

CUSTOMS

EXTERNAL POLICY

SCANNER OPERATIONS

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1 SUMMARY OF MAIN POINTS

- a) The use of non-intrusive equipment such as x-ray scanners is one of the permitted physical inspection options Customs may use to examine goods.

2 POLICY

2.1 Requirements for Scanning

- a) The examination of goods may be done in the absence of the importer, exporter, port or airport authority, container operator or any person having control over the goods.
- b) All goods selected for scanning must be transported to the scanning site at the port of entry where such scanning operations are conducted. Goods removed without scanning must be returned to the scanning site and penalties will be charged according to SC-CO-01-02 where such goods were removed out of the port of entry.
- c) The handling, dealing or any activity relating to the scanning of goods, shall be performed at the expense and risk of the importer, exporter, manufacturer, owner or other person in control of the goods.

2.2 Radioactivity Monitor System

- a) The area where x-ray scanning is performed is a "Radiation Exclusion Zone". Any unauthorised entry in a scanner restricted area is an offence.
- b) Scanning may not be conducted on:
- i) Human beings;
 - ii) Live animals; or
 - iii) Photographic films or materials.
- c) If an alarm sounds or an announcement is made everyone must evacuate the scanner site and move from the emergency exit to the assembly point.
- d) The Department of Health must be informed when:
- i) Radiation exposure occurred;
 - ii) There is evidence of accidental exposure of the Thermo Luminescent Dosimeter (TLD) to radiation; and
 - iii) There is accidental use of the TLD by a person other than the person to whom the dosimeter was issued.

2.3 Preparation for scanning

- a) All cargo selected for scanning at sea ports must be booked through e-mail within 24 hours after date of arrival of the cargo.
- b) The following e-mail addresses are allocated for the scanner sites:
- i) The Cape Town Scanners site can be contacted at: Cargo_Scanner_Unit_CPT@sars.gov.za; and
 - ii) The Durban Scanner site can be contacted at: Cargo_Scanner_Unit_DBN@sars.gov.za.
- c) The client must notify the Scanner site of any changes to the agreed date as confirmed by e-mail / CUSRES 36. The changes will be made on the booking spreadsheet and a confirmation will be sent to the client.
- d) At land **border posts** cargo selected for scanning will be directed to the scanner site upon arrival.

- e) Upon arrival of the vehicle at the scanner site the truck driver will be requested to produce the delivery documents or Container Terminal Order (CTO) with case number to the Inward Marshall.
- f) Where scanning of the cargo is not possible:
 - i) The Operations Manager will inform the client by e-mail that the booking for scanning is cancelled; and
 - ii) The client will be further informed as to the requirements before the goods can be released.
- g) Where scanning is possible:
 - i) The Inward Marshall will direct the truck driver to the waiting area;
 - ii) The Operations Manager may request the truck driver to remove the truck from the exclusion zone and to re-enter the exclusion zone; and
 - iii) The Scan Operator will sound the warning “scanning commencing” twice over the public announcement system to ensure that everyone is aware that scanning will commence.
- h) Height restriction:
 - i) A height restriction boom is in place to prevent vehicles higher than 4.6 meters from entering the scanning area.
 - ii) Should a vehicle exceeding the height restriction still enter the scanning area, the limit switches will stop all operations to prevent damage to the Scanner Control System (SCS).
 - iii) The container must be loaded onto a lower vehicle before the scanning may proceed. If it is not possible to load the container onto a lower vehicle, a manual inspection of the container will be conducted.
 - iv) After the limit switches stopped the operation and the scanned vehicle is cleared from the scanning area, the SCS will be reset on the control panel before scanning may resume.
- i) Container re-sealing:
 - i) The Operations Manager will use the next numbered seal from the secure location on-site;
 - ii) The inspection report according to the SC-CC-13-A03 template will be completed; and
 - iii) The seal will be placed on the door of the container once it is closed.
- j) After the Scan Operator announces “scanner safe” over the public announcement system the Exit Marshall will instruct the driver to remove the truck to the waiting area.

2.4 Keeping Records

- a) Every client must keep for record purposes for period of five (5) years:
 - i) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
 - ii) Any data related to such documents created by means of a computer.
- b) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. (Sections 101 and 101A).
- c) Every client must produce such books, accounts and documents on demand.

2.5 Penalties

- a) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
- b) Offences may render the client liable to, as provided for in the Act:
 - i) Monetary penalties (see SC-CO-01-02);
 - ii) Criminal prosecution; and /or
 - iii) Suspension or cancelation of registration, license or accreditation.

