

**CUSTOMS**

**EXTERNAL STANDARD**

**CLEARANCE DECLARATION**

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## 1 SUMMARY OF MAIN POINTS

- a) Importers and exporters and their clearing or registered agents must be registered or licensed as prescribed in SC-CF-19, before submitting a Customs Clearance Declaration (CCD).
- b) Every importer or exporter of goods must lodge a CCD, except when exempted by Rule before the goods are imported to or exported from South Africa. Clients makes a self-assessment with the transaction documentation and submits the CCD to Customs either electronically or manual. Customs replies with a CUSRES message. The status codes and completion of the CCD are explained in SC-CF-04.
- c) Electronic Data Interchange (EDI) clients experiencing technical problems/difficulty, for example difficulty to insert the provisional payment (PP) requirements, must contact Business Systems and on good cause shown may be allow/approve an alternative process for a specific period. Provisional payments on imports are completed on the CCD.
- d) Customs can release the consignment or request supporting documents validation of the correctness of the CCD by means of a documentary inspection. The client submits the supporting documents via e@syscan or hard copies, which is scanned at the Customs Office for attachment to the relevant case on the system. Clients are required to prove the origin of the goods when preferential rate of duty is applied. If all the supporting documents as requested are received the case is routed for an inspection.
- e) If the supporting documents are not on hand the client may apply for a sight declaration (DA 22).
- f) Clients may request expedited clearances, conditional- or embargo release if the set criteria are complied with.
- g) Once all the consignments have been released the goods may either be imported into South Africa or be loaded onto the carrier which will remove it from South Africa. Goods may only enter or leave South Africa through ports of entry or exit designated for that purpose in the Rules. Goods may be imported or exported via rail, air, sea or road. Some imports or exports may require an import or export permit.
- h) Clients dealing with bonded goods or goods moved in transit with the temporary suspension of duties and VAT must retain the proof of export (paragraph 2.26.3 of this document) and to acquit them of their liability for the duties and taxes. See SC-TR-01-02 for acquittal of declarations.
- i) Any goods that are being recovered from an abandoned wreck are regarded as imported goods and the local or non-local registered client (searcher) must submit a CCD bringing revenue to account.
- j) Export declarations where a drawback of duty and taxes are envisaged must at time of lodgement of the CCD contain the appropriate drawback item in terms of the applicable Schedule as well as the correct CPC. All the notes and specific requirements for the specific drawback item must also be adhered to. Exporters and clients who wish to claim a drawback in terms of Schedule 5 must be registered with Customs. Refer to SC-CF-19. Exportation of any goods under the provisions of a drawback item is subjected to the approval of the Commissioner.
  - i) When it is a requirement of the applicable drawback item it is the responsibility of the client to apply for an examination without prejudice (EWP) in order for the container to be packed or sealed under Customs supervision.
  - ii) Drawback applications are submitted and processed as prescribed in terms of SC-DT-C-13.
- k) CCDs may be required to be amended or cancelled depending on the circumstances.
- l) Certain imported goods (Section 38) are cleared on a simplified clearance procedure (DA 306) instead of a CCD if the Controller/Branch Manager grants permission.
- m) Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in the Constitution of South Africa.

## 2 STANDARD

### 2.1 Registration

- a) **Importers and** exporters and their clearing or registered agents must be registered or licensed as prescribed in SC-CF-19, before submitting a **CCD**. A special client type may also be registered as an “approved **importer or exporter**” if the predefined criteria are met to qualify for specific Customs procedures. Refer to SC-CF-19 for more detailed information.
- b) Customs client number 70707070 must only be used if the **client**:
  - i) **Imports or** exports goods with a value less than R50 000 per consignment, limited to three (3) consignments per calendar year;
  - ii) Declares the goods for temporary export (code A13) or export (code H60 and H61);
  - iii) Is a natural person located in South Africa; and
  - iv) Refers his/her identity number (ID) or taxpayer reference number in the field provided on the **CCD**. Refer to SC-CF-04.
- c) To amend or cancel a **CCD**, which was processed with the Customs client number 70707070, the client must adhere to the following rules:
  - i) The changing of a Customs client number on the original or substitute **CCD** to a 70707070 number on an amendment or cancellation is not allowed.
  - ii) If the Importer or exporter is a registered (non 70707070) client then the Clearing Agent may not use 70707070.

### 2.2 Designated ports

- a) Commercial goods must be imported to or exported from South Africa through ports designated for the purpose prescribed in paragraph 200.03(a) of the Schedule to the Rules and Rule 120A.03(b), with the exception of goods that fall within the ambit of the SC-CF-13 on the use of Non-Designated ports of exit.
- b) Rule 120A.03(d) allows the import or export of commercial goods, between SACU member countries, through other places in exceptional circumstances, on such conditions as the Commissioner may prescribe. To make use of this facility, clients must apply to the Commissioner on SC-CF-12-FR01. Refer to SC-CF-13 in this regard.

### 2.3 Imports

- a) Section 10 situations that all goods consigned to or brought into South Africa is deemed to be imported into South Africa, in the case of goods:
  - i) Consigned to a place in South Africa in a ship or aircraft, at the time when the ship or aircraft first came within the control area of the port or airport authority at that place.
  - ii) Not consigned to a place in South Africa but brought thereto by and landed there in from a ship or aircraft, at the time when the goods were landed.
  - iii) Brought to South Africa overland, at the time when the goods entered South Africa, unless entered at a place outside South Africa deemed by Commissioner under Section 6(1A) or 50A to be a place of entry.
  - iv) Brought to South Africa by post, at the time of importation in terms of the above paragraphs according to the means of transport (mode) of the goods.
  - v) Brought to South Africa in any manner not specified in this section at the time specified in the General Notes to Schedule 1 or, if no time is specified in the said General Notes in respect of the goods in question, at the time the goods are considered by the Commissioner to have entered South Africa.

- b) Importers have in terms of Section 38, seven (7) days in which to make due entry of the goods except in respect of goods in a container depot as provided for in Section 43(1)(a). The seven (7) days are calculated from the time which goods are deemed imported in terms of Section 10. The proviso “or within such further time as the Commissioner may allow” means that the Commissioner may consider allowing:
- i) Loose or break bulk cargo, imported by sea, air or rail a period of fourteen (14) days [seven (7) plus seven (7) days] for clearance.
  - ii) Containerised cargo (FCL or LCL) is allowed 28 days [seven (7) plus 21 days].
  - iii) The above-mentioned periods pertain only to imported goods, which are under the control of Customs. Any persons entering a land port or entering South Africa with goods and who wishes to leave the Customs Controlled Area or any persons wishing to remove any imported goods from a Customs Controlled Area must, prior to the removal, make due entry. Any person(s) outside any Customs Controlled Area in possession of imported goods which have not been duly entered, is considered to have contravened the Customs and Excise Act and the goods is deemed smuggled or “illicit goods”.
- c) Goods may be cleared prior to their arrival, at any place appointed under the provisions of the Act to be a place of entry for goods, if the goods have been loaded on a ship or aircraft or delivered to a carrier that conveys the goods by vehicle to South Africa. If any goods cleared “pre-arrival” are found not to have been so loaded at the time of entry, the importer is guilty of an offence and the goods so cleared shall be deemed not to have been entered.
- d) The value of goods imported is discussed in SC-CR-A-03 and SC-CR-A-05.
- e) In certain circumstances the client must lodge a provisional payment (PP) in lieu of a deposit or guarantee, for example temporary imports. PPs for imports are declaration based and must be captured on a CCD. For any other PPs, refer to SC-CF-25.
- f) For assistance:
- i) With the acquittal of the import CCD refer to SC-TR-01-05; and
  - ii) If a refund become payable following any payment, refer to SD-DT-C-19.

## 2.4 Exports

- a) Goods for export must not be loaded onto any carrier which will remove it from South Africa unless:
- i) For sea, air and rail modalities a release notification authorising the export has been obtained; or
  - ii) For road freight:
    - A) Free circulation (paragraph b) goods received a ‘proceed to border’ response message authorising the export of the goods; or
    - B) Ex-warehouse goods (paragraph c) received a release notification prior to the removal of the goods from the warehouse.
- b) Goods are deemed to be exported from South Africa:
- i) By sea at the time when the goods are delivered to the port authority, a depot operator, the master of the ship or a container operator;
  - ii) By air at the time when the goods are delivered to the pilot of the aircraft concerned or are brought within the control area;
  - iii) By train at the time when the goods are delivered to the railway authority; or
  - iv) Overland in a vehicle once the goods are loaded on the vehicle concerned.
- c) If goods removed in terms of any procedure regulated by the Act, are to be transferred from one (1) vehicle to another the Controller/Branch Manager where this procedure was authorised must be informed of the time and manner prescribed by the Rules.
- d) Goods exported to Marion and Gough islands are considered to be exports.

- e) The exportation of aircraft are subject to the normal export formalities but in addition thereto a notification is to be sent immediately to the Department of Transport, Private Bag X193, Pretoria, 0001, supplying the following particulars:
- i) Date of export;
  - ii) Aircraft registration number;
  - iii) Type;
  - iv) Date;
  - v) Aerodrome at which cleared; and
  - vi) Declared destination.
- f) **Export of Motor Vehicles**
- i) The export of motor vehicles purchased in South Africa which are driven over the border by the owner requires a declaration the same as that of commercial goods and will need to pass through the commercial process and not through the traveller area of the port of entry.
  - ii) This includes vehicles brought in to South Africa as new or second hand but excludes second hand motor vehicles from Special Bonded Warehouse facilities. Refer to SC-CF-19.
- g) It is the responsibility of the **client** to apply for packing under Customs supervision for export, if applicable and the procedure for special and extra attendance must be followed. Refer to SC-CF-22.
- h) The value of goods exported is discussed in SC-CR-A-07.
- i) Where the goods concerned are to be re-imported; the **client** must complete a DA 65 and take it to Customs to check and stamp prior to export.
- j) **Goods cleared for export not to be removed or returned without prior approval**
- i) Goods cleared for export which have been placed into export stacks, cargo depots, any Customs Controlled Area or loaded onto any vehicle which must be removed from the country, may not be removed there from and returned into the country without the permission of Customs.
  - ii) If permission is granted and the goods are removed from the export stack the goods must be moved, repacked etc. under Customs supervision.
  - iii) If an amended **CCD** must be passed to change any information on the original **CCD** due to the movement, repacking, etc. the amendment must be forwarded to Customs before the goods are returned to the export stack.
  - iv) Contravention of the above may lead to penalties imposed in terms of the Sections 80(1)(c), 83(a) or 84(1), read with Sections 38(3)(b), 39(1) and 40(1).

## 2.5 Where origin must be proved

### 2.5.1 Import

- a) The client is required to prove the origin of the goods when preferential rate of duty is applied.
- i) DA 59 is accepted if issued by the following bodies within the exporting country:
    - A) Recognised Chambers of Commerce;
    - B) Government Departments; or
    - C) Statutory Bodies (i.e. legislative bodies).
  - ii) The certificates must clearly indicate that the goods concerned originate in that country and contain all other information required on the DA 59.
- b) Controller/Branch Managers may use discretion when establishing the authenticity of the DA 59.
- c) For assistance with the requirements of whether Rules of Origin permit or certificate is required refer to the Preferential Rules of Origin – Internal Guide (SC-RO-01-02).

## 2.5.2 Export

- a) The client obtains certificates of origin from the Customs certification office where he/she is registered for SADC purposes.
- b) These offices are listed in Rule 46A1.02(iii).

## 2.6 Prohibited and Restricted Goods

- a) Certain items listed under Section 113(1) are totally prohibited from being imported into or exported from South Africa while others may be imported under certain conditions only e.g. under a permit issued by the Commissioner of the South African Police Service or a permit issued by International Trade Administration Commission of South Africa (ITAC).
- b) Apart from the goods listed under Section 113(1) there are also restrictions on the importation or exportation of other goods under Acts and regulations which are primarily the concern of other Departments or controlling bodies of which certain provisions are administered by Customs. Such goods are listed in the Consolidated List of Prohibited and Restricted Imports/Exports and reference must therefore be made to this list, when necessary.
- c) Section 113A provides for the powers and duties of Officers regarding the seizure and detention of goods in accordance with the provisions of the Counterfeit Goods Act No. 37 of 1997.
- d) Where the client has a permit which restricts:
  - i) The value of goods, only the value must be marked off;
  - ii) The quantity or mass of the goods, only the quantity or mass must be marked off; or
  - iii) Both the value and the quantity or mass of the goods, both must be marked off.
- e) In instances where the:
  - i) Quantity or mass of the permits is exceeded, the permits must not be utilised as the permit will be rejected by Customs. There are no allowances permitted on this condition.
  - ii) Value is exceeded, but the quantity or mass is still within the limit, the permit may be utilised. The emphasis is therefore on the quantity and mass and it must be ensured at all times that permits have adequate balances prior to the use thereof.

## 2.7 Supporting Documents

### 2.7.1 Submission of supporting documents for Customs clearance declaration processing

- a) CCDs submitted must at time of lodgement not be accompanied by supporting documents.
- b) Where the client receives a CUSRES 13 (Query) notification supporting documents must be submitted within one (1) working day from being requested. The declaration system will update once the supporting documents are received.
- c) Non-submittal may result in a penalty imposed on the client who lodged the CCD.
- d) Supporting documents can be submitted in two (2) ways:
  - i) e@syscan
    - A) e@syscan is a software package developed by SARS which is made available to clients.
    - B) Clients may download the software from the official SARS website or alternatively they may request a CD containing the software.
    - C) The client scans the supporting documents using e@syscan software.
    - D) The scanned supporting documents are submitted via an online gateway.
    - E) **Bulk Scanning:** This option is only available at the following offices:
      - I) ORTIA;
      - II) Johannesburg;
      - III) Durban; and
      - IV) Cape Town.



- V) Supporting documents must upon receipt be acknowledged and scanned within four (4) working hours where after the originals is returned to the client accompanied by the cover sheet.
- ii) **Acquittal documents:** The Bond holder is responsible for production of the acquittal document to Customs via any third party of his/her choice, for example clearing agent or importer, when SARS calls for the supporting documents. Refer to SC-TR-01-02 and paragraph 2.26.3 of this document.
- e) **Scanning of supporting documents:**
- i) When scanning documents the client must:
- A) Place the coversheet on top;
  - B) Verify all the pages are facing up;
  - C) Arrange documents as per the coversheet;
  - D) Review the scanned images to ensure that the documents are legible.
- ii) If the supporting documents are not acceptable (unclear or illegible), the Customs Officer will reject the case to the client and request the documents to be submitted again which will delay the release of the CCD.
- f) **Hard copy documents**
- i) Hard copy documents is accepted if handed in at the front office. Before submitting the supporting documents in hard copy to the Customs Office for scanning or bulk scanning the client must:
- A) Verify if the pack of supporting documents does not contain any original documentation;
  - B) Verify if the copies of any certificates included in the pack of supporting documents is certified;
  - C) Assess the quality of the supporting documents;
  - D) Verify that all the pages are facing up;
  - E) Make sure duplicate scanning of documents do not take place;
  - F) Divide the supporting documents in each case into batches of ten (10) pages; and
  - G) Ensure that all paperclips and staples are removed.
- ii) The client arrives **at the Customs Front End Office and submits the under-mentioned documents**, in respect of **CCD in hard copy to the Controller/Branch Managers in order to effect clearance:**
- A) A CCD in one (1) of the permissible submission methods i.e. manual (hard copies) or via Electronic Data Interchange (EDI);
  - B) Full particulars of the goods being cleared;
  - C) The purpose of the clearance in terms of the legislated CPC;
  - D) A set of the standard set of supporting documents, see paragraph 2.7.2; and
  - E) The completed declaration declaring the correctness of the particulars and purpose shown on the CCDs.
- ii) The Customs Officer verifies if the supporting documents is sufficient. If the supporting documents are not sufficient or acceptable (unclear or illegible), the Customs Officer returns the documents to the client and provide reasons.

### 2.7.2 Standard set of supporting documents

- a) The standard set of supporting documents the client must submit to Customs for all **CCDs** lodged with the exception of amended CCD where a refund is being applied for must comprise of but is not limited to:
- i) Invoices in the prescribed form. **The requirements of a supplier's invoice are prescribed in Section 41 together with the relevant Rules. Refer to SC-CF-30.**
  - ii) A worksheet, showing value calculations, the rate of exchange and conversion into South African currency as well as factor calculation with regards to dutiable charges calculated proportionately, per line of the **CCD**.
  - iii) The client's written and signed clearing instructions (where not exempted from this requirement).
  - iv) **Packing list, if required to verify the CCD.**
  - v) Certificates, declarations or permits (if not produced and marked off electronically) if applicable.

- i) Transport document or other documents in lieu thereof as may be approved by the Commissioner, for example:
    - A) Sea freight – bill of lading;
    - B) Rail freight – rail consignment note;
    - C) Air freight – air waybill;
    - D) Road manifest;
    - E) Delivery or release order issued by shipping companies; and/or
    - F) Advice and delivery note or any other transport document applicable.
  - ii) Landing, delivery order and/or forwarding order.
  - vi) Certificates, declarations or permits (if not produced and marked off electronically) if applicable.
  - vii) The Shippers' covering statements of expenses if a shipper is employed or in the case of direct transaction, between a buyer and supplier proof of payment to be produced which may be either a draft or bill of exchange, sight draft, bank debit note, bank conversion slip or a bank notification of a drawing against an irrevocable letter of credit - if it is clear from documents produced, e.g. indents, commercial invoices, etc., that no further F.O.B. charges and commission will accrue the covering statement need not be called for.
  - viii) Any information regarding the tariff classification of the goods being imported for example, blueprint, illustration, drawing, plan or illustrated and descriptive literature in respect of the goods especially in instances where the classification is in doubt.
  - ix) Any other documents which may be required by Controller/Branch Managers in connection with a particular type of import or export transaction.
- b) In the case of road freight clearances – every vehicle must be accompanied with the following document set, before driving to the place of entry or exit:
- i) A single Road Freight Manifest (RFM) listing all goods on board must accompany the vehicle at all times;
  - ii) Bonded cargo including International transit must also be accompanied by the DA 187 manifest and SAD 502, SAD 505 or SAD 507 dependant on the specific requirements;
  - iii) A copy of the export CCD reflecting the Local Reference Number (LRN) and Movement Reference Number (MRN) (if it is a multi-line CCD only the first page);
  - iv) A printed copy of the CUSRES message for the Electronic Data Interchange (EDI) enabled clients and for manual clients the copy printed by the Customs Office; and
  - v) In the case of goods imported into South Africa, all supporting documents pertaining to all the CCDs, in the event of Customs requesting the documentation.
- c) The standard set of supporting documents the client must submit for amended CCDs where a refund is being applied for are listed in SC-DT-C-13.
- d) In the case of a possible drawback item 522.03 a copy of the processed DA 63 must be included in the standard set of supporting documents. The document inspector may in these instances contact the Branch Office that processed the DA 63 to obtain further information if required.

