

**CUSTOMS**

**EXTERNAL POLICY**

**STAGED CONSIGNMENT**

**TABLE OF CONTENTS**

<b>1</b>	<b>SUMMARY OF MAIN POINTS</b>	<b>3</b>
<b>2</b>	<b>POLICY</b>	<b>3</b>
<b>3</b>	<b>RELATED INFORMATION</b>	<b>5</b>
3.1	Legislation	5
3.2	Cross References	6
3.3	Quality Records	6
<b>4</b>	<b>DEFINITIONS AND ACRONYMS</b>	<b>6</b>
<b>5</b>	<b>DOCUMENT MANAGEMENT</b>	<b>6</b>

## 1 SUMMARY OF MAIN POINTS

- a) Tariff classification of staged consignments differs from the norm. Goods are normally classified as presented at the time of importation by a specific importer. With staged consignments only one (1) tariff heading is utilised and is determined according to the essential character of the finished plants, machinery or factory.
- b) Goods in transit/bond through South Africa and goods exported from South Africa may not be classified as staged consignments.

## 2 POLICY

- a) In terms of Section 38 read with Section 39 an importer shall:
  - i) Make due entry;
  - ii) Provide such information as required in terms of Section 39(1)(d); and
  - iii) Answer all questions relating to the goods imported.
- b) In terms of Section 40(1) a Customs declaration (amongst other requirements) will not be valid if the goods imported have not been properly described by the tariff heading and item numbers.
- c) Invoice requirements are contained in document SC-CF-30 and must be adhered to.
- a) The requirements that have to be met for goods to be imported in more than one (1) consignment are contained in Additional Note 1 to Section XVI to the Tariff. These requirements are in relation to:
  - i) The weight of an unassembled or disassembled machine or the shipping measurement that has to exceed 500 tons **or** 500 cubic meters (m<sup>3</sup>) respectively; and
  - ii) The time frame in which the application for staged consignments must be submitted to Head Office - the application must be made before the first importation takes place.
- d) The authorisation of staged consignments can only be granted by the Tariff section, situated in Head Office and will only be issued in terms of machines or equipment classified in either Chapters 84 or 85 of the Harmonised System. Tariff classification with regard to staged consignments must be determined according to the essential character of the whole.
- e) Clients wishing to make use of this facility must:
  - i) Submit the applications for staged consignment, either by electronic mail or delivered by mail or per hand, to Tariff, Head Office. The client must ensure that the following information or documentation are included in the application:
    - A) Proforma invoice;
    - B) Literature;
    - C) Overall project packing list to justifying mass and cubic metres;
    - D) Exploded view of whole plant, clearly identifying separate individual phases making up the total phase to justifying mass and cubic meters for each shipment,
    - E) Sales and purchase contract for the entire project and what it constitutes;
    - F) Shipping schedule – from when until when;
    - G) Intended ports of entry; and
    - H) The name of the importer to be reflected on the staged consignment [only one (1) importer allowed].
  - ii) Direct their enquiries to the Group Manager: Tariff, Head Office.
- b) The Customs Officer situated in Head Office, will check each application. If all the requirements are:
  - i) Met, Customs will approve the application in a writing to the applicant stating the following information:
    - A) Tariff heading to be utilised;
    - B) The reference number of the staged consignment is that of the letter and date;
    - C) Importer's name to be inserted on the Customs declaration and other documentation relating to the staged consignment must correspond with that used on this letter;
    - D) Ports of entry to be used; and

