms

Cases to be compounded

- Penalty offences.
- Offences committed without intent to defraud the revenue.
- When court action would involve cost of a considerable amount

Compoundment -Revenue Appeal board

- person shall not be liable to any further prosecution
- order shall be final and not subject to appeal to the Revenue Appeal board
- shall not affect the liability of tax or interest due.

Settlement of offences by court procedures

- decision as to whether cases should be taken to court
- it is desirable to institute criminal proceedings.
- statements of all witnesses, together with the exhibits
- know the provisions of the criminal procedure Act

Procedure when filing a charge

- Present a charge sheet to the magistrate.
- Criminal cases shall be instituted in the name of the Republic
- Summons for a specific date or the issue of a warrant of arrest

On arrest

- When an accused person has been arrested and cannot be immediately brought before the magistrate and there is no reason to suspect that he will abscond if released on bail, he shall be taken to the nearest police station and released on bail in a sum sufficient to guarantee his appearance in court.

Hints when handling a revenue case:

- Liability and the amount of such tax must be ascertained.
- If it is considerable to prosecute under more than one section or statute, then the contravention of each section should be the subject of a separate court.
- Copy of judgement obtainable as soon as a case has been settled in court.
- Right to appeal in the high court

Customs enforcement

- By definition, customs enforcement refers to the ways and means of ensuring that the customs law or regulation or decision is obeyed and strictly followed.

Branches dealing with customs enforcement.

- Intelligence
- Preventive
- Investigation units

- Law is enforced through border controls -;
 - patrols
 - Surveillance
 - clearance of passengers and crews
 - inward/outward declarations of vessels, aircrafts, vehicles
 - imports/exports

Recovery measures

- Demand notices
- Legal proceedings
- Agency notices
- Security on property
- Distress warrant

Recovery by distress

Duty or penalty not paid after one month

Distress to be levied on:

- goods, chattel and effects
- material for manufacturing, plants
- premises, vehicles and other properties
- animals in possession-person

-agent -

Recovery by distress-cont

A person authorized to distrain may:

- ❖ Break open any building-assistance
- ❖ keep the items at the owner expenses
- ❖ 14 days –sell the items

Proceeds of sale

- ❖ tax due
- ❖ fine
- ❖ expenses – bal

Agency notice- sec 131

- The commissioner by notice in writing
- Appoint any person- agent
- (Principal)
- Collect duty due
- Specify the amount to be collected
- Not exceed the amount/value of goods held –agent-principal

Agency notice-cont

Commissioner is satisfied that the agent-

- Owes or is about to pay
- Hold money for or on account
- Hold money on account or some other person for payment to the principal
- Has authority from some other person to pay
- Hold goods which duty has not been paid

Agency notice-cont

- The commissioner-by notice
 - Within 30 days -return-money or goods
- Agent to notify the CCE-reasons
- Non compliance after 30 days;
 - duty due and payable by him
 - Indemnified against any proceedings

- False statement -offence

Security on property for unpaid duty

Owner of land-fail to pay

- After 30 days
- Direct the (registrar of land) security
- Registrar -mortgage
- Cancellation upon payments

Demand notices

- The Commissioner may demand taxes
- Specific period
- The period may vary, depending on the reasons for the late payment

Legal proceedings

- Payment of duty shall constitute a civil debt
- recovered summarily by legal proceedings

Dispute settlements

- Any person directly affected by the decision of the commissioner relating to customs offences, shall within 45 days from the date of the decision, lodge an application in writing to the board of appeals for review the commissioner's decision.



THE END