### 2.7.3 Clearing Instructions

- a) Importers and exporters are required to give written clearing instructions to their agents in an effort to avoid careless mistakes and to place clearing agents in a better position to avoid under entries and wrong clearances and thereby eliminating unnecessary work at a later stage. It is mandatory for importers and exporters to provide their clearing agents with standardised "clearance (entry) instructions" in an approved form.
- b) Clearing instructions must contain the following minimum information:
  - i) Purpose of transaction and if known the Customs Procedure Code (CPC);
  - ii) Destination country of the goods;
  - iii) Tariff determination, reflecting the tariff decision number (TDN) and tariff heading if applicable;
  - iv) Customs valuation, as applicable:
    - A) Valuation code;
    - B) Valuation method;
    - C) Value Decision Number (VDN);
    - D) Mark-ups; and
    - E) Invoice number(s)

- v) Import permit particulars;
  - vi) Other permits / certificates;
  - vii) Insert the declaration as below:
    - A) "I <insert full names>, request <insert clearing agent company name>, to clear and deliver these goods under the abovementioned conditions. I further declare that no other clearing instruction has been given to any other person to effect clearance on my behalf.
    - B) This signature certifies that the signatory is <an employee duly authorised to issue this clearing instruction / the importer/ the exporter> (delete what is not applicable)"; and
  - viii) Signature, initials, surname, capacity and date.
- c) The other information may be modified to suit agents' or their clients' individual requirements.
- d) In respect of the clearing instructions prescribed in Section 39(1), Controller/Branch Managers may in the case of:
- i) Repetitive clearances of stock ex a bonded warehouse and provided the circumstances and purpose of each subsequent clearance is identical to the first one (1), accept copies of the written clearing instruction.
  - ii) A single consignment being cleared on more than one (1) CCD (split consignment), accept a copy of the written clearing instruction used to clear the first part of the consignment.
  - iii) Airfreight, imports by road overland and clearances on behalf of ships' chandlers and ships' repairs, ex-licensed Customs and Excise storage warehouse, accept a faxed or telephonic instruction. Clearing instructions must not be insisted upon in respect of airfreight consignments in instances where the value of the consignments do not exceed R50 000.
  - iv) Goods destined for an inland centre but cleared at a coastal port accept a faxed clearing instruction.
  - v) Project work, where the main contractor has not yet set up an office in South Africa but the goods have already been shipped; accept a letter of instruction or faxed instructions from the contractor overseas.
- e) In cases where use is made of faxed or telephonic instructions as outlined above, it must be noted that the clearing instruction forms must be properly completed by clearing agents and that a stamp impression or endorsement "INFORMATION OBTAINED: TELEPHONICALLY/BY FAX" must be placed on the face of the form.
- f) In cases where faxed information is furnished a copy of the fax must be attached to the clearing instruction form. As far as telephonic instructions are concerned clearing agents must, for their own record purposes, request importers to confirm the instructions in writing.
- g) If an importer desires to amend the CPC under which a consignment was originally cleared, a fresh clearing instruction form must be completed.
- h) The following goods are exempted from the issue of clearing instructions:
- i) Unaccompanied baggage;
  - ii) Household effects, etc. of Rebate Item 407.06;
  - iii) Goods cleared in terms of the simplified clearance procedure, Section 38(1); and
  - iv) Airfreight goods where the value does not exceed R50 000.
- i) Clearing documents presented without clearing instructions must be rejected except in the instances listed above.

#### 2.7.4 Bills Of Lading

- a) A bill of lading is a contract between the shipper and the shipping company for the conveyance of certain goods from a specified port to another specified port.
- b) The information contained in a bill of lading can be of material assistance and this document may be called for at inland ports for comparison with invoiced and entered particulars.
- c) The numbers and dates of bills of lading are required to be reflected on manifests and CCDs for identification purposes.

- d) Bills of lading may be made out "To Order" or to a specified consignee.
- e) In order to comply with the requirements of Section 38(1)(b) CCDs may only be accepted provided proof is furnished, to the satisfaction of the Controller/Branch Manager that the goods have been loaded on a ship or vehicle for discharge at that place, notwithstanding the fact that the ship or vehicle has not yet arrived at that place.
- f) Bills of lading acknowledge receipt of packages but not necessarily the contents aboard ship. The shipper, i.e. the exporter, however, is responsible for framing the bill of lading and must know the nature of the goods being shipped.
- g) The full marks and numbers of packages, nature of packages and description of the goods described on bills of lading must correspond to the particulars listed on the manifests. This is necessary to ensure that delivery of the correct cases, containing the actual goods which have been cleared, are delivered to the correct consignee.
- h) Where there is undoubted variance between the bill of lading and the CCD descriptions and this is noted after an inspection or examination, the ship's agents must be called upon for prompt amendment of the necessary information on the manifests. However, goods correctly entered originally or by an amended CCD must not be further detained pending amendment of the manifest.
- i) Where a collective bill of lading is made out to an agent covering parcels to different consignees, the agent may enter those parcels on one (1) CCD, detailing the various consignees with the relative parcels. In these instances the agent named on the bill of lading must appear in the space provided for the importer's name.
- j) In instances where the bill of lading or shipper's statement reflects alternative numbers or marks, the packages must be stopped and the contents verified with the invoices.
- k) With regards to ownership in respect of over plus, (i.e. where the owner claims surplus proceeds) the negotiable copy of the bill of lading establishes ownership and this bill of lading must be included in the claim. Claims for over plus by other persons must contain the negotiable copy of the bill of lading endorsed in favour of the claimant.
- l) The bills of lading dates can serve as the date of shipment of goods. This date is necessary to establish the rate of exchange to be applied in the conversion of foreign currency into Rand. The use of house bills of lading and received for shipment bills of lading for the purposes of establishing the date of shipment must be supported by written confirmation from the groupage agents overseas confirming the vessels name and giving particulars of the on board bill of lading number. The on board bill of lading number as well as the house bill of lading number and date must be reflected on CCDs. Alternatively house bills of lading may also be accepted as proof of shipment if supported by a certified copy of the relative on board bill of lading. In the case of "received for shipment bills of lading" such may be accepted provided they are endorsed by the vessels agents to the effect that the goods have been shipped on board and the date of shipment is indicated thereon.
- m) Bills of lading dates are used for import permit purposes where goods are required to be shipped on board on or before a specified date.
- n) The "To Order" bill of lading is a negotiable bill of lading. This means that the shipper consigns goods to the order of himself/herself and in order that the bill of lading can become a negotiable document so that the goods in question can be released. The shipper endorses the bill of lading with his/her signature, just as a cheque might be endorsed. This is known as "endorsing in blank". After this the document becomes fully negotiable. The negotiable copy of the bill of lading is regarded as proof of ownership and the holder thereof is therefore the importer.
- o) The "Straight" bill of lading is a bill of lading made out to a specified consignee. This is a non-negotiable bill of lading. In this document goods are consigned to a specified consignee and only that consignee can take possession of the shipment when delivered at its destination. Release will however only be granted if the bill of lading has been endorsed by the specified consignee.

- p) The bills of lading that may be accepted as proof of shipment are:
- i) The direct bill of lading where the goods are consigned from one (1) port direct to another port of destination (e.g. London to Cape Town).
  - ii) A through bill of lading where the goods are consigned from one (1) port, via an intermediate place where transshipment takes place, to a specified destination (e.g. Antwerp to London to Cape Town).
  - iii) A house bill of lading in respect of groupage consignments provided they are supported by written confirmation from the groupage agents' overseas associate confirming the vessel's name, giving particulars of the on board bill of lading number and date and bearing a reference to the relative groupage container manifest. The on board bill of lading number and date as well as the house bill of lading number and date must be reflected on CCDs.
  - iv) House bills of lading if they are supported by a certified copy of the relative on board bill of lading.
  - v) Received for shipment bills of lading provided they are endorsed by the vessel's agents to the effect that the goods have been shipped on board and the date of shipment is indicated thereon.
  - vi) In the case of non-negotiable liner waybills in respect of containerised cargo on the UK/Europe - South African trade route:
    - A) The liner waybill is a non-negotiable document which, at the suppliers' request, is issued by shipping companies instead of a bill of lading. It is numbered in the same series as bills of lading. It is not a document of title but serves as a receipt for goods and provides evidence of a contract of carriage. It does not have to be surrendered by the consignee to obtain delivery of the consignment. The waybill is in fact retained by the shipper and the consignee merely has to identify himself/herself to the shipping company's representative in South Africa, who receives particulars of consignments shipped under cover of waybills by electronic data processing or other direct means.
    - B) Non-negotiable liner waybills are best suited to transactions where the seller and buyer are well established trading partners, house to house transactions, transactions between an overseas manufacturer and an associate company in South Africa, etc.
    - C) As a result of the fact that non-negotiable liner waybills are not dispatched to importers in South Africa Container Operators' Arrival Notifications (in a form acceptable to Customs) may be used by importers to enable clearance of containerised consignments, provided all particulars necessary for clearance purposes which are normally reflected on bills of lading, are shown on the notifications and the date of shipment is reflected thereon.
  - vii) Arrival notifications may, subject to the provisions outlined in the preceding paragraph, be used by importers in the place of bills of lading to enable clearance of containerised consignments shipped under cover of bills of lading. However:
    - A) Only arrival notifications which have been approved by Customs may be used in lieu of liner waybills or bills of lading for clearance purposes;
    - B) In instances where arrival notifications are used, the liner waybill or bill of lading number and the date of shipment must be reflected in the field "Bill of Lading, etc.; No. and Date" on the CCD; and
    - C) In the case of groupage consignments, the house bill of lading supported by a certified copy of the arrival notification sent to the groupage agent may be accepted as proof of shipment.
- q) Delivery or release orders issued by shipping companies are issued on the submission of the bills of lading to them. These delivery orders are acceptable when full manifested particulars of the packages are detailed thereon as well as the bill of lading number and date. It may only be accepted however in respect of manifested cargo. Delivery and release orders are not acceptable for excess cargo.

### 2.7.5 Air waybills and date of shipment

- a) As far as single air consignments are concerned, the air waybill date serves as the date of shipment of goods in order to determine the rate of exchange to be applied in the conversion of foreign currency into the currency of South Africa.
- b) As regards consolidated air consignments, house air waybills may be accepted as proof of shipment provided they are supported by a copy of the master air waybill.

- c) With a view to eliminating the costs incurred by degrouping agents in supplying individual clearing agents with copies of master air waybills, house air waybills bearing a stamp impression, indicating the master air waybill number and date, the flight number as well as a signed declaration of correctness by the degrouping agent, may be used to serve as proof of shipment.
- d) The master air waybill number and date as well as the house air waybill number and date must be reflected on CCDs.

### 2.7.6 Indent

- a) When local importers purchase foreign goods, they contact the local representative of an overseas supplier who is known as an indent agent. Indent agents may also approach local importers in much the same way as a traveller representing a local manufacturer would approach clients or possible clients, to offer goods and to take orders if a sale is concluded.
- b) When sales are concluded for the supply of foreign goods, indents are made out. This document sets out the name of the supplier and buyer, the approximate date of shipment, the method of payment, the contract price whether ex-factory, ex-mill, ex-warehouse, F.O.B., C & F, C.I.F. etc., as well as full descriptions and quantities of goods purchased.
- c) A copy of the indent is handed to the buyer and a copy is also forwarded to the supplier for confirmation and execution of the order. This would normally only happen if satisfactory arrangements for payment for the goods have been arranged.
- d) The method of payment for the goods in question generally falls into two (2) categories:
  - i) By means of an irrevocable letter of credit through a named shipper - normally used when the buyer needs credit facilities which are then provided for by a shipper, or
  - ii) Direct payment by means of an irrevocable letter of credit or a sight draft is arranged between the buyer and supplier through their bankers in which case a shipper is not employed - where credit facilities are not required and by implementing this method of payment, a shipper's commission is eliminated.
- e) **The role of indents in import transactions:**
  - i) The acceptance by an overseas exporter of a particular indent, by way of confirmation of the order, from a buyer in South Africa, constitutes an agreement to execute the transaction in full in accordance with the terms and conditions contained therein.
  - ii) Any imported goods supplied on an indent basis must be in accordance with the specifications of the indent.
  - iii) Copies of the relevant indents are normally in possession of the importers in South Africa (where the transactions have been negotiated by the supplier's local representative, i.e. indent agents) and can therefore be produced to Customs at any time by the importers or their agents.
  - iv) This document can be of vital assistance where supplier's standardised invoices or other necessary supporting documents are not available at the time of clearance.
  - v) In these cases the terms, conditions and other basic information contained in the indent must normally be sufficient to classify the goods and for calculation of the value for Customs duty purposes or of establishing the contents.
  - vi) Where invoices are however not available the goods must always be stopped for verification of the contents with available documents.
  - vii) Sufficient information is reflected on the indent to arrive at a fair value for determination of the amounts of the required PPs.
- f) The indent contains the following information:
  - i) Description of goods ordered including quality, specifications, types, etc.
  - ii) Quantity of goods contracted for.
  - iii) The price at which the exporter has contracted to sell the goods in question to the importer.
  - iv) The terms of sale, e.g. ex-factory, C.I.F. etc.
  - v) The terms of payment, i.e. how payment is to be made, which in turn will indicate whether an intermediary is employed and whether commission is involved.

- g) Where the amounts of PPs must be determined and where the indent can be of assistance in determining these amounts, this document must be called for.
- h) Lodgement of unnecessary PPs can be avoided by calling for the indent, as the information reflected thereon may be sufficient to satisfy Officers concerned that additional security is not necessary.

### 2.7.7 Irrevocable Letter Of Credit

- a) An irrevocable letter of credit is an instrument of finance, which is opened by a buyer (or a representative which could be his/her shipper) of foreign goods with a bank and provides a simple arrangement of finance between the seller and the buyer.
- b) The amount of the letter of credit is agreed upon by the buyer and seller in terms of the indent placed and the buyer thereupon makes application to a bank for the issuance of an irrevocable letter of credit.
- c) Once an irrevocable letter of credit has been issued by a bank, the bank guarantees payment for the goods in question when the document, e.g. bill of lading, supplier's commercial invoice or other documents required in terms of the irrevocable letter of credit, are produced.
- d) Once established, an irrevocable letter of credit cannot be revoked by the buyer or a bank, unless the seller, who is the beneficiary, explicitly gives his/her permission.

### 2.7.8 Sight Draft

- a) One (1) of the means of financing import transactions is a sight draft. There are a number of different types but the most frequently used is the D/P which means "documents against payment".
- b) When this method is used the seller is protected because the shipping documents which contain the title to the goods are not handed to the buyers (by a bank through which the documents were transmitted) until the buyers pay the value of the draft to the bank concerned.
- c) This method can best be described by comparing it with a Cash on Delivery (C.O.D.).

### 2.7.9 Draft or bill of exchange

- a) This is an unconditional order in writing, addressed and signed by the person granting it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time, the sum specified. This type of financing must comply with the following:
  - i) The bill must be an order and not a mere request;
  - ii) The order must be unconditional;
  - iii) The order must be in writing;
  - iv) The order must be addressed by one (1) person to another person;
  - v) The order must be signed by the person granting it, i.e. the drawer;
  - vi) The bill must be payable on demand or at a fixed or determinable future time;
  - vii) The order will require payment of a sum of money; and
  - viii) The bill must be payable to or to the order of, a specified person or to a bearer.
- b) Bills of exchange are transmitted through banks or brokers who obtain the drawee's signature of acceptance thereof and generally state the amount payable in South African currency on a (bank) slip pasted thereon.
- c) The **role of shippers** is to service their clients overseas and arrange foreign exchange settlements, especially where credit facilities are required. For these services shippers charge their clients commission.
- d) Generally the shipper's function falls into the following categories:
  - i) Buyer;
  - ii) Confirmer;
  - iii) Merchant shipper; or
  - iv) Financier.

- e) Shippers also carry out several ancillary (subsidiary) functions:
- i) When clients place indents with overseas suppliers the shipper's overseas office will guarantee payment to the overseas supplier either by the issuing of the shipper's official confirmation or by establishing a banker's irrevocable letter of credit in the supplier's favour.
  - ii) The shipper will arrange with a packing firm or supplier to have the goods packed for export, arrange shipping space and obtain stevedores to load the goods.
  - iii) They therefore act as the buyer's agent in all dealings with suppliers.
- f) When the goods have been shipped, negotiable documents, which would normally consist of a negotiable copy of the bill of lading, supplier's commercial invoice and packing specifications, will be presented to the shipper as evidence of despatch and for checking whether the terms of the contract have been complied with.
- g) If the documents are in order, shippers will draw a draft or bill of exchange on their clients for the total amount due in connection with a particular transaction. A covering statement will accompany the draft or bill of exchange, supplier's negotiable copy of a bill of lading, commercial invoice and statements in support of the charges reflected on the covering statement. The mentioned documents will only be placed in the hands of the clients if satisfactory arrangements for payment of the amount due have been made with the bank concerned.

#### 2.7.10 Covering Statement (Shippers' Statement of Expenses)

- a) A covering statement, in relation to clearing documents, is merely a document furnished by a shipper of goods or a finance house, listing total invoiced selling prices of all suppliers' commercial invoices and all charges and commissions (including freight and marine insurance in respect of the goods in a particular consignment). The covering statement will therefore reflect the total amount required to be paid by the importer to the shipper or finance house, in connection with a particular transaction.
- b) A covering statement is not complete unless it reflects the total value of each invoice to which it refers, i.e. all the F.O.B. charges and commissions, the freight and insurance charges, as well as the full marks and numbers of the packages concerned.
- c) The marks and numbers and the number of packages may be cross-checked from the covering statement and the invoice and compared to the CCD.
- d) Where shippers are employed, covering statements are always issued. In these cases additional F.O.B. charges and commissions, which are dutiable in most instances, enter into the picture. The method of payment indicated on an indent will give an indication whether payment is made through a shipper or whether it is a direct transaction between the buyer and the supplier.
- e) Where the terms of the contract are C.I.F., C & F and C.I.F.I., it must not be taken for granted that no further additional F.O.B. charges and commission, which could affect the F.O.B. price, are involved. For example: goods are supplied on a C & F basis ex-Japan but payment is affected through a shipper or buyer in London who will issue a covering statement detailing the total values of the suppliers invoices, further charges and commission raised, which may drastically affect the F.O.B. price.
- f) If a covering statement is produced where a shipper or finance house is involved, the client is in a position to verify that:
- i) All the invoices have been produced covering the goods in a particular consignment.
  - ii) All dutiable F.O.B. charges and commission have been included in the declared F.O.B. price.
  - iii) The total amount reflected on covering statements, less the amounts of any non-dutiable charges, must tally to the nearest Rand with the total F.O.B. price entered on the CCDs.
- g) Covering statements must be studied for any additional F.O.B. charges (especially commission) and are essential for arriving at the value for duty purposes and the C.I.F.C. value.
- h) Where the invoices plus the covering statement is suspected of not showing the full amount paid by the importer, the draft or bill of exchange, sight draft, bank debit note, bank conversion slip or a bank notification of drawing against an irrevocable letter of credit may be called for.



### 2.7.11 Certificates, special permits or declarations

- a) Where the production of a permit or certificate, etc. is a requirement and the document cannot be produced and the importer is able to produce proof at the time of clearance, for example a faxed message from the particular authority of the existence of a valid permit or certificate, the goods may be released upon lodgement of a PP (conditional release) pending production of the permit or certificate, etc. Refer to paragraph 2.10.
- i) This PP must, in the case of rebated goods, cover the rebated duty and in the case of non-rebated goods which require an import permit or other authorisation document, the PP must not be less than R5 000.
  - ii) If the importer or agent fails to produce the required permit or certificate within fourteen (14) days after clearance, a further PP of 100% of the value of the goods to cover a possible penalty must be called for and the offending client may no longer make use of this procedure.
- b) Where the production of a permit or certificate, etc. is a requirement and the document is to be furnished by an **issuing authority in a foreign country** (including the BLNS countries) but is not readily available at the time of clearance, the following applies:
- i) Where admission of goods into South Africa or admission of goods at a reduced or rebated rate of duty is dependent upon the production of a permit or certificate etc. a PP to cover the difference in duty may be accepted, provided proof of the availability thereof is furnished.
  - ii) In cases where an import or export permit or other authorisation is required, the goods must not be released unless such permits or certificates can be produced at the time of clearance. The goods must be detained for ITAC or the authority involved.
- c) In instances where admission of goods at a reduced or rebated rate of duty is dependent upon the production of a permit or certificate etc. from an authority in South Africa and such permit or certificate, etc. is not available at the time of clearance, a PP pending production of the permit or certificate etc. may not be accepted unless proof of the availability thereof is furnished, in which case a PP (conditional release) to cover the difference in duty must be accepted.
- d) Where the admissibility and not the rate of duty, is dependent upon the production of a permit or certificate, etc. from an authority in South Africa and such permit or certificate etc. is not available at the time of clearance, the goods must be detained in terms of the Act.
- e) If rebate permits or certificates, etc. are produced after acceptance of CCDs, applications for refund of duty may be entertained if the client can prove to Customs satisfaction that such permits or certificates, etc. were valid in all respects, at the time of clearance. The substitution procedure would have to be followed in these instances.
- f) Where a valid rebate certificate or declaration, required in terms of a Rebate Item, is produced after the CCD has been accepted "under rebate" it must be attached, as supporting documentation to the relevant amended CCD inspection case bearing appropriate wording, such as "Certificate now attached or permit no..... produced, liquidating PP no....". Refer to paragraph 2.10.
- g) The under-mentioned instances must be dealt with as contraventions of both the Customs Act, as well as the Import Control Regulations or other legislation in terms of other controlling or restricting Acts:
- i) Instances where CCDs are endorsed "Permit free" whereas the goods are in fact subject to production of an import permit, whether or not a valid permit is available at the time of entry.
  - ii) Instances where a specific permit is required but an invalid permit is submitted despite the fact that a valid permit may be available.
  - iii) Instances where a valid permit is presented but it is insufficient to cover the shipment, whether or not an additional permit is available.
  - iv) Instances where a permit, particularly in respect of textile piece goods, is presented endorsed with a description or tariff heading which is not in accordance with the actual imported goods.