- E) Period granted for the total staged consignment.
- ii) Not met, Customs will reject the application in writing to the applicant, as it does not conform to the requirements of a staged consignment application, stating the reasons why the application was rejected.
- f) Declarations must be completed in accordance with SC-CF-04. If requested to submit supporting documents, attach a copy of the authorisation letter received from Customs. Refer to SC-CF55
- g) The client must inform the Customs Branch Office at the place of entry into South Africa when each of the stages as indicated on the application letter is imported and request a Customs Officer to conduct an inspection.
- h) The Customs Branch Officer will verify, during the documentary inspection.
  - i) The Customs declaration (SC-CF-55) and Customs' approval letter reflects the exact same importer's name;
  - ii) The tariff subheading utilised is the tariff heading as reflected on the approval letter;
  - iii) The port of entry is one (1) of the approved ports as listed on the approval letter;
  - iv) The components imported under the staged consignment application falls within the given time period; and
  - v) The consignment under inspection is the goods as per the original application and does not include spare or replacement parts.
- i) After the inspection:
  - vi) If the goods comply with the information as stipulated on the staged consignment letter the consignment is released and the Customs declaration accepted; or
  - vii) If the goods examined differs from the information on the staged consignment letter the client is requested to frame and submit a voucher of correction to include the commodities not covered by the staged consignment application. Duty and taxes must be brought to account on the under entry.
- j) After the plant, factory or machinery has been completed; the client must inform the Customs Branch Office and request a physical inspection of the finished plant, factory or machinery. The inspection is a requirement of Customs and the client will not be required to pay for the extra attendance.
- k) The Customs Branch Officer will conduct the physical inspection at the importer's premises, confirming that the plant, factory or machinery has been completed and writes a report on his/her findings.
- l) The Customs Officer forwards a copy of the report to Tariff, Head Office for their record purposes to finalise the case in Branch Office and Head Office.
- m) Record keeping
  - i) The recipient or importer of the goods imported or exported by post must keep for record purposes for a period of five (5) years:
    - A) Books, accounts and documents in respect of all transactions relating to the Rules for the purpose of any acquittal procedure; and
    - B) Any data related to such documents created by means of a computer.
  - ii) 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)
  - iii) Every client must produce such books, accounts and documents on demand.
- n) Penalties
  - i) Failure to adhere to the provisions of the Act, as set out in this document, is considered an offence.
  - ii) Offences may render the recipient or importer liable to, as provided for in the Act:
    - A) Monetary penalties;
    - B) Criminal prosecution; and/or
    - C) Suspension or cancellation of registration, license or accreditation.

- o) Promotion of Administrative Justice Act
- i) 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:
    - A) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
    - B) Imposes a duty on the State to give effect to those rights;
    - C) Promotes an efficient administration as well as good governance; and
    - D) 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.
  - ii) 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.
  - iii) A person must be given:
    - A) Written reasons of the nature and purpose of the proposed administrative action;
    - B) A reasonable opportunity to make representations;
    - C) A clear statement of the administrative action; and
    - D) Adequate notice of any right of review or internal appeal, where applicable.
  - iv) Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.
  - v) Before administrative action can be taken by Customs the declarant must be allowed the opportunity to:
    - A) Obtain assistance and, in serious or complex cases, legal representation;
    - B) Present and dispute information and arguments; and
    - C) Appear in person.
  - vi) Declarants 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 declarant became aware of the action, request Customs to furnish written reasons for the action.
  - vii) Customs must within ninety (90) days after receiving the request, give the declarant 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.
- p) Appeals against decisions
- i) 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.
  - ii) If clients are unhappy 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:	<b>Customs and Excise Act No. 91 of 1964:</b> Sections 38(1); 39(1)(d); 40 and 41. <b>Harmonised Tariff System:</b> Additional Note 1 to Section XVI to the Tariff
Other Legislation:	<b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3 and 5 <b>Promotion Of Access To Information Act No. 2 of 2000:</b> All

TYPE OF REFERENCE	REFERENCE
International Instruments:	<b>World Customs Organisation Harmonised System Convention: All Kyoto Convention General Annex Chapter 9</b> – Information, Decisions and Rulings supplied by Customs: Standards 9.1 to 9.9

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
SC-CC-24	Internal Administrative Appeal - External Policy
SC-CC-26	Alternative Dispute Resolution - External Policy
SC-CF-04	Completion of Declarations – External Manual
SC-CF-30	Invoice Requirement - External Policy
SC-CF-55	Clearance Declaration – External Policy
SC-CR-A-09	Tariff Classification - External Policy

### 3.3 Quality Records

NUMBER	TITLE
SAD 500	Customs Declaration

## 4 DEFINITIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
Staged Consignment	A multitude of components that make up a “plant” or “factory” into a functional unit, therefore, various suppliers may be involved but there only may be one (1) importer.

## 5 DOCUMENT MANAGEMENT

Policy Owner	Group Executive: Customs Operations
Detail of change from previous revision	<ul style="list-style-type: none"> <li>a) Updated the document from a Directive to a Policy.</li> <li>b) Removed all references to the Tax Administrative Act No. 28 of 2011 (TAA) from document in the standard “Appeals against decisions” and in the “Reference - Legislation and Rules administered by SARS” paragraphs.</li> <li>c) Added the Promotion of Administrative Justice Act (PAJA) paragraph.</li> </ul>
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