2.6 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
- i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
 - ii) Imposes a duty on the State to give effect to those rights;
 - iii) Promotes an efficient administration as well as good governance; and
 - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action which significantly and unfavourably affects the rights or valid expectations of any person must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
- i) Written reasons of the nature and purpose of the proposed administrative action;
 - ii) A reasonable opportunity to make representations;
 - iii) A clear statement of the administrative action; and
 - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) **Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the cargo reporter the opportunity to be heard, prior to instituting any administrative action.**
- e) Before administrative action can be taken by Customs the cargo reporter must be allowed the opportunity to:
- i) Obtain assistance and, in serious or complex cases, legal representation;
 - ii) Present and dispute information and arguments; and
 - iii) Appear in person.
- f) **Clients** whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the **client** became aware of the action, request Customs to furnish written reasons for the action.
- g) Customs must within ninety (90) days after receiving the request, give the **client** adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

2.7 Appeals Against Decisions

- a) In cases where clients are not satisfied with any decision taken in terms of the Customs and Excise Act they have a right of appeal to the relevant appeal committee. The policy in this regard, as well as the process to be followed, is contained in document SC-CC-24.
- b) **If clients disagree** with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

3 RELATED INFORMATION

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: Sections 1; 4(8A)(a)-(d); 16; 38-39; 40; 43; and 107(1)(a)-(b); (2)(a)(i)-(iii) and (b)(3)-(4).
Other Legislation:	<p>Environment Conservation Act No. 73 of 1989: Sections: 1, 2 - 22 and 29.</p> <p>Hazardous Substances Act No. 15 of 1973: Sections: 1 - 3; 3A; 4; and 7- 8</p> <p>Compensation for Occupational Injuries and Diseases Act 130 of 1993: Sections: 1; 7; 15; 22; 25 and 28.</p> <p>Disaster Management Act No.57 of 2002: Sections; 1 – 2; 17 and 20-25.</p> <p>Occupational Health and Safety Act 85 of 1993: Sections: 1; 7- 8; 11-12; and 13 – 19.</p> <p>R690 of 14 April 1989: Regulations Relating to Group III Hazardous Substances.</p> <p>Code of Practice For Industrial Radiography (Gamma Radiography): Directorate of Radiation Control</p> <p>Interpretation Act No. 33 of 1957: Sections 2 and 4</p> <p>Promotion of Access to Information Act No. 2 of 2000: All</p> <p>Promotion of Administrative Justice Act No. 3 of 2000: Sections 3 and 5</p>
International Instruments:	<p>Revised Kyoto Convention General Annexure, Chapters 3 Standards 3.33; 3.36 -3.38 and 3.40; Chapter 6 Standards 6.1 – 6.5</p> <p>WCO SAFE Framework of Standards: Standard 3</p>

3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-24	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CO-01-02	Offences and Penalties – External Policy

3.3 Quality Records

NUMBER	TITLE
SC-CC-13-A03	Inspection Report Template – Internal Form
SC-CC-19-A01	Detention Notice for non-service manager cases – Internal Annex
SC-CC-19-A03	Removal of Container to Depot for non-service manager cases – Internal Annex
SC-CC-19-A04	Scanning Request for non-service manager cases – Internal Annex
SC-CC-19-A05	Release Notice for non-service manager cases – Internal Annex
SC-CC-19-A08	Access Control Register – Internal Annex
SC-CC-19-A09	Image Analysis report for non-service manager cases – Internal Annex
SC-CC-19-A18	Operations Manager Shift Report – Internal Annex
RC010	Radiation occurrences

4 DEFINITIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
CTO	Container Terminal Order
PAJA	Promotion of Administrative Justice Act
Radiation Protection Officer	The Operations Manager at the Scanner site will perform the functions of the Radiation Protector Officer
Scan Operator	A Scanner Image Interpreter who can perform multiple functions involving non-intrusive inspection operations
SCS	Scanner Control System
TLD	Thermo Luminescent Dosimeter

5 DOCUMENT MANAGEMENT

Policy Owner	Group Executive: Customs Branch
Detail of change from previous revision	<ul style="list-style-type: none"> a) Changed document title from Scanner Operations – External Standard to Policy. b) Updated standard paragraphs on keeping of records and application of PAJA. c) Appeals against decisions in terms of import VAT penalties can now be made in terms of the Customs and Excise Act. Reference in this regard to the Tax Administration Act 28 of 2011 (TAA) has therefore been removed from Customs policies and Standard Operating Procedure.
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