- h) Contraventions of the Act is dealt with in terms of Sections, 40(1)(a), 80(1)(i) or 84(1) as read with Section 113(2). The contravention of the prohibiting legislation is dealt with in consultation with the authority concerned. For example, the Department of Trade and Industry in the case of counterfeit goods and the Counterfeit Goods Act. Disposal of matters in terms of Section 91 does not automatically eliminate action in terms of any other legislation.
- i) The goods are detained until all Customs requirements have been complied with and incorrectly entered permit particulars rectified. For example, where the correct permit number is inserted, by means of an amended CCD.
- j) If a permit can be produced, which was valid at the time of presentation of the CCD, the permit may be accepted and the matter may be regarded as closed on the lodgement of a nominal penalty together with an amended CCD inserting the valid permit particulars.
- k) If a valid permit cannot be produced the goods must be detained and the matter taken up with Head Office in conjunction with the authority requiring the certificate or permit. If a certificate or permit is produced well after the time of presentation of the CCD, nominal penalties may be imposed depending on circumstances.
- l) In cases where intending immigrants are not yet in possession of residence permits, PPs to cover the relevant duty may be accepted pending compliance with the requirements of Rebate Items 407.04 and 407.06.
- m) Where the required permit or certificate accompanies the relevant clearing documents the client must ensure that:
  - i) The permit is valid.
  - ii) The relevant CCD is endorsed with the name of the issuing authority and the number and date of the permit or certificate.
  - iii) The CCD particulars, where the quantity and value are considerations, are endorsed on the relevant permit or certificate.
  - iv) In certain circumstances, permits specify post clearance conditions for example, "second hand tyres for re-treading.
  - v) The endorsement of clearance particulars on the permit or certificate and balances, if any must be signed and date stamped by the responsible Checking Officer or a team member in Imports.

#### 2.7.12 Confirmation of sale or other contract

- a) Where the client is requested to submit supporting documents for confirmation of sale or a contract is required, the evidence must be submitted to Customs.
- b) There are various ways by which an order may be confirmed by the shipper or supplier. Some examples are sales notes order of confirmation, by letter, etc.

## 2.8 Completion of Customs clearance declarations

- a) Every importer, exporter, owner of the goods or his/her agent must, before the goods are imported into or exported from South Africa, lodge a CCD to Customs. CCDs are legal statements and are binding on importers and exporters and as such CCD(s) must be completed accurately in all respects.
- b) CCDs must be completed in accordance with the provisions of the Manual for the Completion of Declarations. Refer to SC-CF-04 for the information required when completing a CCD.
- c) The CCD must be submitted by one (1) of the following person(s):
  - i) The importer/exporter,
  - ii) Registered agent; or
  - iii) Appointed clearing agent.
- d) A separate CCD must be presented in respect of each importer or exporter per mode of transport for example vessel, aircraft, vehicle or train as indicated.

- e) Where the goods are to be re-imported; the **client** must complete a DA 65 which Customs must check and stamp prior to export.
- f) **Valuation** is discussed in:
- i) SC-CR-A-03 – Valuation of Imported Goods;
  - ii) SC-CR-A-05 – Method 1 of Imported Goods; and
  - iii) SC-CR-A-07 – Valuation of Export Goods.
- g) It is the responsibility of the **client** to apply for Customs supervision or inspection for export, if applicable. Special and Extra attendance as prescribed in SC-CF-22 applies.
- h) In the case of road freight, the “place of clearance” and “port of entry” must be the same for all imported goods to South Africa. However, for export from South Africa a distinction is made between free circulation goods and bonded goods:
- i) Free circulation goods must be cleared under procedure H 60 on the **CCD reflecting** the “place of clearance” and “port of exit” the same; and
  - ii) Bonded and Transit goods are cleared under procedures F 52, F 53, H 64, H 67 and H 68 on the export **CCD**. The “place of clearance” will reflect the Customs source office and “port of exit” the land port of exit.
- i) The **client** must insert the transport document number on the export **CCD**. The transport document number is not interchangeable with the booking reference number. The ‘booking reference number’ format does not comply with the requirements as prescribed in the Completion Manual of Declarations (SC-CF-04).
- j) In the case of a possible drawback item 522.03 the Customs Procedure Code (CPC) H 62-11 and drawback item 522.03 must appear in the appropriate fields on the export **CCD** before the goods are exported. (Refer to SC-CF-04, SC-CF-04-A16).
- k) **Requirements for a valid CCD in terms of Section 40:**
- i) The description and particulars of the goods and the marks and particulars of the packages declared on the CCD must correspond with the description and particulars of the goods and marks and particulars of the packages or in any certificate, permit or other document, by which the importation or exportation of the goods is authorised. If the goods require a permit the permit must be produced at the time of due entry. This includes goods imported and warehoused. If imported warehoused goods requires a permit then the permit must be made available at the time the CCD with a CPC combination E 40-00, is presented and not on entry for home use or ex-warehouse clearance.
  - ii) The commodities must be entered on CCDs according to their precise nature and in sufficient detail to enable them to be identified for Customs classification purposes as required by Section 40(1)(b) and the relevant Rules thereto. Where classification in terms of the tariff depends on such factors as the physical characteristics of the goods e.g. mass, capacity, composition or method of manufacture the description on the CCD must include these particulars.
  - iii) The quantities, if required to be specified, must be stated on the CCDs and must include particulars such as the units shown in the statistical requirements as well as the unit for duty purposes, if it differs from the statistical units. The goods on the CCD must be described by the:
    - A) Denomination and with the characters;
    - B) Tariff heading and item numbers;
    - C) Circumstances according to which they are charged with duty or are admitted under any provision of the Act or are permitted to be imported or exported; and
    - D) Any other information called for in the CCD must also be declared, for example: countable quantities in respect of warehouse CCDs.
  - iv) The C.I.F. & C. values must be accurately reflected on the CCDs as this value is used, amongst others, for balance of payment purposes. Normally statements reflecting freight and insurance paid accompany the overseas documentation but there are instances where either or both freight and insurance are payable at destination. Clients (importers/exporters) or agents must obtain the amounts of freight and/or insurance payable at destination, from the carriers and

- insurance companies. Any such reasonably acceptable evidence obtained from local sources and submitted may be accepted by Customs.
- v) The Customs value of the goods on which duty is leviable or which is required to be declared under the provisions of the Act must be declared. Where goods are cleared under any of the Rebate Items of Schedule 3 or 4, the amount of duty rebated must be indicated in the description field.
  - vi) The correct country of origin must be declared. Different rates of duty apply to different countries and different countries can reflect vastly different rates of duty, which in turn may influence the amount of duty or non-rebated duty payable.
  - vii) Country of export and means of carriage must be declared. Particularly required where preferential rates are applicable or anti-dumping duty or countervailing duty is applicable.
  - viii) The correct invoices completed in terms of Section 41 and the relevant Rules thereto must be produced at the time of CCD and presented to Customs for acceptance, if required (SC-CF-30).
  - ix) The correct duty due must be paid.

## 2.9 Submission of Customs clearance declaration

- a) The client submits the CCD in either Electronic Data Interchange (EDI) or manual format (hard copy) to Customs.
- b) Section 101A provides for the application of electronic communication for the purposes of Customs and Excise procedures. Any person who wishes to communicate with the Commissioner via EDI must be registered in terms of Section 101A with SARS for this purpose. Refer to SC-CF-19. In addition to the provisions of the Section, the regulatory requirements is specified in the user agreement and the Rules.
- c) **EDI Submissions**
  - i) The client:
    - A) Obtains supporting documents and prepares the draft CCD; and
    - B) Submits the draft CCD via EDI.
  - ii) The EDI gateway validates the CCD submitted by the client by means of checking the CCD for electronic format:
    - A) If incorrect, the EDI gateway sends an electronic message (CUSRES 6) to the client informing them of the incorrect submission with the specific code and the message identifying the error.
    - B) If incorrect, refer to paragraph 2.10.
  - iii) All supporting documents must be scanned and attached to the CCD before submission of the CCD.
  - iv) Notification of the results: The declaration system sends a Customs Notification (CN 1) CUSRES 1 (release),
  - v) CUSRES 2 (stop), or other CUSRES messages to the EDI enabled parties to inform them of any Customs intervention or additional requirements.
  - vi) If supporting documents are requested, the client must prepare a folder consisting of the relevant supporting documents and presents the folder to the Customs Office for scanning.
- d) **Manual Submissions**
  - i) A client who has no access to electronic submission channels (EDI) must visit a Customs Branch Office and request the capture and submission of the CCD by a Customs Office on behalf of the client.
    - A) Manual submissions at Branch Offices will only be allowed up to ten (10) manual CCDs per client per calendar month with each CCD not exceeding ten (10) lines per CCD as the client is legally obligated to submit CCD electronically in terms of Rule 101A.01A(2)(a)(v).
    - B) The information on the CCD will then be captured on the SARS system at the port or place of entry or exit via a face-to-face discussion between the client and the Customs Officer.
  - i) The client:
    - A) Obtains supporting documents and prepares the draft CCD in terms of the Manual of Completion of Declarations (SC-CF-04); and
    - B) Submits the hard copy draft CCD, excluding supporting documents to a Customs Branch Office or Customs Compliance Centre (CCC).

- C) Delivers the **CCD** to the Controller/Branch Manager in the prescribed form during Office hours prescribed by Rule.
- ii) The Customs Officer captures the manual CCD **on the declaration system on behalf of the client within one (1) hour from receipt of the CCD:**
  - A) Receives the **CCD**;
  - B) **Creates a new CCD case which generates a case number;**
  - C) **Writes the case number on the original CCD for tracking purposes;**
  - D) **Captures the submitted CCD onto the SARS system, utilising the information provided by the client; and**
  - E) **Writes the case number on the client's CCD's folder for identification purposes.**
- iii) **The client signs the CCD using the signature pad thereby affirming that the particulars of the CCD are true and correct and complies with legislation.**
- iv) **The Customs Officer:**
  - A) **Saves the captured data'**
  - B) **Ensures that:**
    - I) **The hard copy of the CCD are scanned and attached to the case; or**
    - II) **The supporting documents if requested are attached to the case.**
  - C) **Submits the CCD.**
  - D) **Hands the hard copy CCD back to the client.**
- v) **The CCD is validated by the declaration system.**
- vi) Notification of the results: Release, stop or other notifications are printed and handed to the client to inform them of any Customs intervention or additional requirements.
- vii) If supporting documents are requested, the client must prepare a folder consisting of the relevant supporting documents and presents the folder to the Customs Office for scanning.
- viii) **If captured incorrectly, the declaration system sends a notification to the Customs Officer capturing the CCD to inform him/her of the incorrect submission with the specific code and message identifying and displaying the error.**
  - A) **Alterations must be made by the client(s) and initialled by him/her on a hard copy of the CCD before final acceptance.**
  - B) **The use of correction fluid on any CCD is not permitted either by Customs Officers or by importers/exporters or agents.**
- ix) The Customs Officer will not make any alteration or addition on a **CCD without the approval of the client.**
  - A) **The Customs Officer rectifies the errors after sign-off from the client.**
  - B) **The CCD with the signed alternations is uploaded as supporting documents.**
  - C) **The Customs Officer resubmits the CCD for validation.**
- x) No alteration of a **CCD** is permitted after the final acceptance, except by way of an amended **CCD**.
- xi) **Clients walking in with manual submissions may at this time request the Customs Officer for packing under Customs supervision for exports (DA 73) – see SC-CF-22.**

## 2.10 Declaration system validations

- a) The declaration system performs validations to verify the correctness of key fields, the completion of mandatory fields, etc.
- b) If the **CCD** is not valid the declaration system will either send CUSRES 6 (error message, indicating that the client has to submit a new **CCD**).
- c) A valid **CCD** submitted via EDI receives a Movement Reference Number (MRN) that must be reflected or quoted on all correspondence to Customs.
- d) If a payment is:
  - i) Due it must be conducted in terms of BP-02; and
  - ii) Not concluded the declaration system will not permit the release of a **CCD**.

## 2.11 Release

- a) Where a CUSRES 1 (Release status) is received the goods may now be **released or exported if the client has made payment (BP-02), if required.**

- b) Refer to paragraph 2.2.

## 2.12 Customs declarations based provisional payment

- a) There are three (3) types of PPs that are lodged, namely:
- i) At the time of original clearance a PP:
    - A) To cover the duties and tax due paid until the client can prove that the temporary imported goods have been exported – temporary imports (PPT).
    - B) To cover the provisional charge ITAC sets, pending the finalisation of the investigation to verify whether to impose the following additional duties, see paragraph 2.13 i):
      - I) Anti-dumping (PPA);
      - II) Countervailing (PPC); or
      - III) Safe Guard (PPG).
  - ii) After a Customs intervention for the conditional release (PPR) of goods or a request for embargo release (PPE).
    - A) Pending the production of any supporting documents;
    - B) Pending the production of literature or a tariff determination (DA 314) by Head Office to establish or confirm the tariff heading. Refer to SC-CR-A-09 for assistance with a tariff classification;
    - C) Pending a value determination (DA 55) to verify the correct Customs value by Head Office. Refer to SC-CR-A-03 and SC-CR-A-05 for assistance with valuation of imported goods;
    - D) To obtain embargo release of the goods in terms of Section 107. Refer to paragraph 2.19.
  - iii) Penalties (PEN) including VAT penalties or forfeiture (FOR) requested on Customs initiated amended CCD. See SC-CO-01-02 for guidance on offences and penalties.
- b) The details of the type of PP (e.g. PPT; PPE or PEN) must be indicated on a CCD as a 'Duty Tax Type' (Box 47). Refer to SC-CF-04.
- c) The PP amount must be inserted on line level proportioned by Customs value except in the case of a PP for embargo release (PPE) where the details must be declared on the first line.
- d) The reason or condition of the PP will appear in the CUSRES message sent to the trader/client.
- e) The PPs must be paid in cash by EFT, E-Filing or Cash desk but a maximum amount applies for payments on Cash desk.
- f) If a client who uses the deferment option on a PP CCD elects to pay the PP using the Cash Desk the full amount of the CCD must be paid in cash.
- g) For the use of the DA 70 and to determine the PP amount refer to SC-CF-25 and SC-CF-32.
- h) With regards to the finalisation of the payment of the provisional charge as set by ITAC, the following must be adhered to:
- i) Finalisation of PPs where Anti-dumping Duty is imposed retrospectively in terms of Section 56: the anti-dumping duty is brought to account on an amended Customs CCD inserting the Anti-Dumping item and thereafter the PP is liquidated and refunded. If the amount of the PP on the goods in question exceeds the duty retrospectively imposed on the goods, the amount of the difference must be refunded to the depositor. If the amount of the PP is less than the amount of the Anti-dumping Duty imposed, the amount of the difference must not be collected (refer Section 57A).
  - ii) Finalisation of PPs where no Anti-dumping Duty is imposed: In instances where no retrospective Anti-dumping Duties are imposed the PP must be liquidated and made payable (refunded) to the depositors.
  - iii) The periods for which PPs are held pending the imposition of Anti-dumping Duty, must normally not exceed six (6) months, but the period would be in line with that in the Government Gazette notice. The PPs must therefore be finalised or liquidated within the six (6) month period, unless the Minister of Finance has extended the time. Controller/Branch Managers must ensure that

measures are implemented to prevent the PPs from becoming time expired, i.e. held for a period of more than six (6) months without reason or authority.

- iv) Exemption from payment of Anti-dumping Duty - In terms of Section 55(5) the Commissioner may exempt certain goods from the payment of Anti-dumping Duty. These goods would normally be genuine trade samples, replacement parts and other goods imported not for trade purposes. This provision is delegated to Controller/Branch Managers who may use discretion in this regard. In cases of doubt normal PPs must be called for to cover any possible Anti-dumping Duty payable and the matter submitted to the Head: Customs Operational Support for a decision.
- i) The administration or control measures for **countervailing duties** are very similar to those mentioned for Schedule 2 Part 1 (Anti-dumping). Customs Officers must take note of the Legal Notes numbered 1 to 4 of Schedule 2 Part 2.
- j) The client ensures that where PPs are liquidated:
  - i) The conditions set for penalties (PEN) and forfeiture (FOR) are met and adhered to. See SC-CO-01-02; and
  - ii) All other PP types are completed and fully dealt with in terms of SC-CF-25.

## 2.13 Anti-Dumping, Countervailing and Safe Guarding Duties

- a) Schedule 2 covers Anti-dumping, Countervailing and Safe Guard Duties on imported goods.
- b) Anti-dumping, Countervailing and Safe Guard are in terms of the definitions in the Act, regarded as "Customs Duties".
- c) Anti-dumping Duty (Part 1) is provided for in Section 56 and is basically an additional Customs Duty placed on goods which are imported into South Africa at a value or "export price" much lower than identical or comparable goods sold in the ordinary course of trade. In these circumstances the Minister of Finance may impose an Anti-dumping Duty, which becomes payable in addition to the normal duties in terms of Schedule 1.
- d) Countervailing Duty (Part 2) is provided for in Section 56(A). Countervailing is an additional Customs Duty that is placed on goods which are imported into South Africa and are done so under circumstances where the exporting authorities, in the exporting country, have placed a subsidy or bounty on the goods. In these circumstances the Minister of Finance may impose Countervailing Duties not exceeding the amount of the subsidy or bounty on the goods.
- e) Safe Guard Duty (Part 3) is provided for in Section 57. Safe Guard Duty is an additional duty imposed as a result of disruptive competition. In these circumstances the Minister of Finance may impose a Safe Guard Duty which becomes payable in addition to the normal duties in terms of Schedule 1.
- f) **Structure of Schedule 2 Part 1 (Anti-dumping):**
  - i) All goods appearing in this part fall under "tariff items". These items all begin with the number two (2). As for the remainder of the number the same structure as that of Part 1 of Schedule 1 has been followed. Therefore, goods classified in Section 11 of Schedule 1 Part 1, which attract Anti-dumping Duty, are found under the Anti-dumping Item 211.00 of Schedule 2. The number "11" in this item pertains to Section 11 of Schedule 1 Part 1.
  - ii) Schedule 2 has been divided into eight (8) columns (Headings). A short description of each column is provided hereunder:
    - A) Column 1 = ITEM - The items are numerical, all beginning with the number two (2), starting at 201.00 and extending to 221.00, which are in accordance with the 21 Sections of Schedule 1 Part 1.
    - B) Column 2 = TARIFF HEADING - The tariff headings under which goods liable to Anti-dumping Duty are classified in Part 1 of Schedule 1 with respect to the first four (4) digits. Only goods classified by the first four (4) digits and stipulated in the description of Schedule 2 will therefore be liable to Anti-dumping Duty.
    - C) Column 3 = CODE - For identification and CAPE Computer System only.
    - D) Column 4 = DESCRIPTION - The specific descriptions of goods liable to Anti-dumping Duty are listed here. These descriptions do not necessarily agree in all respects with the

corresponding Schedule 1 Part 1 tariff headings. The descriptions mentioned in Schedule 2 are specific and qualify specific goods liable to Anti-dumping Duties. The descriptions must therefore be read with caution before ascertaining whether or not Anti-dumping Duty is applicable.

- E) Column 5 = REBATE ITEMS - This column is created specifically for Rebate Items of Schedules 3 and/or 4. If any of these Rebate Items (Schedule 3 or 4) appear in this column, the Anti-dumping Duty is not rebated for the listed Rebate Items. If the Rebate Items not be specified (as is the case of all goods currently listed) and the goods are entered under rebate of duty in terms of Schedule 3 or 4, the Anti-dumping Duty is also rebated (refer to Legal Note 2 of Schedule 2).
- F) Column 6 = IMPORTED FROM or ORIGINATING IN – Anti-dumping Duty is only leviable where the goods are imported from a supplier and/or originate in the countries specified in this column. The goods can thus originate in the specified country, or they can be imported from suppliers which could be situated in various countries. In the latter instance the origin would not necessarily affect the leviability of Anti-dumping Duty. It stands to reason therefore, that goods can originate from the UK, but be supplied from China. The Anti-dumping Duty would be leviable for goods supplied or imported from China, provided the goods are described in column 4 and the country “China” appears in this column. If any doubt exists as to the true origin of goods, the goods must be detained for examination and if necessary, the DA 59 or other proof called for.
- G) Column 7 = RATE OF DUTY - The rate of Anti-dumping Duty which is levied on the specified goods is reflected in this column. The amount calculated as Anti-dumping Duty must be added to the duty levied in Schedule 1 Parts 1 and 2A (if any) and the total thereof inserted in the field “Customs Duty” on CCDs. If duty in terms of Schedule 1 Part 2B be leviable as well, the Anti-dumping Duty is not included in the value for Schedule 1 Part 2B purposes (VPB) [Section 65(8)(a)]. VPB = Customs Value plus 15% of the value plus any non-rebated Customs Duties in terms of Schedule 1 Part 1, rounded to the nearest Rand, multiplied by the rate of duty in terms of Schedule 1 Part 2B = Schedule 1 Part 2B duty payable. In calculating the Value-Added Tax the Anti-dumping Duty, if applicable, is included in the value for the purposes of payment of VAT. This amount is referred to as the Added Tax Value (ATV) = Customs value plus 10% of the value plus any non-rebated duties (including Anti-dumping Duties). The ATV rounded to the nearest Rand multiplied by 14% = VAT payable.
- H) Column 8 = ANNOTATIONS - This is the number allocated to the tariff amendments and appears throughout the tariff.

g) **Establishing whether goods are liable to Anti-dumping Duty and DA 59 “certificates of origin”:**

- i) The clients must familiarise themselves with the types of goods which attract Anti-dumping Duties.
- ii) It must be established that the goods, by their classification in Schedule 1 Part 1, compared to the descriptions and classification in Schedule 2, are liable to Anti-dumping Duty. Secondly, it must be established whether the goods originate, or are being supplied from a country specified in column 6 of Schedule 2. If all the above criteria be positively established it can then be concluded that Anti-dumping Duty would be payable on the goods being imported.
- iii) In instances where doubt exists as to the true origin of the goods, the goods will be detained and the agent or importer requested to produce a DA 59. As a rule, all goods classifiable in any of the items of Schedule 2 must be cleared and accompanied with a DA 59. This form may be demanded by Customs in terms of Section 39, as read with Rule 46.04.

h) Value for Anti-dumping Duty purposes the value for ad valorem Anti-dumping Duties is based on the Customs Value declared, e.g. 20% of R2 000. Similarly, specific rates of duty are based upon the quantities declared, e.g. 245 cents per kg.

i) **Provisional charge in relation to Anti-dumping, Countervailing or Safe Guard Duty:**

- i) In terms of Section 57A, the Minister of Finance may, on recommendation of ITAC, by notice in the Government Gazette, impose a provisional charge in relation to Anti-dumping, Countervailing or Safe Guard Duty on imported goods.
- ii) The purpose of the provisional charge in relation to Anti-dumping is to allow ITAC to investigate allegations that goods are being dumped in South Africa. This provisional charge must be collected on a CCD.



- iii) The provisional charge period will normally be for a period of four (4) months, however the Minister of Finance may extend this period, usually not longer than a total of six (6) months.
- iv) Payment of the provisional charge will only be insisted on for goods being entered for home use, except where the Government Notice states otherwise. Goods cleared for warehousing thus do not attract the provisional charge and the provisional charges will only become applicable upon “ex-warehouse” clearance.
  - A) Goods, which were warehoused before the imposition of the provisional charge but cleared ex-warehouse for home use during the stipulated dates, are also liable to payment of the provisional charge.
  - B) Likewise, if an Anti-dumping Duty were withdrawn whilst goods are in storage in a Customs Storage Warehouse, the goods will not attract Anti-dumping Duty on clearance for home use (Section 55).
  - C) Similarly goods which are removed in bond or which are released prior to Customs clearance before the imposition of the provisional charge and which are cleared for home use during the “stipulated dates” are also liable to payment of the provisional charge.

## 2.14 Rebates of Duty Schedule 3 And 4

### 2.14.1 Reduction of duties and taxes

- a) Clients dealing with importations under rebate and inspectors conducting post clearance inspections must be fully conversant with Sections 75 to 77, as read with the relevant Rules thereto.
- b) Goods which are imported and qualify for a rebate of duty may be entered for home use under Schedule 3 (Industrial Rebates) and Schedule 4 (General Rebates).
- c) A rebate is a facility provided for in the Act, subject to the compliance of specific conditions, whereby the full or part of the duty is reduced or remitted. This reduction or remittance of duty is termed the extent of the rebate. Each Rebate Item has its own extent of rebate. Extent of rebate is not in itself a rate of duty, but remits or reduces Customs Duties.
- d) The rebates of Schedule 3 and 4 may reduce or remit the following Customs Duties:
  - i) Ordinary Customs Duty (Schedule 1 Part 1);
  - ii) Specific Customs Duties on imported goods of the same class or kind (Schedule 1 Part 2A);
  - iii) Ad valorem Customs Duties on imported goods of the same class or kind (Schedule 1 Part 2B);
  - iv) Environmental levy (Schedule 1 Part 3)
  - v) Fuel levy (Schedule 1 Part 5 with the exception of fuel levy item 195.30) and
  - vi) Anti-dumping Duty, only where the Rebate Item is not specified in Column III of Schedule 2.
- e) Goods are entered under rebate of duty in Rebate Items. In respect of Schedule 3 the same structural arrangement as Schedule 1 Part 1 has been followed. There are 21 divisions, each division’s description being the same as the 21 sections of Schedule 1 Part 1, except for Rebate Item 321.00 which covers “General”. For example, Section V of Schedule 1 Part 1 refers to mineral products and likewise Rebate Item 305.00.
- f) In respect of Schedule 4 the structural arrangement is not the same as that for Schedule 1 Part 1. Schedule 4’s Rebate Items extend from numbers 403.00 to 495.00 and are arranged according to circumstances rather than commodities.
- g) The tariff heading, usually only up to four (4) digits under which the goods are classified in terms of Schedule 1 Part 1 is reflected in this column. Where ever the tariff heading or subheading under which goods are classified in Schedule 1 Part 1 is quoted in any Rebate Item in which the goods are specified, it must be deemed not to include goods which are not classifiable under the said tariff heading or subheading. In other words, the goods specified by their description in the Rebate Item must be classifiable under the respective Schedule 1 Part 1 tariff heading listed in the tariff heading column.
- h) If a tariff heading comprises of two (2) digits followed by a point and two (2) zero’s, e.g. Tariff Heading 94.00, this means that all goods classifiable under tariff heading 94.00 are being referred to in the Rebate Item.

- i) If the tariff heading comprises of four (4) zero's, e.g. 00.00, this means that all tariff headings of Schedule 1 Part 1 are being referred to in the Rebate Item.
- j) In terms of Section 56, Anti-dumping Duty does not apply to goods entered under the provisions of any item of Schedule 3 unless the item is specified in Schedule 2 in respect of the imported goods.
- k) The important aspect the importer must adhere to as far as clearances under Schedule 3 are concerned is:
  - i) Whether the importer in question is registered to obtain materials under the item in question;
  - ii) Whether the materials under rebate are admissible in terms of the item; and
  - iii) Whether such materials are being, will be or have been, used correctly in terms of the Rebate Items declared.
- l) In terms of Section 75(2), rebates of duties in respect of any goods described in Schedule 3 will only be allowed under the following circumstances:
  - i) In respect of goods entered for use in the production or manufacture of goods in industry and for the purpose specified in the Rebate Items.
  - ii) In respect of goods entered for use in a factory which is registered under The Machinery and Occupational Safety Act No. 6 of 1983.
  - iii) In respect of goods entered for use in mines or works as defined in Section 1 of The Mines and Works Act No. 27 of 1956.
  - iv) In respect of goods entered for use in any activity which the Commissioner may approve. This is provided a rebate provision exists.
  - v) In respect of goods entered for use in an industry, a factory, works, activity or mine which complies with the requirements in respect of quantity of material used or quantity of goods produced or manufactured as the Commissioner may impose in consultation with ITAC.
- m) A registered rebate user must:
  - i) Enter the goods under the specific rebate item(s) for which he or she is registered;
  - ii) First obtain permission to use or dispose of the goods in accordance with the provision of the Act;
  - iii) Prominently displayed an extract of the relative rebate provision(s) approved on the registered premises of the registered manufacturer;
  - iv) Used the imported goods for the purpose specified in the rebate item under which the goods were entered at the time of entry or such other purpose allowed unless permission was granted to use the goods on any premises other than registered for;
  - v) Conveyed the imported goods directly to the appropriate store, vessel, tank, yard or other place for storage of the goods on the registered premises of the registrant in question;
  - vi) Sort the imported goods only in the store, vessel, tank, yard, or other place it is destined for;
  - vii) Arranged and marked the imported goods in a manner that it is easily identifiable and accessible for inspection and each consignment and the particulars thereof can be readily be ascertained and checked;
  - viii) Locked and secured the imported goods at all times when not actually in used for depositing or removing;
  - ix) Keep the imported goods separate, if not in possession of a valid CCD form or DA 62;
  - x) Used the imported goods only once permission had been obtained from Customs;
  - xi) Immediately notify or advise the Controller/Branch Manager in advance when it is noted:
    - A) That the imported goods were incorrect:
      - I) Entered;
      - II) Document(s) produce; or
      - III) Evidence in his or her possession.
    - B) Of any change or contemplated change:
      - I) No matter of what nature, in his or her legal identity, the name under which he or she trades;
      - II) The address of his or her registered premises;
      - III) The position,
      - IV) Size; or
      - V) Other particulars of his or her rebate store.
    - C) Of any goods short received.

- xii) Retain copies of all the CCD or DA 62 together with all the relevant clearing documents until all the stocks to which such Customs clearance documents relates are exhausted;
  - xiii) Make available any document(s) on demand to an authorised Customs Officer;
  - xiv) Stack and ticket the content of the rebate store in a manner that a Customs Officer is able to take stock;
  - xv) Keep record of all stock receipt or removed using a “working” book or “working” card; and
  - xvi) Keep the rebate stock book(s) in a place where it will be available for inspection at any time during normal office hours. If such rebate stock book is not in use it must be kept in a fireproof safe.
- n) Rebate user will be held accountable for:
- i) All imported products or articles used in the manufacturing process or derived unless otherwise provided for in the provisions of the rebate item, stated in his or her application;
  - ii) All manufacture, produced products or articles obtained from such manufacturing or production process; and
  - iii) The exportation of any manufacture, produced products or articles, if exported by him or her.

#### **2.14.2 Establishing whether goods qualify for a rebate of duty**

- a) Where goods are entered under rebate of duty it is important to establish whether the goods do in fact qualify for the rebate of duty. This must be done by adhering to the following basic steps:
- i) In respect of Schedule 3 all CCDs must first be presented to the Section: Securities who must indicate on the CCDs that they have seen the CCDs. It is their task to ensure that persons importing goods under rebate are registered under the particular Rebate Items being declared on CCDs. This is also a requirement for certain Rebate Items under Schedule 4, e.g. Rebate Item 470.03.
  - ii) In respect of Schedule 3, it must be ensured that the relevant Schedule 1 Part 1, section number is reflected in the five (5) digit Rebate Item, i.e. the second and third figures with the section number of Schedule 1 Part 1. The question must be asked whether the goods being cleared under the Rebate Item are classifiable in the relevant section of Schedule 1. For example, Rebate Item 316.00, Section 16(XVI) of the tariff, Schedule 1 Part 1. The question must be asked: Do the goods belong in Section 16 of the tariff and are the goods classified there correctly?
  - iii) In respect of Schedule 3 and were applicable in Schedule 4, it must be ensured that the tariff heading under which the goods are classified in terms of Schedule 1 Part 1 is specified in the column “Tariff Heading”. That would be the first four (4) digits of the tariff headings.
  - iv) The client must ensure that the goods being cleared under rebate are specifically described against the tariff heading in the column “description”.
  - v) If the goods were admissible under rebate of duty the amount rebated and reflected in the column “extent of rebate” must not exceed the duty payable in terms of Schedule 1 Part 1. For example, if the duty in terms of Schedule 1 Part 1 is 5%, however the extent of rebate reads “full duty less 10%” then the amount payable must be that listed in Schedule 1 Part 1, i.e. 5%.
- b) The wording of the tariff is of paramount importance and decisive in determining whether goods are subject to duty. In matters of doubt, Customs will invoke the rule of interpretation “contra fiscum” (Estate Reynolds and others v CIR 1937 AD 70). If there is doubt about whether goods are dutiable or not, the goods concerned, will according to the mentioned rule, be deemed not dutiable.
- i) The “contra fiscum” rule does not however apply to laws providing special privileges and exceptions.
  - ii) A rebate provision must therefore not be interpreted to include goods or circumstances for which specific provisions are not provided for. If the Rebate Item does not specifically mention any required details then the omitted or missing details must not be read into the item. The Commissioner must therefore determine whether goods are rebate-able or not and in cases of doubt, refuse admittance under rebate of duty.

#### **2.14.3 Extent of Rebate**

- a) The extent of rebate appears in Column III of Schedule 3 and Schedule 4.

- b) The types of extent of rebate and how the item must be interpreted are listed and explained as follows:
- i) Full duty – means that the full duty as would normally be payable in terms of Schedule 1 Part 1, 2A and 2B, is remitted (rebated).
  - ii) Full duty less..... - means that the extent of the rebate does not fully remit the duties payable in terms of Schedule 1 Part 1, 2A and 2B. This is a partial rebate of duty. For example where the duty in terms of Schedule 1 Part 1 is 20% and the extent of the rebate is full duty less 5%, this means that the actual percentage payable is 5% of the value. The duty which is due, i.e. the portion not rebated, is that which is mentioned after the word “less”.
  - iii) Full duty less the greater of ..... - means that the duty which is not rebated is the greater of the amounts calculated after the words “less the greater of”. For example:
    - A) Schedule 1 Part 1 duty reads: 25% or 35 cents per kilogram, extent of rebate reads: Full duty less the greater of 10% or 10 cents per kilogram.
    - B) Value or Quantity = R100,00 and mass = 25kg.
    - C) Normal duty would be  $R100,00 \times 25\% = R25,00$  or  $25\text{kg} \times 35\text{cents} = R8,75$ .
    - D) Duty normally payable would be R25,00 [The greater of the two (2)].
    - E) Extent of rebate = Full duty less the greater of 10% or 10 cents per kg.
    - F)  $R100,00 \times 10\% = R10,00$  or  $25\text{kg} \times 10\text{ cents} = R2,50$ .
    - G) The actual amount payable would be R10,00. [The greater of the two (2)].
  - iv) Not exceeding the duty in Schedule 1 Part 2B – means that the duty rebated is that under Schedule 1 Part 2B. The duty due would be any amounts calculated under Schedule 1 Parts 1 and 2A.

#### 2.14.4 Clearance under rebate

- a) Companies or firms registered under Schedule 3 may obtain rebate materials in the following ways:
- i) Imported materials cleared direct on importation under rebate;
  - ii) Imported materials cleared ex-warehouse under rebate;
  - iii) Rebate materials transferred from other registered manufacturers under cover of DA 62; and
  - iv) Rebate materials transferred ex-registered stockists' bonded warehouse to registered manufacturers, on DA 62.
- b) Firms registered under certain items of Schedule 4 may obtain rebate materials in the following ways:
- i) Imported materials cleared direct; and
  - ii) Imported materials cleared ex-warehouse.
- c) When manufacturers who are registered with Customs under Schedule 3 or certain items of Schedule 4 desire to clear rebated goods direct from the ship, aircraft, truck or rail, specifically they do not wish to place the materials in a Customs storage warehouse for subsequent disposal under rebate, the goods must be entered as follows: If cleared under Schedule 3 or 4 the materials in question must be entered on a CCD.
- d) **Customs clearance declarations of consignments where more than one (1) CPC combination is involved:**
- i) If an importer desires to enter part of a consignment comprising a number of packages under rebate and part otherwise, provided no one (1) package contains both rebate and other materials, separate CCDs may be passed and must be cross-referenced, for example: “part consignment only, balance entered on Declaration Number dated .....”.
  - ii) Where a single package contains both dutiable (or free by tariff) as well as rebateable goods, the following procedure must be adopted: where the entire contents (not all of which are admissible under rebate) of a single package are for manufacturing purposes and are for delivery to an importer who is a registered rebate manufacturer, such importer may, for his/her own account, enter the part contents being admissible under rebate on one (1) CCD and the balance otherwise on another, provided:
    - A) Both CCDs are cross-referenced as indicated above.
    - B) The importer is able to declare exact quantities of goods being cleared under rebate or for warehousing. This is important for PCA as the importer must account for all rebated as well as bonded goods.

- C) The importer furnishes a written undertaking that immediately upon delivery at his/her premises, the goods are unpacked and those entered under rebate will be placed in the rebate storeroom and recorded in the rebate stock book. If the importer is unable to furnish this undertaking or where part contents (non-rebateable) are not for manufacturing purposes but for trade or where such part contents are for diversion to destinations other than the importer's own premises, the goods must be repacked, on application, either in bond or in premises approved by the Controller/Branch Manager.

e) **Acceptance of Customs clearance declarations for future rebate clearance:**

- i) On importation, materials may be placed in a licensed Customs storage warehouse for subsequent disposal to appropriately registered manufacturers. When goods are transferred ex-bond to firms registered under Schedule 3 or 4 a CCD with a CPC combination under J-80 or K-85 must be used. At the time of acceptance of the initial warehouse CCD Customs is not aware of the importer's intentions at that stage, i.e. whether the goods will be cleared into home use "duty paid" or "under rebate".
- ii) Ex-warehouse CCDs may only be accepted at the district office controlling the Customs storage warehouse from which the materials in question are cleared for home use. The rebate registrant however may be situated in another Controller/Branch Manager's area of control.
- iii) Goods imported under rebate must be used within a period of two (2) years from the date of the CCD clearing the goods for use into home use.
- iv) Clearance into a Customs storage warehouse is not regarded as "entry for home use" and this fact together with the provisions of Section 75(21) means that the registrant would have two (2) years from the date of the ex-warehousing CCD to use the goods in the process of manufacture, not two (2) years from the date of the warehousing CCD. Therefore goods may be stored initially in a Customs storage warehouse for two (2) years, removed there from and a further two (2) years are allowed in which to use the goods in the process of manufacture.

- f) The Commissioner will consider granting an extension on good cause shown, subject to conditions as he/she may impose in each case.

- g) The wording of Section 75(21) includes the phrase "or such other purpose as may be specified in the notes to such item will be used for the purpose specified in such item". This means that, for example, Rebate Item 470.03 where the notes to the item specify that the goods must be exported within twelve (12) months from the "date of entry thereof", the goods, although cleared under rebate, must be exported within twelve (12) months from the date of the ex-warehouse CCD or in the instance of direct clearance, within twelve (12) months from the date of the CCD. The time the goods spend in the storage warehouse must not be taken to mean time in production, for which twelve (12) months is allowed. In these instances the two (2) year period must be disregarded.

h) **Transfers or Acceptance of DA 62:**

- i) The DA 62 is used to transfer rebated goods from one (1) rebate registrant to another who is registered under the identical or similar Rebate Item.
- ii) Rules 75.11 to 75.13 permits the transfer of rebate materials between similarly registered manufacturers or to the same or any other registrant who is registered under any other item in which the same materials are specified, provided that:
- A) Such transfers are covered by DA 62 and the transferor is the initial importer. In other words transfer of goods under rebate may only take place against the original importation CCD and the transferor must be the initial importer. More than one (1) transfer against the original consignment and against the original importation CCD may be allowed. The acceptance of a DA 62 against another DA 62 is however not allowed. In other words rebated goods may not be re-transferred by the transferee to another rebate manufacturer.
- B) Prior application in respect of these transfers must be made to the Controller/Branch Manager in whose area of control the factory of the transferor is situated. The DA 62 may therefore only be accepted in the district office under whose control the transferor falls.
- C) The materials to be transferred must have been acquired by the transferor as a result of an unconditional sale and are owned by the transferor at the time of the transfer. Therefore the owner, who must be the importer, must have bought the goods overseas on an unconditional purchase basis. Where goods were entered on a CCD it can be

- accepted that the importer is the owner of the materials. If any doubt exists that transferors may not be the legal owners of the goods the DA 62 must be rejected.
- D) The CCD signed by the transferor must be amended to indicate whether transfer of "title" is also given or not given. This CCD, whether or not completed, has no bearing on the issue of liability. The transferor remains liable for the duty until the goods have been delivered to the transferee, where upon the provisions of Section 75(5) (a) (I) will apply to the transferee as if he/she had entered the goods under rebate (Rule 75.13). "Title" may not be given in circumstances where two (2) similarly registered manufacturers are related. This type of transfer must not be confused with direct imports under rebate where the importer may not necessarily be the rebate user.
  - E) Any difference in duty payable as a result of the transfer where partial rebates are involved, for example where the full duty was rebated under the item under which goods were originally cleared but where the duty is only rebated partially under the item under which the materials are intended to be used, must be paid before the transfer in question is allowed. Refunds of duty arising out of transfers will not be entertained.
  - F) The goods to be transferred may not be time expired. Where application is made to transfer goods immediately before the expiry date of the prescribed period of two (2) years, the application must be referred to the Operations Managers: Securities who must satisfy themselves before authorising the transfer, that the materials in question will be used correctly by the transferee before expiry of the initial two (2) year period, i.e. the person to whom materials are transferred is still bound by the date of the original entry on which the materials were cleared under rebate.
  - G) The name and address of the transferor and transferee agree in all respects with the corresponding particulars in the Register of Licensees and Registrants and that the transferee (person who is going to receive the goods) is registered under the Rebate Item under which the goods will be used by him/her and that the materials in question are provided for under the item quoted.
  - H) The particulars on the DA 62 must agree with the particulars appearing on the CCD (copies of which must accompany the DA 62) quoted on the DA 62. In other words, the description and quantities listed on the initial import CCD must be entered on the DA 62 with the same description and measuring unit. For example textile material imported in rolls or square meters must be transferred in the same state i.e. rolls or square meters. Built up articles or semi-built up articles may not be transferred on DA 62. The DA 62 is to be used solely for the transfer of rebate materials in the same condition as which they were initially imported.
  - I) There is a tendency in the textile industry for manufacturers to transfer semi-built up garments to other registered manufacturers who perform other tasks like the sewing of sleeves or fitting of zips or any other processes. This is generally termed CMT – Cut Make and Trim. Controller/Branch Managers must in these instances allow the "removals" whether or not the garments are returned to the original importer of the raw materials. In many instances the garments have reached the stage where it can be deduced that the apparels have acquired the essential character of a completed garment and therefore the rebate user has in fact met with the conditions of the rebate. If it is necessary that the raw materials be sent for certain working processes this must be done by special agreement and with controls put in place by Controller/Branch Managers. For both scenarios described above, the DA 62 must not be used because the removals of rebate materials or semi made up articles is not regarded as "transfers" but rather removals of rebated goods from registered premises for "further working". The removal of rebated goods for the mentioned purposes from the registrants' premises must always take place with the permission of the respective Controller/Branch Manager. For "once of" removals a letter of permission from the Controller/Branch Manager can be used and for "frequent removals" a blanket letter of permission from the Controller/Branch Manager would be acceptable. Refer to SC-CR-A-03 for assistance on the Valuation of CMT products.
  - J) The DA 62 must be properly completed, in quadruplicate by the transferor and transferee. (The transferee completes a CCD and not a receipt.)
- iii) Where goods are imported under rebate and the Rebate Items require a permit or certificate in order to qualify for the rebate the transferee (person to whom the goods are being transferred) must produce a valid permit issued by the authorising body, e.g. Department of Trade and Industry.

- iv) Importers clearing goods under Rebate Item 470.03, although registered under rebate to manufacture goods, make a CCD on importation that the goods will be exclusively for export within twelve (12) months. Customs thus considers the importers as being under legal obligation to export the goods and transfers involving the goods are not allowed. If it becomes necessary for the original importer to send raw materials or semi completed products for further working to another premises, permission to do so can be arranged via the local Controller/Branch Manager, as in the case of CMT – Cut Make and Trim. In these instances, the importer who declared the goods under Rebate Item 470.03 remains liable for the duty until exportation is proven to the satisfaction of the Commissioner. Similarly, if the original importer sells the goods prior to exportation and whether or not the original importer actually exports and/or owns the raw material, semi processed or finished product at the time of exportation, the original importer remains liable for the duties until exportation is proven to the satisfaction of the Commissioner. For example, an importer of paperboard who manufactures cigarette boxes, but sells the boxes to a cigarette manufacturer who exports the cigarettes. The cigarette box manufacturer who imported the paperboard under Rebate Item 470.03 remains liable for duties on the paperboard until it is proven that exportation of the boxes has taken place. The sale of the boxes to the cigarette manufacturer may not be done on a DA 62.
  - v) Goods imported on a temporary basis under Rebate Items 470.00, 480.00 and 490.00 may not be transferred on the DA 62. This is a condition imposed by the Commissioner in terms of Section 75(1).
  - vi) Controller/Branch Managers must ensure that the DA 62 are in order and are numbered in a yearly sequence and date stamped. The original and one (1) copy of each set of DA 62 must be retained by Customs for record purposes while two (2) copies must be returned to the transferor. The transferor must keep one (1) of these copies and send the other to the transferee.
  - vii) Where the importing manufacturer desires to use rebate materials under an item other than that for which it was declared on importation, but in respect of which he/she is registered and under which the same materials are specified, permission may be granted to transfer the materials from one (1) item to another on a DA 62.
  - viii) DA 62 will not be accepted indiscriminately and goods being transferred must be done so against the original importation CCD only. There can however be more than one (1) transfer of goods from the same consignment.
  - ix) It is normally not necessary to verify whether the rebate materials to be transferred are on hand in the transferor's rebate store before the transfer in question is approved. Where however it is suspected that the goods in question are no longer on hand, a DA 62 must not be accepted before the matter has been investigated.
  - x) Where rebate provisions are withdrawn, the goods originally cleared there under may be transferred subsequent to any withdrawal provided the transferor and transferee involved were suitably registered under the Rebate Items in question (i.e. the parties involved must have been registered prior to the withdrawal of the rebate provision).
  - xi) DA 62 must be used in respect of the transfer of materials from registered stockists to registered manufacturers. These forms are prepared by the stockists and need not be approved by Customs before the transfer takes place. The forms are to be numbered consecutively in a yearly sequence by the stockists, submitted in duplicate to the Controller/Branch Manager concerned and Securities must ensure that the forms (including any cancelled forms) are submitted regularly in accordance with the NOTE appearing on the form, i.e. once a week.
  - xii) Before presentation to Customs, both the transferor and the transferee must complete the DA 62 in quadruplicate. The transferee completes a CCD and not a receipt. Controller/Branch Managers must ensure that DA 62s are received weekly from registered stockists, that records are kept for controlling purposes, and that the records are controlled by Securities.
  - xiii) Upon receipt in Securities the DA 62 must be carefully scrutinised to verify that:
    - A) The registered manufacturer to whom the materials have been transferred is registered in respect of the Rebate Items quoted;
    - B) The particulars (especially the tariff heading, description, items, quantity and value) on DA 62 agree with the particulars appearing on the CCD quoted under the heading "CCD number and Date" and that the materials shown on the DA 62 are provided for under the items quoted; and
    - C) DA 62 is otherwise properly completed in all respects.
- i) The circumstances under which CCDs under rebate may be refused are prescribed in Section 75(17).

- j) Incorrect clearances under Schedule 3:
- i) Acceptance of incorrect rebate CCDs results in unnecessary disputes when manufacturers are called upon to bring duty to account on materials cleared under rebate and the finished products manufactured there from may already have been disposed of.
  - ii) The most common errors committed on rebate CCDs are as follows:
    - A) Firms not registered under Schedule 3 obtain materials under rebate.
    - B) Firms registered under rebate, obtaining materials under Rebate Items for which they are not registered.
    - C) Names and addresses of manufacturers incorrectly stated on CCDs.
    - D) The requirements of Section 75(9) not complied with, i.e. the specific industry and use of the goods is not declared.
    - E) Goods specifically excluded under an item are allowed to be entered under the item.
    - F) Goods not admissible under rebate allowed to be entered under rebated.
    - G) Where the supplier's overseas invoices are not clear, CCDs are accepted as correct without the materials being detained for examination.
    - H) Incorrect values are entered and consequently incorrect duty is paid where partial rebates apply or where duty must be paid at a later stage for one (1) reason or another. Incorrect values are mainly due to the fact that dutiable costs, charges and expenses incidental to the sale and commission which the importer is obliged to pay, in addition to the amount(s) declared on the relevant suppliers invoices and which would enhance the dutiable value(s) of the materials concerned, have not been taken into account in calculating the value for duty purposes in terms of the Act.
    - I) VAT, where applicable, is not paid.
    - J) Correct quantities, per line of the rebate CCDs, not being declared. This makes the task of PCI Inspectors who must count stocks in rebate stores very difficult. Countable quantities must always be reflected on rebate CCDs even if the quantities are not provided for in the Quantity and Code Field of CCDs. The countable quantity must in these instances be reflected in the description field.
    - K) Duty rebated is not declared in the description field.

## 2.15 Determination of Duty Applicable

- a) Upon entry being made for home use:
- i) The duty applicable is the rate of duty applicable at the time when goods are entered or cleared on CCDs for home use;
  - ii) "Entry for home use" includes entry under any item in Schedule 3, 4 or 6;
  - iii) Any entry entering goods into a Customs Storage Warehouse is not regarded as entry for home use, but "due entry";
  - iv) CCDs removing goods in transit or bond are also not regarded as entries for home use, but "due entry"; and
  - v) In the instance of a CCD which has been presented to Customs for processing, but is rejected and returned to the importer or agent, the rate of duty applicable will be assessed according to the conditions mentioned in Section 45(2) (b) as read with Rules 45.01 and 45.02.
- b) Upon payment of duty for any reason whatsoever:
- i) Where the CCDs are not required to be passed the duty applicable is the rate of duty at the time of payment thereof, e.g. duty collected on goods imported in passengers' baggage.
  - ii) Excisable goods and VAT able goods manufactured or produced in South Africa are not normally cleared on CCDs. These goods are removed from the warehouse on certificates or invoices in terms of Section 38(4) and the duties payable thereon are those which were in force at the time the certificates or invoices were issued, i.e. on actual removal of goods from the warehouse, although actual payment is made later on a monthly or quarterly basis.



- c) Duty payable on un-cleared imported goods and imported goods entered under rebate of duty in terms of Schedules 3 and 4:
- i) In instances where goods have not been entered for home use, duty becomes payable in terms of Section 45(1)(b) at the rate of duty applicable at the time the goods were removed, taken, delivered or at the time of assessment by an Officer, whichever yields the greater amount of duty.
  - ii) Underpayments in duty and taxes becomes due when any rebated goods:
    - A) Have not been received;
    - B) Cannot be accounted for;
    - C) Have been used or disposed of by the registrant or importer otherwise than in accordance with the provisions of the applicable rebate regulations and conditions of the Rebate Items; or
    - D) Have been irregularly cleared under rebate of duty, the underpayment is rebated goods which falls within the above category must be scheduled on the rate of duty applicable on the date of assessment of the original rebate CCD clearing the goods into home use [Section 45(1) as read with Section 75(5)(a)(l)].
  - iii) Where substituting CCDs are required, the duty applicable at the registration (assessment) date of the original CCD must be paid in all instances.
  - iv) When a manufacturer which is registered under Schedule 3, applies to pay duty on rebate materials in order that the goods may be disposed of for other purposes, the rates of duty applicable at the time of assessment of the original CCD for home use must be applied and paid.
  - v) The duty payable on goods acquired under rebate of duty and retained in a rebate store for more than two (2) years must be calculated at the rates of duty applicable at the time of assessment of the original CCD.
  - vi) Approved stockists must simultaneously pass the warehousing and ex-bond clearance under rebate of duty. If duty, for any reason, becomes payable on the goods so cleared, the applicable rate of duty is the rate in force at the time of assessment of the ex-bond CCD. The rate of duty applicable to goods sold to non-registered manufacturers is also the rate which was in force at the time of assessment of the ex-bond CCD clearing the goods under rebate of duty.
  - vii) Motor vehicles cleared under a rebate item, for example Rebate Items 406.02, 406.05, 406.07, 407.04, 407.05 or 408.02 and the client submits an application to sell or dispose of the vehicle within the prescribed period, duty will be payable at the rate of duty applicable at the time of assessment of the original CCD. Refer to Sections 40, 45 and 75.
  - viii) If goods were declared on carnets that are regarded as clearances under Schedule 4 and duty subsequently becomes payable on the goods under Schedule 1 the duty payable will be that which was in force on the date that the Controller/Branch Manager at the port or place of entry accepted the carnet.
  - ix) In respect of goods, which are temporarily imported in terms of Rebate Items 470.00, 480.00 (including ATA carnets) and 490.00 and the goods are not exported, duty is calculated at the time of importation and at the rate applicable at the time of assessment of the original CCD for home use.
  - x) Imported goods, which have been allowed into South Africa under cover of carnets, temporary import permits, and ATA carnets, which become dutiable, must be entered in the usual manner on SAD 500 and the number of the original document of entry must be reflected on the CCDs. The rate of duty would be assessed on the date of the original document granting entry into South Africa.
- d) Section 45(2) stipulates that the time of entry for home use of goods imported by post and not entered at a Customs Office before a Controller/Branch Manager must be deemed the time when the goods are assessed for duty.

## 2.16 Accepting of Warehouse Customs clearance declaration

- a) The liability for duty on goods in a Customs storage warehouse will only cease when the licensee concerned can prove to the satisfaction of the Commissioner that the goods in question have been duly entered, in terms of Section 20(4). The goods also must be delivered or exported for example, removal of goods from a licensed storage warehouse.

- b) Warehousing CCDs presented by a person other than the licensee of the bonded warehouse, to which it is proposed the goods shall be delivered, are not to be accepted. If the licensee of the warehouse has obtained written permission from Customs for the goods to be deposited in his/her Customs storage warehouse by any particular importer, agent or "other persons".
- c) Warehousing and re-warehousing CCDs must be checked to ensure that the goods are destined for actual valid licensed warehouses. Although these entries may be CPC combination E 40 or E 42 such goods are in reality being transported from one (1) Customs control area to another, "in bond" and the relative rules governing removals in transit/bond are applicable.
- d) When CCDs for the removal of part consignments from a Customs storage warehouse are submitted, the countable quantities being cleared out of the bonded warehouses must be correctly indicated and the proportionate quantities, values and correct duties due must be declared or paid on the goods being removed.
- e) In terms of Section 20(4) the licensee of a Customs storage warehouse must not cause or permit any goods to be delivered or removed from the warehouse until the goods have been cleared for one (1) or both of the purposes specified in Section 20(4)(a) to (d).

## 2.17 Documentary Inspections

- a) Customs requests the client to submit supporting documents to validate the correctness of the CCD by means of a documentary inspection. The documentary inspection can lead to:
  - i) A request for an amended CCD;
  - ii) The detention of the goods for Other Government Agencies (OGA);
  - iii) The request of additional documents;
  - iv) A physical inspection of the goods:
    - A) The client makes an inspection booking for the physical inspection.
    - B) If a physical inspection is required, the inspection must be conducted at the office of clearance and not at the port of exit.
  - v) The scanning of goods for which a booking must also be made by the client; or
  - vi) The release of the goods.
- b) Documentary inspections are conducted by Customs Officers situated in the Customs Compliance Centres (CCC).
- c) All references made to a Box reflect the corresponding Box number on the CCD.
- d) All aspects of CCDs must be correct, as per the requirement of Section 40, and correspond with information on the supporting documents. Inconsistencies of information which does not impact on the fiscus may still impact on statistics, for this reason amended CCDs must be requested.
- e) Clients must ensure that clearance took place within the allowable time-period as stipulated in Section 38. Refer to paragraphs 2.3 (imports) and 2.4 (exports, respectively). Late clearances are dealt with according to the Penalty Policy, SC-CO-01-02.
- f) **Marks and Numbers:**
  - i) Marks and numbers of packages as reflected on bills of lading, removal in bond CCDs, covering statements (where issued), manifests and supplier's invoices, must be cross-checked with the information declared on CCDs, in order to ensure that release of the correct goods are being authorised.
  - ii) It is important for the client to authorise delivery of the correct cases containing the actual goods upon which duty has been paid. Where there is any doubt, regarding the package numbers such packages will be examined. In instances where the bills of lading, covering statements or invoices reflect alternative marks or numbers, the packages will be detained and the contents verified with invoices.

- iii) Particular care must be taken when consignments are cleared under separate CPC combinations and more than one (1) CCD is passed for the consignment. The number of packages, unit mass as well as gross mass must be correctly declared on each CCD, since in many instances more than one (1) CCD is passed for a single consignment where a portion of the goods will be cleared into a Customs Storage Warehouse or under rebate of duty. The client must ensure that the marks and numbers are correctly declared and are proportionately divided between the various CCDs.

**g) Duty or any other payment on a Customs clearance declaration**

- i) Duty payable in terms of any tariff heading which is not rebated in terms of any item of any Schedule to the Act must be entered in the appropriate duty column; and
- ii) The nature of any other payment in respect of goods declared on a CCD, e.g. wharfage, interest etc. must be stated in the column headed "Endorsements" and the amount payable in respect thereof must be shown under the heading "Other Payment".

**h) Correct values to be shown**

- i) Where a group of consecutive items entered on a CCD are classifiable under the same tariff heading, they may only be combined and the total duty calculated on the combined total provided the country of origin in each instance is the same.
- ii) For statistical purposes it is necessary that the duties be separately reflected in respect of country of origin as well as tariff heading even though the same rate of duty may apply.
  - A) Where articles appearing on the same invoice are subject to different rates of duty, the requisite details of the correct weights, quantities and values must obviously be shown individually, in order that the proper duties may be assessed. This is especially relevant to textile articles, goods which attract specific rates of duty, (i.e. duty based on the quantity or mass) rebated goods and goods cleared for warehousing.
  - B) If the value of the goods have been determined by the Commissioner and the agent or importer has been appraised accordingly but has nevertheless entered the lower invoiced value, the matter must be dealt with as an ordinary underpayment of duty and penalties imposed in terms of the Penalty Policy.
  - C) The correct and true F.O.B. price is to be declared as the value of the goods on CCDs when the goods described therein are free of duty by tariff or are subject to rated duties (provided they are not subject to anti-dumping duties). The value in these cases is not of importance to Customs revenue but it is of considerable importance to trade statistics.

**i) CCDs in respect of "duty free" goods**

- i) CCDs in respect of goods which are unconditionally free by tariff must be checked as carefully as entries on which duty is paid.
- ii) The tariff headings declared must be checked in order to ensure that such classifications are correct.
- iii) The Correct values are important as Customs collects statistical information from such values and VAT is also to be levied on such values.

**j) Goods in packing of unequal weights, gallon-ages, etc.**

- i) When checking warehousing CCDs, care must be exercised to ensure that goods in packing of unequal weights or gallon-ages or priced at different values, are shown separately, in order to guard against loss of revenue and to facilitate clearance.
- ii) The Warehouse Inventory Management System (WIMS) requires that countable quantities be declared for all goods warehoused. If the invoice is not presented in an acceptable manner clearance of the goods into a Customs and Excise Storage Warehouse must be refused.

## 2.18 Request for exception

- a) The client may request the Customs Office to expedite the clearance process in certain circumstances, for example perishable goods.

- b) Requests for expedited clearances:
  - i) Must be communicated with the relevant Operations Manager situated in the Customs Compliance Centre; and
  - ii) May only be done once the CCD was lodged. CCDs are completed using the process described in SC-CF-04.
- c) Expedited processing of CCDs will only take place in exceptional circumstances after being duly motivated by the client. The following goods will be considered:
- d) The following cases may be considered for expedited release, in the case of:
  - i) Live animals;
  - ii) Perishable goods;
  - iii) Medicaments;
  - iv) Precious metals; and
  - v) Foreign currency.
- e) Consideration to each request will be given based on the specific relevant circumstances. Blanket permission will not be given to specific clients neither to specific commodities. If the goods do not qualifying for expedited clearance will be cleared in the normal manner.

## 2.19 General instructions regarding the detention of goods (in terms of Section 88)

- a) In cases where Customs cannot determine from the invoiced particulars that the goods have been correctly entered, such consignments is stopped or detained for examination or for adjustments if necessary.
- b) Where a CUSRES 2 (Stop or detain notification) is received the goods are stopped for a physical inspection.
- c) In the case of a physical inspected on goods the client must make a booking with Customs to inspect the consignment under review.
  - i) If a physical inspection is required on goods at the source office, the inspection must be conducted at the office of clearance and not at the place of exit.
  - ii) If the goods are stopped at the place of exit (road freight) then the physical inspection must be conducted where the goods were stopped on the vehicle at the place of exit.
- d) A physical inspection may also be conducted on the goods, by means of the x-ray scanner and other non-intrusive equipment as part of the examination of goods. Booking for scanning must be done with the Administration Officer when the container or truck arrives at the scanning site.
- e) 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.

## 2.20 Conditional Release

- a) Imported goods remain under Customs control until the client has complied with the provisions of the Act or any other applicable legislation cease to apply to the goods.
- b) The client applies, in writing, for conditional release of goods cleared for home use to obtain release of the goods pending fulfilment of predetermined criteria, which may include a provisional payment. The application for conditional releases must be on the client's company letter head and contain the following minimum information:
  - i) Service Managers inspection case reference number <insert inspection case number>.
  - ii) Local- (LRN) and Movement reference number (MRN) <insert LRN and MRN>.
  - iii) Applicant's details <insert name and Customs client code>.
  - iv) Importer's details, if not the applicant <insert name and Customs client code>.
  - v) Clearing Agent's details <insert name and Customs client code>.
  - vi) Insert the reason for conditional release application.

- vii) Indicate what supporting documents are attached to the case to substantiate the conditional release request.
- viii) Insert the declaration as below:
  - A) "I <insert full names>, for and on behalf of <insert company's/client's name> in his/her <insert capacity> being duly authorised to sign this declaration, hereby undertake to comply with the requirements of the Customs and Excise Act, 1964, and the rules in respect of the goods or circumstances to which this payment relates within the period determined by the Commissioner."
  - B) The letter with the declaration must be signed and dated before the conditional release will be considered.
- c) The application must be submitted as supporting documents attached to the inspection case.
- d) If the application does not contain the minimum information the conditional release application will be rejected.

## 2.21 Embargo Release

- a) During the verification of a CCD the client is notified that a physical exam of the goods is required or the consignment conveyed by road arrives at the border and the client is notified of the request for a physical inspection informed that a booking to inspect the goods must be made.
- b) Embargo release can be requested by:
  - i) A Customs Branch Officer notes that the goods are too big or specialised to unpack for an inspection in the Customs control area at the border if moved by road; or
  - ii) The client wishes to have the goods inspected at their own premises due to specialised procedures needed to unpack or store the goods and the goods have to be moved to a specialised facility in order to conduct the inspection.
- c) The following is applied to determine if embargo release can be granted where the Customs Office has the necessary resources to conduct the investigation are the following:
  - i) Large consignments which are too bulky to handle, for example large machinery.
  - ii) Consignments considered fragile or dangerous, which require special handling by experts in the field
    - A) Dangerous consignments are for example poisonous chemicals or radioactive materials.
    - B) Fragile goods requiring special handling by experts would include for example sheets of plate glass and non-commercial merchandise packed in cartons for example, drinking glasses, ornaments, television sets, etc.
  - iii) Household effects (also no security necessary).
  - iv) Books, periodicals and other printed matter packed in FCL containers and palletised, using the plastic shrink wrap process.
  - v) Goods requiring immediate refrigeration and/or other perishable goods.
  - vi) Where the goods require specialised unpacking or the packing of the goods into the container is of such a specialised nature that it is extremely difficult to fit everything back into the container once it is unpacked for example, tyres.
- d) The client requests for embargo release of goods by writing an application for embargo releases on a company letter head and contain the following minimum information:
  - i) Service Manager inspection case reference number <insert inspection case number>.
  - ii) Local- (LRN) and Movement reference number (MRN) <insert LRN and MRN>.
  - iii) Applicant's details <insert name and Customs client code>.
  - iv) Importer's details, if not the applicant <insert name and Customs client code>.
  - v) Clearing Agent's details <insert name and Customs client code>.
  - vi) Container(s) seal number(s) if not breakbulk <insert seal number(s)>.
  - vii) Insert the reasons for the embargo release application.
  - viii) Address of the premise where the goods will be examined <insert the address of premises at which the investigation must take place>.
  - ix) Indicate what supporting documents are attached to the case to substantiate the embargo request.

- x) Insert the declaration/undertaking as below:
    - A) "I <insert full names>, for and on behalf of <insert company's/client's name> in his/her <insert capacity> being duly authorised to sign this declaration, that the goods will not be removed from the abovementioned premises or in any way be dealt with, with the exception of the Commissioner and the transgression of the conditions stipulated above are viewed in a serious light and are dealt with in terms of Sections (83)(a), 107(2)(a) read with Section 80(1)(p), hereby undertake to comply with the requirements of the Customs and Excise Act, No 91 of 1964, and the rules in respect of the goods or circumstances to which this payment relates within the period determined by the Commissioner.
    - B) I undertake to:
      - I) Make a booking for a physical inspection within two (2) days after confirmation of the acceptance of the embargo release.
      - II) Move the goods directly to the indicated premises via <specify shortest route to be taken to the indicated premises> and to notify Customs immediately of any diversions or breakdowns.
      - III) In the case of containerised cargo to leave the container(s) unopened with seal(s) intact until the Customs inspectors arrive to conduct the examination and authorises the seal(s) to be broken and the container(s) opened.
      - IV) Adhere to any further conditions Customs may require at the time of the approval of the embargo release."
  - xi) The letter with the declaration/undertaking must be signed and dated before the embargo release will be considered.
- e) The letter must be scanned to the inspection case or submitted to the Branch Office where the original CCD was manually lodged.
- i) If the letter does not contain the required information, the embargo release will be rejected.
  - ii) Attaching the application to the inspection case as supporting documentation.
- f) The client must request for release of goods under embargo by submitting supporting documents, referencing the inspection case number which will then get linked up to the inspection case, via EasyScan.
- g) Embargo release is authorised in exceptional circumstances only.
- i) Requests for release under embargo to importers' premises on the basis that a depot is unable to facilitate a Customs inspection will not be entertained. It is a condition of the depot operator's licenses that the licensees must provide the infrastructure, trained personnel and equipment necessary to facilitate Customs inspections.
  - ii) If the depot has a limited license that does not allow packing or unpacking of containers, arrangements can be made for the removal of the detained container(s) to an alternative depot that is licensed to unpack containers.
- h) The client will be notified in writing if the request was approved or not. If approved Customs will request the client to pay the appropriate amount of security on a PP (see SC-CF-25).
- i) The client will be informed via CUSRES 26 message, the amount required as a PP for embargo release.
  - ii) The client then submits the Customs requested amended CCD adding the provisional payment for embargo release amount (PPE) to obtain the embargo release of the goods and the Customs Officer will approve the amended CCD.
  - iii) The client is billed and after obtaining a PRN makes payment in cash. Once the PP is paid the proof of payment must be forwarded to Customs via the system.
- i) An 'Embargo Release' inspection outcome is issued and the release authorities notified via a CUSRES 46 system message. If the embargo release is approved the goods declared on the CCD as mentioned in the applicant's letterhead will be released for removal to the indicated premises in terms of Section 107(2)(a).
- j) Customs must be notified of any diversions from the agreed route as indicated on the application so that alternative control measures can be agreed upon to Safe Guard the goods.

- k) The goods may not be removed from the pre-approved premises or in any way dealt with except with the written approval of a Customs Officer and until all the pre-approval conditions have been met.
- l) In the case of containerised cargo, the container(s) must remain unopened with seal(s) intact until the Customs inspectors arrives to conduct the examination and authorises the seal(s) to be broken and the container(s) opened.
- m) Thereafter the cargo may be removed and an inspection conducted under Customs Supervision.
- n) Transgressions of the conditions stipulated above are dealt with in terms of Section 83(a), 107(2)(a) as read with Section 80(1)(p) and are penalised in terms thereof.
- o) After the case is closed, the client submits an amended CCD to request liquidation of the PPE for Customs approval.

## 2.22 Simplified Clearance – DA 306

- a) The proviso to Section 38(1)(a) makes provision for the release of certain imported goods without a CCD as contemplated in Section 39, provided the Controller/Branch Manager grants permission:
  - i) Containers temporarily imported must be empty and intended for packing of goods which are to be exported.
  - ii) Human remains – however, the requirements in terms of the Public Health Act must not be overlooked in these instances.
  - iii) Goods which in the opinion of the Commissioner are of no commercial value, i.e.:
    - A) Goods which have been mutilated to an extent where commercial gain is not possible;
    - B) Samples which have been clearly tagged or marked "sample";
    - C) Diplomatic mail and newspapers destined for embassies in South Africa;
    - D) Household pets, provided the prohibited and restricted imports requirements have been complied with and Controller/Branch Managers are also satisfied that no illegal animal trade is taking place; and
    - E) Any products of negligible value not imported in large quantities, clearly intended for examination, inspection or testing purposes.
  - iv) Goods imported under an international carnet.
  - v) Goods of a value for duty purposes not exceeding R500,00 and on which no duty is payable in terms of Schedule 1, i.e. are duty free.
- b) In terms of Rule 38.03 to obtain release of these categories of goods, except containers temporarily imported and goods imported under an international carnet, the goods are declared on a DA 306 (i.e. simplified clearance procedure).
- c) The client verifies if the goods imported qualifies for the simplified clearance process. If the goods comply too obtain release the client:
  - i) Completes the simplified clearance declaration (DA 306) in triplicate.
  - ii) Applies for permission to make use of the simplified clearance procedure from the Controller/Branch Manager by presenting the completed DA 306 to the Customs Branch Office.
- d) Customs Officer must deal with DA 306 CCDs at the time of submission in the presence of the client. In the event that a physical inspection is required the Customs Officer must inform the client where to arrange for the inspection.

## 2.23 Sight declarations

- a) The client hands in DA 22 to the Officer at the Branch Office at the place of entry where his/her goods have been manifested or removed in bond. The reason for sighting the goods must be clearly and concisely stated in the body of the sight entry for example, "no invoice available, description and/or value unknown", etc.

- b) Acceptance of a sight entry (DA 22) is provided for in Section 42 and must only be permitted in the following circumstances:
- i) In the absence of relative documents, for example invoices, covering statements, packing notes or bills of lading.
  - ii) In the absence of particulars with regards to weight, number, quantity or gauge and other necessary details, when the information is essential to the proper entry and assessment of duty.
  - iii) When the importer has reason to believe that the package(s) contains goods not accounted for or are not supported by an invoice.
  - iv) In the absence of or errors with the marks or numbers, whereby identification cross-reference of the packages with the relative documents is not possible.
  - v) If the tariff heading declared is unknown or in doubt (SC-CR-09).
- c) DA 22s may be accepted and processed at any Customs Office appointed as a place of entry, to which goods have been manifested or removed in bond.
- d) The removal of packages to the place indicated by the Controller/Branch Manager (generally the examination hall) for the examination and the opening, unpacking and repacking and the subsequent removal is performed at the risk and expense of the importer in terms of Section 42.
- e) In terms of Section 42(2)(a) the importer is required to make due entry within three (3) days of the arrival of the goods at the place indicated by the Controller/Branch Manager.
- f) The Controller/Branch Managers may allow additional time, within reason, in which due entry must be made. Extension of time must not be allowed where due entry is not made within the stipulated period due to any delay on the part of the clearing agent.
- g) Goods which have been released by Customs must be removed from the examination area within a reasonable period and if this requirement is not observed, the goods must be placed in the States Warehouse. The same principle is applicable in respect of goods detained on stop notes for examination.
- h) Section 42(2)(b) provides that if due entry is not made of the goods within three (3) months of the date of receipt in the examination area, the goods may be sold by Customs in terms of Section 43.
- i) Section 42(3) stipulates that goods entered on sight declarations will not be removed without due entry after sight and that the penalties prescribed in respect of an incorrect and false entry are also applicable in respect of a due entry after sight.
- j) In terms of Section 44(9) a sight entry is deemed to be a due entry for the purposes of Section 44(5) (i.e. as far as liability of the master, pilot or other carrier is concerned).
- k) The whole consignment cleared on a sight entry is subject to the provisions of Section 42(2). Consideration will however be given to applications to abandon damaged packages, but not where repacking has taken place. The aforementioned applies in instances where actual contents and not a loss in weight due to climatic fluctuations are involved.
- l) The due entry in terms of Section 44(9) must not be confused with entry for home use as in the meaning of Section 45(1) i.e. determining the rate of duty applicable. The rate of duty applicable would thus be calculated at the time which the after sight declaration enters the goods for home use. The sight declaration is not regarded as entry for home use.
- m) If an after sight declaration is a removal in bond then the removal in bond declaration is not regarded as entered for home use but merely due entry. The rate of duty applicable for the goods removed in bond would be assessed once the CCD on which the goods for home use is presented.
- n) In the case of merchandise for which no documents have been received importers, after sighting the goods, may make a due entry after sight in the usual manner in accordance with the result of the examination.



- o) If examination has revealed sufficient details to enable proper entry, also as to origin and the goods are duty free or liable to a rated duty and not subject to anti-dumping duty, release may be granted against an indent or other satisfactory evidence of value. In all other instances a PP to cover duty pending production of a prescribed invoice must be called for. At this time the goods would have to be detained, pending lodgement of the PP.
- p) In the event of Officers not being satisfied that the due entry after sight declarations are correct, PPs must be called for to cover the production of any documentary evidence considered necessary in support of any contentious matter(s).
- q) Where goods have been entered on a sight declaration but due entry after sight cannot be made in the absence of analysis, tariff classification, etc.
  - i) The importer or agent may tender a due entry after sight declaration in the normal manner.
  - ii) Such after sight declarations may be accepted and the date of acceptance thereof regarded as the date of due entry for home use of the goods.
  - iii) These declarations would normally be accompanied by a PP pending the compliance with all the provisions of the Act.
  - iv) Release may be granted on lodgement of a PP to cover the duty at the highest possible rate.
  - v) Once all the requirements have been met an amended **CCD**, where necessary, must be passed inserting the relevant details or amending the tariff heading etc.
  - vi) The number and date of the PP must be quoted on the after sight declaration.
- r) A “provisional declaration” does not exist and any document specified as a provisional entry or **CCD** must not be accepted.

## 2.24 Physical movement of goods

### 2.24.1 Exportation of goods from Customs warehouses

- a) Any person who exports any goods from a Customs warehouse to any place outside the SACU is liable for duty on all goods which he/she so exports until the exporter proves that the goods have been duly taken out of SACU. Refer to SC-TR-01-05.
- b) No goods must be exported from the Customs warehouse:
  - i) Until the goods entered for export are released; and
  - ii) Except as otherwise provided for in the Rules; the goods are removed for export by a licensed remover of goods as referred to in Section 64D. Refer to SC-TR-01-02.
- c) No person may, without the permission of the Commissioner, divert any goods exported to a destination other than the destination declared for exportation.

### 2.24.2 Road freight consignments

- a) **Imports by road freight**
  - i) The “place of clearance” and “port of entry” must be the same;
  - ii) Carriers after loading must wait for a ‘proceed to border’ (CUSRES 8) status before the carrier is allowed to proceed to the port;
  - iii) At the port of exit a CN 1 status release will be printed per **CCD** once released; and
  - iv) All consignments on the carrier must first be released or off loaded and detained before a CN 2 will be printed and handed to the driver and the road vehicle is allowed to exit the port.
- b) **Exports by road freight: Free circulation goods**
  - i) On the export **CCD** the “place of clearance” and “port of exit” must be the same and is associated with direct exports cleared under procedure H 60.
  - ii) Carriers after loading must wait for a ‘proceed to border’ (CUSRES 8) status before the carrier is allowed to proceed to the port of exit. **Carriers arriving at the port of exit are refused access if they are not in possession of the respective ‘proceed to border’ messages and/or if the manifest is not completed.**

- iii) At the port of exit a CN 1 status release is printed per **CCD** once released.
- iv) All consignments on the carrier must first be released or off loaded and detained before a CN 2 will be printed and handed to the driver where after the road vehicle is allowed to exit the port.

c) **Exports by road freight: Bonded and Transit goods**

- i) Section 18 of the Act makes provision for in bond/transit movements and must be read in conjunction with the relevant Rules to the section. The provision of Sections 20(4)(b), 75(18) and Section 99(3) must also be born in mind.
- ii) An agreement has been concluded with members of the Southern African Customs Union (SACU) that all goods landed in South Africa and intended for warehousing in the BLNS countries, i.e. Botswana, Namibia, Swaziland and Lesotho must only be cleared as "inward removal in bond" CCDs. Normal in bond procedures would be applicable and the CCD to be used for this purpose must be the CCD CPC combination B 20-00.
- iii) Proof of clearance into the storage warehouses in these countries must be produced in order to finalise the "in bond" movement. The CCD CPC combination E 40-00 may therefore not be accepted in instances where the goods are destined for warehousing in the BLNS countries. The onus for the acquittal or ending of the "in bond" movement currently rests with the district offices which accepted the initial removal in bond CCDs.
- iv) On the export CCD the "place of clearance" will reflect the Customs source office and "port of exit" the land port of exit and is cleared under procedures F 52, F 53, H 64, H 67 and H 68.
- v) All CCDs submitted will be routed by EDI interface through the declaration system where validations and risk assessments takes place.
- vi) Based on the outcome of the validations and risk assessment the SARS system will either send a CUSRES message with status code one (1) or request supporting documentation via a CUSRES 13 message from the client.
- vii) A carrier may only proceed to the port of exit once all consignments on the vehicle have a CUSRES message with status code one (1).
- viii) If any of the consignments on the carrier are detained by Customs, these goods will have to be off loaded from the carrier as a CN 2 will only be printed and handed to the driver once all the consignments on the carrier are released.
- ix) When fuel levy goods are removed from South Africa to a BLNS country [Rule 19A4.04(a)(v)] the general export procedure applies [Rule 19A4.04(b)(c)].
- x) At the port of exit In the case of road freight:
  - A) For the conveyance of bonded or transit goods:
    - I) The client must submit a hard copy SAD 502 or SAD 505, partially completed reflecting the relevant information available; and
    - II) The Customs Officer must complete and endorse the required fields accordingly.
  - B) At the port of exit a CN 1 status release will be printed per declaration once released.
  - C) Any consignments not released must be off-loaded, detained and cleared separately.
  - D) For all released consignments on the carrier a CN 2 will be printed and handed to the driver where after the road vehicle is allowed to exit the port.
- xi) At the port of exit in the case of **SADC certificates** – Customs endorses the certificate to reflect the port and date of exit.

- d) For the standard set of documents that must accompany the vehicle refer to paragraph 2.7.2 (b).

## 2.25 Abandoned wrecks along the coast of South Africa

- a) Any goods that are being recovered from the abandoned wreck will be regarded as imported goods and the local or non-local registered client (searcher) must within seven (7) days of the date of recovery of the goods submit a CCD bringing revenue to account specified in the Act or any tax levying Act, unless Customs determines otherwise.
- b) The searcher must also pay in addition a royalty fee of 15 % on the Customs value of all goods or articles recovered and any expenses incurred by the Commissioner for services rendered in connection with the goods.
- c) The duties and royalty must be assessed on either:
  - i) The value of the articles as ascertained by a sworn appraisalment; or

- ii) The sale price according to the decision of the Controller/Branch Manager, if the article is sold by the licensee.
- d) Where the Customs value of the goods cannot be readily determined the searcher may be directed by Customs to obtain a sworn appraisal of the recovered goods at own cost.
- e) The searcher must immediately notify the nearest Controller/Branch Manager if any unopened safe, chest, container or other receptacle is recovered from a wreck and compile a list of all the goods found in the safe, chest, container or other receptacle.
- f) Any safe, chest, container or other receptacle must be opened under Customs supervision. Refer to SC-CF-22.
- g) If the searcher fails to submit a CCD bringing the duties (including the 15 % royalty fee and VAT to account, the goods must be removed to a state warehouse and the Controller/Branch Manager must disposed of the goods in accordance with Section 43(3) provided all other provisions of the Act have been complied with.
- h) The procedure and conditions which must be followed and adhere to when:
  - i) Registering as a searcher in order to search for or on an abandoned wreck is covered in SC-CF-19.
  - ii) Applying for a bond to search for abandoned wrecks along the coast of South Africa and to take possession of articles recovered thereon is covered in SC-SE-05.

## 2.26 Refunds and drawbacks

### 2.26.1 Application for a drawback on goods exported

- a) Drawback items are only applicable with regards to exports from South Africa to destinations outside the Southern African Customs Union (SACU), with the exception of refunds of environmental levy.
- b) Export CCDs where a drawback of duty is envisaged must at time of lodgement contain the appropriate drawback item as well as the correct CPC. The notes to Schedule 5 and description of the drawback item must also be complied with. If the CPC or the drawback item does not appear in the appropriate field on the export CCD the refund application will be rejected as "No claim" and will not be entertained.
- c) An application for a drawback must always be applied for to the Controller/Branch Manager (source office) in whose area of control the exporter conducts his/her business before the goods are exported.
- d) The Revised Kyoto Convention provides in the General Annex (Standard 6.1) that all goods, which enter or leave the Customs territory, must be subject to Customs control. For the purpose of export consignments, the integrity of the consignment has to be ensured from the time the goods are loaded into the container, or if not containerised, onto the means of transport until the goods have been released from Customs control at the place of exit.
- e) Examination of goods exported under Customs supervision must be conducted when a client will attempt to claim rebates or refunds of duty paid or for the repayment of conditional provisional payments (DA 70). Exporters can also request the goods to be examined for the purposes of claiming refunds of Value-Added Tax (VAT), or to prove zero (0) rated invoiced goods have in fact been exported thereby authenticating the zero (0) rated invoices.
- f) Exportation of any goods under the provisions of a drawback item is subjected to the approval of the Commissioner, if required. When it is a requirement of the applicable drawback item it is the responsibility of the client to apply for an examination without prejudice (EWP) in order for the container to be packed or sealed under Customs supervision for verification purposes. In such instances the special and extra attendance procedure must be followed. Refer to SC-CF-22.

- g) EWPs for drawback items may be conducted on a basis as identified by Customs Operations, unless identified as compulsory in terms of legislative provisions.
- i) If the Customs Office decide that an EWP is **not required**:
    - A) The Customs source office must endorse the client's application letter to that effect enabling the client to use this letter as prove in their drawback application; and
    - B) The land post must endorse the client's application letter to confirm that the goods did arrive at the border.
  - ii) Where an EWP **is required**:
    - A) The goods must be examined, packed and sealed under Customs supervision for export at the Customs source office;
    - B) The Customs source office must endorse the client's application letter to reflect that an EWP was conducted; and
    - C) At the land port a verification of the goods must be conducted, where after the client's application letter must be endorsed as confirmation that the goods did arrive at the specified border as well as that the Customs seals are intact.
  - iii) This verification **in conjunction with the exit scan** on the system will be accepted as proof of export for drawback purposes by road.
- h) It is **compulsory** that an **examination** in terms of drawback item 522.02 (EWP) must be conducted prior to exportation to verify whether the goods returned comply with the conditions of drawback item 522.02.
- i) Drawback item 522.03
- i) Item 522.03 applies to goods "in the same condition as imported" or "in condition in which the essential character of the imported goods has been retained". This provision does not apply to goods which have gone into home consumption or exported as used goods.
  - ii) The Notes of Schedule 5 Part 2 and description of drawback item 522.03 must be complied with.
  - iii) While drafting the export **CCD** the client identifies a possible application of drawback item 522.03, due to the exportation of his/her goods.
  - iv) The client drafts a DA 63:
    - A) Information entered on a DA 63 must be completed as prescribed in SC-DT-C-09.
    - B) The particulars reflected on the DA 63 must correspond with the import and export invoices.
    - C) The duty or taxes claimed on a DA 63 must be the duty or taxes originally paid (rate of duty) at the time of import.
    - D) The relevant import MRN and line number must be quoted on the DA 63.
    - E) The client must insert the LRN number of the export **CCD** on the draft DA 63 until the MRN number is known. Once the export **CCD** is released from the **CCD** system the client must add the export MRN on the DA 63.
  - v) The client lodges his/her export **CCD** via EDI or manual. The export **CCD** can be submitted electronically or simultaneously with the DA 63 if the client submits a manual **CCD** (SC-CF-04).
  - vi) The DA 63 [plus one (1) copy] and a copy of the export **CCD** must be presented on the same day to the Controller/Branch Manager's office in whose area of control the client conducts his/her business (SC-DT-C-09).
    - A) An export **CCD** with CPC H 62-11 must reflect a client's intent of claiming a refund in terms of rebate item 522.03 (DA 63). (Refer to SC-CF-04 and SC-CF-04-A14).
    - B) If any amendment to the export **CCD** or DA 63 is required e.g. a change in, tariff heading, CPC or drawback item, etc. these documents must be amended prior to the shipment of the goods as Customs can still decide to inspect the shipment.
    - C) If the export **CCD** is submitted and the client receives a CUSRES 13 notification, requesting supporting documents, a copy of the processed DA 63 must be included. The document inspector may in these instances contact the Branch Office which processed the DA 63 to obtain further information if required.
  - vii) The following documents must accompany the DA 63 application:
    - A) An application letter requesting an examination without prejudice (EWP), the original plus one (1) copy as approval must be obtained from Customs before the goods are exported from South Africa;

- B) The original import and export invoice or certified copies thereof as prescribed in Sections 39(1)(C) and 41(4)(b) and (c) are required. The particulars reflected on the DA 63 must correspond with the import and export invoices (SC-CF-30);
  - C) Copies of the relevant import documents sorted in MRN order for example, imports Customs CCD, transport document, Customs worksheet plus other relevant document e.g. amended CCDs, etc.;
  - D) The 522.03 worksheet indicating how the amount claimed has been calculated;
  - E) The goods exported must be in the same condition as imported or in a condition in which the essential character of the imported goods has been retained:
    - I) The contract or a statement by the supplier under which goods are to be returned to the supplier after the completion of a season or agreed period must accompany a request to re-export goods in terms of item 522.03 to verify that the goods exported are the same goods originally imported;
    - II) Physical bar codes or similar identification is not a pre-requisite and other means may be utilised for verification if confirmation from the supplier cannot be obtained, however each Customs Office must evaluate a case based on its own merits; and
  - F) A copy of the credit note will suffice as proof that the exporter was compensated for the goods re-exported: the credit note must refer to the original invoice and description of the goods [Section 41(3)]. If another method of compensation is used, an original or certified copy of proof of payment is required from a financial institution which clearly indicates the applicant and the beneficiary.
- viii) The Branch Office must inform the applicant of any irregularities and in such cases both forms will be returned to the applicant to amend, with reasons for the amendments to be made.
  - ix) A copy of the finalised DA 63 will be returned to the applicant together with all the supporting documents.

### 2.26.2 Exportation in terms of a drawback schedule

- a) Drawback items are only applicable with regards to exports from South Africa to destinations outside the Southern African Customs Union (SACU), with the exception of refunds of environmental levy.
- b) In terms of Schedule 5, Note 7 a refund of duty under Schedule 5 Part 2 can only be **paid to the importer or the person who paid the duty on entry** for home use unless the Commissioner authorises payment of such refund to any other person on compliance with certain requirements as may be imposed by him/her.
- c) If the export CCD does not reflect any intention to claim a drawback it may be amended only on condition that the goods are not yet exported and are readily available for inspection.
- d) Where the drawback item or tariff heading is amended or inserted, an amendment export CCD will only be accepted for drawback purposes, if the goods were still under Customs control in South Africa and are readily available for inspection.
- e) Where quantity is reduced on an amendment CCD and the goods have already left Customs control, the amendment CCD will only be allowed if the goods are identifiable by means of a unique identification such as a serial, VIN or Chassis number and the remaining quantity can be produced to Customs if required.

### 2.26.3 Proof of export requirements

- a) Container operators must keep copies of container lists and manifests supported by acquitting export CCDs, which must be made available to Customs Officers for verification on demand. These documents must be kept for five (5) days after which they must be destroyed.
- b) The procedure for the acceptance of an electronically generated bill of lading "shipped on board date" must not influence the submission period for acquittal purposes.
- c) A client cannot submit electronically generated bills of lading as proof of export if South African Port Authority (Portnet) or the shipping line cannot provide online validation. This bill must be processed with a CCD.
- d) Branch Offices may validate the correctness of the printout submitted either by utilising the shipping line's website or the Transnet web site the container number must be used to access the information.

- e) Electronically generated bills of lading or air waybills must be accepted without the endorsement “Shipped on Board” but must conform to the following:
- i) The shipped on board date must be clearly printed on the presented bill of lading.
  - ii) The print date from the SARS system must be the same as or must be greater than the shipped on board date.
  - iii) The date of issue as on the bill of lading or air waybill must not be accepted as the shipped on board date.
  - iv) An electronically generated bill of lading or air waybill can be processed and printed at any place e.g. Swaziland, Zimbabwe, etc.
  - v) Electronically generated bill of lading or waybill with disclaimers must not be accepted e.g. dates or times are estimates without guarantee and subject to change at any time without prior notice, etc.
  - vi) The following information on the electronically generated bill of lading or air waybill must correspond with the information on the processed **CCD**:
    - A) Bill of lading or air waybill number;
    - B) Exporter’s name and address;
    - C) Consignee name and address;
    - D) Consignee number, if applicable; and
    - E) Voyage or flight number and date.
  - vii) The website address of the shipping or airline must be printed on the electronically generated bill of lading.
  - viii) If a **client** submits acquittal documents when requested, to the Branch Office, the Branch Office may verify the authenticity thereof provided sufficient resources are available.
  - ix) If the **client** cannot comply with the above requirements, the bill of lading or air waybill as prescribed below must be presented.

<b>Bill of lading</b>	<p>A duly signed copy of the bill of lading indicating sufficient particulars for identification purposes, duly authenticated by the issuing carrier (by means of the carrier’s stamp where there is provision made for a signature on the bill of lading by the freight clerk authenticating it as an identical copy of the original bill of lading) and super-imposed by a stamp “not negotiable”.</p> <p>Where commodities are imported in bulk and packed into containers for export, a copy of the bill of lading as described in the paragraph above and endorsed “Shipped on board” may be accepted as proof of export.</p> <p>A bill of lading endorsed “Received for Shipment” or a mate’s receipt is not acceptable for containerised cargo. If insufficient particulars of the contents of the containers are reflected on the bill of lading, a packer’s declaration regarding the contents must also be produced.</p>
<b>“House” bill of lading</b>	<p>Where “house” bills of lading are presented in respect of groupage consignments they may be accepted as proof of shipment provided they are supported by written confirmation from the groupage applicants in the country of export confirming the vessel’s name, giving particulars of the on board bill of lading number and date and bearing a reference to the relative groupage container manifest. The “on board bill of lading “ number and date as well as the “house bill of lading” number and date can also be accepted a proof of shipment if they are supported by a certified copy of the relative “on board bill of lading”.</p>
<b>Through bill of lading</b>	<ul style="list-style-type: none"> <li>a) A through bill of lading is used where the goods are consigned from one port via an intermediate place where transshipment takes place, to a specified destination (e.g. Antwerp to London to Cape Town or vice versa). A copy of the manifest certified by the vessel’s agent to the clearing client to the effect that consignments in question were shipped; or</li> <li>b) A copy of a shipping list (computer generated) prepared by the remover certified and date stamped by the vessel’s agent; or if a bill of lading is presented for acquittal document purposes it must be stamped “Shipped on board”, and signed by the shipping company and must be an ocean bill of lading. The details of the vessel, weight, description and marks and numbers must correspond with the details on the <b>CCD</b>.</li> </ul>

<b>Sea freight</b>	A duly signed copy of the mate's receipt and bill of lading. (Break bulk cargo.) A mate's receipt is a document signed by an office of a vessel evidencing receipt of a shipment on board the vessel. It is not a document of title and is issued as an interim measure until a proper bill of lading can be issued.
<b>N 76</b>	A certified copy of Portnet's load list (N 76). Under no circumstances must a container terminal order (CTO) only be accepted as proof of export.
<b>Fast Forwarded or PX</b>	Fast forwarded or PX which is a division of Transnet must remove goods by rail. The PX slip must be accepted provided that it has been stamped by Spoornet.
<b>N 81 and CTO</b>	A container terminal order (CTO) can only be accepted as proof of export if accompanied by a rail manifest (N 81). These documents must be stamped by SPOORNET reflecting the siding from where the goods have been railed. These documents must only be accepted as an acquittal document if the <b>CCD</b> was processed in the same control area as where the siding was situated. The weight, description, marks and numbers agree with the details on the acquittal document and must correspond to that on the <b>CCD</b> .
<b>Rail consignment note or Freight Transit Order</b>	Rail consignment notes or Freight Transit Order must be date stamped and signed by Customs and Spoornet together with a copy of the export invoice.
<b>Rail manifest</b>	When vehicles are railed they sometimes have a block train that transports just motor vehicles (like a car carrier) directly from the terminal in these instances a rail manifest indicating all vehicles loaded must be accepted provided it has been stamped by Spoornet.
<b>Road export CCD</b>	<p>For proof of export purposes; traders will not be required to submit CN 1 and CN 2 hard copies as proof, since Customs will ascertain on the SARS system that the exit scan took place. Customs Officers must ensure that all the CN 2s presented at the exit gate are scanned.</p> <p>In the event that the exit scan did not take place and/or could not be located on the SARS system it will be regarded as if the goods were not exported from South Africa and revenue liability will not cease, unless other satisfactory proof can be produced that the goods were not dealt with irregularly.</p> <p>The following additional documentation may be required as proof of export:</p> <ol style="list-style-type: none"> <li>A SAD 502 or SAD 505, if required by Rule, must be duly completed at all Customs Offices and authenticated by an official Customs date stamp. These endorsed forms will be a requirement as proof of export in conjunction with the CN 2 exit scan;</li> <li>Where goods were packed and sealed under Customs supervision a copy of the inspection report and the endorsed application letter of the <b>client</b> must be provided. This verification in conjunction with the other documents already mentioned will be accepted for refund or drawback applications.</li> <li>Bonded cargo for example, national transit, international transit and ex-warehouse, requires the completion and submission of the duly completed DA 187.</li> <li>It is the responsibility of the trader to approach Customs in order to obtain endorsed copies of relevant documents.</li> <li>In cases where it is a requirement for the production of the additional documentation, as mentioned above, the exit scan on its own as proof of export is not permissible.</li> </ol>

<b>Road export CCD (cont.)</b>	<p><b>Liability</b></p> <p>Liability will only cease, for Customs purposes, once it is proved that the goods physically left the common Customs area and for VAT purposes left South Africa.</p> <p><b>Proof of export from the common Customs area</b> is required in terms of Rule 18A. Export must only take place through the following ports of exit from <b>SACU</b>:</p> <ul style="list-style-type: none"> <li>a) Beit Bridge;</li> <li>b) Lomahasha;</li> <li>c) Mhlumeni (Swaziland);</li> <li>d) Kazangula Road or Ferry (Botswana);</li> <li>e) Ramokgwebane (between Botswana and Zimbabwe);</li> <li>f) Lebombo; or</li> <li>g) Oshikango (Namibia).</li> </ul>
<b>Airfreight</b>	<p>A copy of the relative air consignment note provided it contains the under mentioned endorsement which must be duly signed and date stamped by an official of the airline who accepts the goods concerned.</p> <p>“The goods described herein were accepted for removal to the destination indicated herein and must not be returned or delivered to any party in the country without the prior authority of the Controller/Branch Manager of SARS (Customs) Branch Office”.</p> <p>.....</p> <p>SIGNATURE FOR AND ON BEHALF OF AIRLINE</p> <p>.....</p> <p>AIRLINE DATE STAMP</p> <p>The foreign air carrier declaration must be signed on its own and not as part of other declaration signatures on the air waybill. The declaration by the shipper or his/her applicant must also be signed. A “House” air waybill cannot be accepted as proof of export as the “House” air waybills are issued by groupage applicants in the country of export in respect of consolidated consignments. House air waybills are issued by the groupage applicants on receipt of individual consignments at their premises; therefore it cannot be said with certainty that the goods in question were in actual fact exported. House air waybills can only be accepted as proof of export if accompanied by a Master air waybill.</p>

- f) The supporting documentation required for a refund is documented in SC-DT-C-09.

#### 2.26.4 Ownership in respect of payment of over plus

- a) Where the owner claims surplus proceeds the negotiable copy of the bill of lading, establishing ownership, must be included in the claim.
- b) Claims for over plus by other persons must contain the negotiable copy of the bill of lading, duly endorsed in favour of the claimant.

#### 2.26.5 Temporary Imports and Exports

- a) Before submitting a **CCD** the client must determine which Rebate Item he/she intends to use in order to ensure compliance with all the requirements of that Rebate item:
  - i) Certain Rebate Items require the approval of other government departments which may include the issuance of permits.
  - ii) The client is responsible to verify if he/she complies with all other statutory requirements prior to approaching Customs and/or submitting a temporary import **or export CCD**.
  - iii) Certain Rebate Items require approval from the Commissioner. In these instances the client must first obtain Head Office approval.



- b) For goods temporarily **imported or** exported under ATA or CPD Carnets, refer to SC-TA-01-04 and SC-TA-01-06.
- c) **On import CCDs**
- i) The **client** completes a draft "Home use" (A 11-00) **CCD** which reflects the total duty and VAT which would have been due if no Rebate Item were applied for and submits the **CCD** to Customs, refer to paragraph 2.9.
  - ii) **A PP may be called for cover possible duties and taxes due pending re-exportation of temporary goods (PPT). Refer to paragraph 2.12.**
  - iii) **When the goods which were received for repair or processing are exported the client submits proof of export to Customs in order to acquit the client of his/her liability for the duties and taxes. Refer to SC-TR-01-02 and paragraph 2.26.3 of this document for the documents needed**
  - iv) **In cases where the conditions of the relevant rebate item cannot be met, the client remains liable for the duties and taxes.**
- d) **On export CCDs**
- i) The client completes the export **CCD** and submits the **CCD** to Customs, refer to paragraph 2.9.
  - ii) When the goods which were sent abroad for repair or processing are returned, duty must be brought to account only on the cost or value of the repair or processing in terms of the provisions of Rebate Item 409.04 of Schedule 4, provided the goods:
    - A) Were exported (Customs to verify);
    - B) Have retained their essential characteristics;
    - C) Are returned to the exporter, no change of ownership having taken place in the interim; and
    - D) Are identifiable on re-importation.
  - iii) Only the cost or value of the repair or processing must be reflected in the field "additional info" (Box 44) next to the code COR (cost of repair) on the **CCD** since that is the amount for import control purposes where applicable.
  - iv) In cases where the conditions prescribed in Item 409.04 cannot be met, duty must be brought to account on the full value, namely the value of the product when exported plus the cost or value of the repair or processing.
- e) Upon re-importation or -exportation the goods must be entered according to the relevant process.

## 2.27 Amendments and Cancellations

### 2.27.1 Amendments

- a) **Invalid or incorrect CCDs** must be adjust by the **client in terms of Section 40(3)** without delay on discovering that the **CCD** submitted to Customs:
- i) Does not comply with Section 39; or
  - ii) Is invalid in terms of Section 40(1).
- b) The **CCD** must be adjusted by:
- i) An amended **CCD**; or
  - ii) The replacement or substitution of a new **CCD** and the cancelation of the original **CCD** by an amended **CCD with the prior approval of Customs**; or
  - iii) Such manner as Customs may prescribe.
- c) **Section 40(3) stipulates that the acceptance of an amended CCD or a substitution CCD will not indemnify an importer or exporter against any fine or penalty provided for in the Act.**
- d) **If a manual amended CCD (SAD 504) is completed the SAD 506 must be used as a continuation sheet but the fields "BROUGHT FORWARD" and "CARRIED FORWARD" on the continuation sheet must not be used.**

- e) Where permission is sought to delete packages from the original clearance CCD by use of an amended CCD, the client must ensure that reference is made on the amended CCD as to how the deleted packages have been accounted for, for example "Case Number 10 cleared as per Customs declaration No..... dated .....". Amended CCDs not properly completed must be refused.
- f) In all instances amended CCDs must be endorsed prominently as to what is actually being amended, for example; "Amending tariff heading only".
- g) Under no circumstances will a client be allowed to amend the marks, numbers or quantity of packages to facilitate the acquittal of a ship's manifests.
- h) Amended CCDs requirements
- i) Client initiated amended CCDs will not contain a case number; the contrary will apply to all amended CCDs requested by Customs.
  - ii) If the amended CCD amends any of the particulars under the headings from "Purpose" up to and including "B/E Sight No." and "Date", the amended information must be inserted in the appropriate fields.
  - iii) The information reflected in the fields "Original B/E No.", "Date", "Assessment Date" and "Accepted At" must agree in all respect with the particulars of the original CCD.
  - iv) In the case of an amendment to a specific entry line or CCD item, the whole entry line or CCD item, including the fields that are to remain unaltered, must be filled in. The number of the appropriate line or item on the original CCD must be inserted in the "line" number field and the total number of lines being amended (including insertions) by the amended CCD must be indicated under the heading "Total Lines". If none of the entry lines or CCD items is being amended or declared the field "Total Lines" must be left blank.
  - v) To add a CCD entry line or CCD item to a CCD, the number following on the number of the last entry line or CCD item used on the original CCD must be used in the "Line" field.
  - vi) To cancel a CCD entry line or CCD item only the following fields, if and where applicable, need to be completed and the word "CANCELLED" inserted in the "Description" field:
    - A) Original CCD line or item number;
    - B) Country of origin;
    - C) Tariff Code:
      - I) Schedule 1 Part 1;
      - II) Schedule 3 / 4;
      - III) Trade Agreement;
      - IV) Schedule 2; and/or
      - V) Schedule 1 Part 2B.
    - D) Quantity and Code:
      - I) Statistical Quantity and Code;
      - II) Duty Calculation Quantity and Code;
      - III) Classification Quantity and Code; and/or
      - IV) Countable Quantity and Code.
  - vii) All totals in respect of the value and duties, as they will appear after amendment by the amended CCD as well as the way they were entered on the original CCD, must be reflected in the fields provided and the differences, if any, suitably indicated. Underpayment and overpayment in duty must be indicated by inserting the abbreviations "U/E" and "O/E" respectively before the relative amounts in the "DIFFERENCES" fields. If an amended CCD is passed to amend a CCD which has already been amended, care must be exercised that the "TOTALS AFTER CORRECTION" of the previous amended CCD are reflected against the "TOTALS BEFORE CORRECTION" on the current amended CCD.
- i) Amended CCDs submitted will be automatically rejected if:
- i) The client submits an amended CCD while the initial CCD is still within the inspection process;
  - ii) Customs requested an amended CCD and the client submits such amended CCD without a valid case number; and
  - iii) Clients submit amended CCDs reflecting a case number which is not valid.
- j) A CCD can only be amended if it hasn't been released or doesn't have an inspection case pending or in progress.

- k) **Change Acknowledgement Indicator (CAI) – mandatory field**
- i) The 'Change Acknowledgement Indicator' must be inserted on an amendment CCD and when the amendment relates to an outcome of a Customs documentary or physical inspection (SC-CF-04).
  - ii) Based on the outcome communicated to the client (CUSRES 26) the client must determine which of the four (4) indicators he/she is going to apply when submitting the amended CCD.
  - iii) Rules for the use of this indicator are stipulated in SC-CF-04.
- l) **Amended CCDs resulting in refunds**
- i) Amended CCDs lodged on which a refund will be claimed are subject to documentary inspection.
  - ii) All amended CCDs will require the submission of supporting documentation before being routed to the Adjustments team for documentary inspection.
  - iii) For the requirements for refunds see SC-DT-C-09.
- m) The supporting documentation required for a refund is documented in SC-DT-C-09.
- n) When a client submits an amended CCD that relates to a drawback the correct rebate item and Customs Procedural Code (CPC) must be referenced before the goods are exported from South Africa. Refer to SC-DT-C-09 and SC-CF-04.
- i) **On electronic system – EDI submission**
    - A) An electronic submission of a CCD via EDI does not have an option for an amended CCD, as the client only needs to submit a revision of the original CCD. The CD 1 accommodate all clearance requirements by requesting a "Transaction Type", namely:
      - I) Original (9): Must be used by the client to submit a new CCD for processing;
      - II) Replacement or Substitution (5): Must be used by the client to submit a request to replace or substitute a prior CCD;
      - III) Change or Amendment (4): Must be used by the client to submit a request to amend a prior CCD; and
      - IV) Cancellation (1): Must be used by the client to submit a request to cancel a prior CCD.
    - B) Refer to SC-CF-04.
  - ii) **Manual submissions**
    - A) The client requests or submits the request to amend, cancel or replace or substitute an existing CCD.
      - I) An amended CCD can only be passed if the selected CCD does not have an inspection case pending or in progress.
      - II) Only manually submitted CCDs can be retrieved for amendments, cancellations and replacements or substitutions.
      - III) CCDs that exceed ten (10) lines must be submitted via EDI.
    - B) When a client submits an amended CCD that relates to a drawback the Customs Officer will verify if the correct rebate item has been referenced with the correct Customs Procedural Code (CPC). Refer to SC-DT-C-09 and SC-CF-04.
- o) A worksheet reflecting how the "TOTALS AFTER CORRECTION" was calculated must be submitted if supporting documents is requested by Customs.

### 2.27.2 Cancellations

- a) To cancel a complete CCD it is not necessary to furnish any information in respect of a CCD entry line or item and except for the VAT if claimed from the Receiver of Revenue, no information must be reflected against "TOTALS AFTER CORRECTION".
- b) CCD that contains a PP for PPE on line one (1) must not be cancelled unless the amended CCD liquidates the PP.
- c) When cancelling a complete CCD the "TOTAL LINES" in the header of the amended CCD (SAD 504) must be left blank.

## 2.28 Payments

- a) The declaration system will not permit the release of goods if payment for the **CCD** was not made.
- b) The payment procedure for deferred duties and tax are contained in SC-DT-B-02. Other payment procedures are contained in BP-02.

## 2.29 Keeping of records

- a) Every **client** must keep for record purposes for a 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.

## 2.30 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 (**SC-CO-01-02**);
  - ii) Criminal prosecution; and/or
  - iii) Suspension or cancelation of registration, license or accreditation.

## 2.31 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) Before administrative action can be taken by Customs the client 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.

- e) 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.
- f) 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.

## 2.32 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.
- c) If clients wish to appeal any decision in terms of VAT penalties, they are directed to the provisions of Section 215 to 220 of the Tax Administration Act No. 28 of 2011 for the percentage based penalty and Section 224 of the Tax Administration Act No. 28 of 2011 for the understatement penalty. In this regard, please consult the SARS website or nearest Customs Branch Office.

## 3 REFERENCES

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<p><b>Customs and Excise Act No. 91 of 1964:</b> Sections 1, 4, 6, 6A, 10, 13, 15, 16, 18A, 20(4)(b), 38, 39, 40, 41, 43, 46(3)(a) – 46(3)(b), 50A, 52, 59A, 64D, 64E, 72, 80, 83, 88, 101, 101A, 107, 114, 119A and 120 Notes to Schedule 5 as well as the Notes to Part 1 of Schedule 5 of the Harmonised Tariff</p> <p><b>Customs and Excise Rules:</b> 38, 39, 40, 41; 59A.03(1), 59A.03, 101A, 119A 120 – 120.07, and 201.10</p> <p><b>Value-Added Tax Act No. 89 of 1991:</b> Sections 7(1)(b), 13</p> <p><b>Tax Administration Act No. 28 of 2011:</b> Sections 215 to 220 and 224</p>
Other Legislation:	<b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3 and 5
International Instruments:	<p><b>Kyoto Convention General Annex Chapter 1</b> – Clearance for home use, Standard 3 and 4, <b>Specific Annex C Chapter 1 Outright Exportation:</b> Standard 1 and 3; Recommended Practice 2</p> <p><b>WCO Framework of Standards:</b> Annex 1 Standard 1.2 and 1.3.3</p> <p><b>WTO Trade Facilitation Agreement:</b> Section 1 Article 1 – Publication and availability of information; Section 1 Article 3 – Advance Rulings; Section 1 Article 4 – Appeal or review procedures; Section 1 Article 7 – Release and clearance of goods; Section 1 Article 9 – Movement of goods under Customs control intended for imports; Section 1 Article 10 – Formalities connected with importation and exportation and transit; Section 1 Article 11 – Freedom of transit</p>

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
BP-02	Payments - External Standard
SC-CC-24	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CF-04	The Completion of Declarations – External Manual
SC-CF-13	Non-Designated Ports – External Policy
SC-CF-19	Licensing, Registration and Designation – External Standard
SC-CF-22	Special and Extra attendance – External Policy

DOCUMENT #	DOCUMENT TITLE
SC-CF-25	Provisional Payments – External Policy
SC-CF-30	Invoices – Internal Policy
SC-CF-32	Completion of DA 70 – External Manual
SC-CO-01-02	Offences and Penalties - External Standard
SC-CR-A-03	Valuations of Imports – External Directive
SC-CR-A-05	Method 1 Valuation of Imports – External Directive
SC-CR-A-07	Valuation of Exports – External Directive
SC-CR-A-09	Tariff Classification – External Directive
SC-DT-B-02	Deferments – External Standard
SC-DT-C-09	Completion of DA 63 – External Manual
SC-DT-C-13	Refunds and Drawbacks – External Standard
SC-RO-01-02	Preferential Rules of Origin – External Guide
SC-SE-05	Bonds – External Policy
SC-TA-01-04	ATA Carnet – External Policy
SC-TA-01-06	CPD Carnet – External Policy
SC-TR-01-02	Acquittal of Customs Declarations – External Standard
SC-TR-01-05	Removal in Goods – External Policy

### 3.3 Quality Records

NUMBER	TITLE
DA 187	Customs Road Freight Manifest
DA 73	Application for Special/Extra Attendance
SAD 502	Customs declaration form (Transit Control)
SAD 505	Customs declaration form (BOND CONTROL)
SC-CF-12-FR01	Application for movement of goods Non Designated Ports

## 4 DEFINITIONS AND ACRONYMS

“C”	Payment method - Cash
“D”	Payment method - Deferment
“E”	Valuation code – Exempted
“F”	Payment method - Free
“N”	Valuation code – Not related
“R”	Valuation code –Related
“V”	Payment method – VAT deferment
ADR	Alternative Dispute Resolution
ATA	Admission Temporaire/Temporary Admission
ATP	Automated Tax Processor
BLNS	The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland.
Booking reference number	The reference number assigned by a carrier to the booking of cargo by a shipper immediately on completion of the booking process. a) Only after the cargo has been booked is a transport document number assigned by the carrier. b) The booking reference number does not equate to a transport document number and cannot be reflected in the “transport document number” field of the CCD.
C.O.D.	Cash on Delivery
CAI	Change Acknowledgement Indicator
Case	All CCDs submitted, on which the supporting documents were requested, in order for further inspection purposes will be managed through the SARS System which refer to CCDs routed in this manner as a case.
CCD	Any Customs clearance declaration made to declare goods imported, exported, moved in bond or transit or moved across the borders between the SACU countries

<b>CN 1</b>	Customs Notification 1 is used to notify <b>clients</b> of the status of <b>CCDs</b> submitted, which may include specific actions required e.g. request for supporting documents etc. The CN 1 is also used in the road freight modality for release purposes at land ports; this will only be communicated to the <b>client</b> once the commercial vehicle has been marked as arrived at the port.
<b>CN 2</b>	Customs Notification 2 is used in road freight as a control document permitting a commercial vehicle to exit the port of exit. The document comprises of a consolidated view of all shipments at <b>CCD</b> level on the vehicle and is scanned at the point of exit which serves as prove that the goods left South Africa.
<b>Conditional release</b>	It is the release of goods with the payment of a PP amount, pending the fulfilment of certain conditions by the <b>client</b> within a specific time period e.g. supplies supporting documents, embargo release or the release of goods detained or stopped. The full consignment may be released but still require finalisation.
<b>CPC</b>	Customs Procedure Code
<b>CPD Carnet</b>	Carnet De Passages en Douane for motor vehicles and trailers is the French for a booklet allowing motor vehicles and trailers through a Customs territory.
<b>CUSRES</b>	Customs Response
<b>Customs Officer</b>	As an Officer may perform multiple functions, this role can encompass any Officer of SARS depending at which Office the case was started: <ul style="list-style-type: none"> <li>a) Adjustment Officer – In the <b>CCD</b> process this Officer deals with case involving an amended <b>CCD</b>; or</li> <li>b) Documentary Inspector – In the <b>CCD</b> process at the Hub, this Officer will perform a documentary inspection when the SARS system has stopped the entry for an inspection; or</li> <li>c) Technical Reviewer - In the <b>CCD</b> process at the Hub this Officer will perform the duties of a Quality Assuror; or</li> <li>d) Physical Inspector – This Officer conducts a physical inspection at the <b>client's</b> premises; or</li> <li>e) Branch Office - The Client Interface, Team Support, Enquiry Officer, Data Capture or Assessment Officer.</li> </ul>
<b>Customs Source Office</b>	The Customs Branch Office nearest to the exporter's place of business
<b>E@syscan</b>	Scan solution Custom developed for external use by clients and agents
<b>EDI</b>	Electronic Data Interchange
<b>Embargo release</b>	Embargo release is the term given to the process whereby the <b>client</b> gets permission to have the goods inspected at their premises instead of the Customs controlled area
<b>EWP</b>	Examination Without Prejudice
<b>Exit scan</b>	The message reflected on the SARS system when an exit scan has been conducted will read as follow "Manifest has successfully been marked for exit"
<b>Exporter</b>	Any person who, at the time of exportation: <ul style="list-style-type: none"> <li>a) Owns any goods exported;</li> <li>b) Carries the risk of any goods exported;</li> <li>c) Represents that or acts as if the exporter or owner of any goods exported;</li> <li>d) Actually takes or attempts to take any goods from South Africa;</li> <li>e) Is beneficially interested in any way whatever in any goods exported; or</li> <li>f) Acts on behalf of any person referred to above.</li> </ul>
<b>FOR</b>	<b>Duty Tax Type: Provisional payment amounts for Forfeiture</b>
<b>FTR</b>	<b>Finalisation Technical Reviewer</b>
<b>Importer</b>	Any person who, at the time of importation: <ul style="list-style-type: none"> <li>a) Owns any goods imported;</li> <li>b) Carries the risk of any goods imported;</li> <li>c) Represents that or acts as if he/she is the importer or owner of any goods imported;</li> <li>d) Actually brings any goods into South Africa;</li> <li>e) Is beneficially interested in any way whatever in any goods imported; or</li> <li>f) Acts on behalf of any person referred to in (a) – (f) above.</li> </ul>
<b>LRN</b>	Local Reference Number
<b>MRN</b>	Movement Reference Number
<b>OGA</b>	<b>Other Government Agencies</b>

<b>Packing for export under Customs Supervision</b>	When goods are packed under Customs supervision and sealed in Customs presence the seal numbers must be noted on the "Application for Special/Extra Attendance" (DA 73).
<b>PCC</b>	Procedure Category Code
<b>PEN</b>	Duty Tax Type: Provisional payment amounts for Penalties
<b>Portnet</b>	South African Port Authority
<b>PP</b>	Provisional Payment
<b>PPA</b>	Duty Tax Type: Provisional payment amounts for Anti-Dumping
<b>PPC</b>	Duty Tax Type: Provisional payment amounts for Countervailing
<b>PPE</b>	Duty Tax Type: Provisional payment amounts for Embargo release
<b>PPG</b>	Duty Tax Type: Provisional payment amounts for Safe Guarding
<b>PPR</b>	Duty Tax Type: Provisional payment amounts for conditional release
<b>PPT</b>	Duty Tax Type: Provisional payment amounts for Temporary imports
<b>PRN</b>	Payment Reference Number
<b>RFM</b>	Road Freight Manifest
<b>ROO</b>	Rules Of Origin
<b>SACU</b>	The Southern African Customs Union, consisting of: The Republic of South Africa The Republic of Botswana; The Kingdom of Lesotho; The Republic of Namibia; and The Kingdom of Swaziland
<b>SAD</b>	Single Administrative Document
<b>SADC</b>	Southern African Development Community
<b>Standard</b>	Used to convey the standards mandated by legislation and the sequential steps to be followed
<b>System</b>	Declaration processing system
<b>TDN</b>	Tariff Determination Number
<b>Transport document number</b>	The number assigned by a carrier to their contract of carriage with a shipper and normally incorporates the international liner code of the carrier as part of the number, for example MSCU12345678
<b>VAT</b>	Value-Added Tax
<b>VDN</b>	Value Determination Number
<b>Vehicle</b>	Any aircraft, train, motor car, van, truck, cart, barrow or other conveyance of any kind whatsoever, and include the fittings, furnishings and equipment thereof, and also pack animals and their harness and tackle
<b>Verification</b>	If goods were packed under Customs supervision and sealed in Customs presence and the seal numbers noted on the "Application for Special/Extra Attendance" (DA 73) only a verification process at the exit point is required of said seal number
<b>VIN</b>	Vehicle Identification Number
<b>WIMS</b>	Warehouse Inventory Management System

## 5 DOCUMENT MANAGEMENT

<b>Standard Owner</b>	Group Executive: Customs Branch
<b>Detail of change from previous revision</b>	<p>a) The process for imports and exports have been aligned in a new single document which also incorporates the procedures for submission of supporting documents into one (1) end-to-end Clearance Declaration document.</p> <p>b) SC-EX-01-03 - Exports – External Standard; is withdrawn.</p> <p>c) Inserting the new requirements of the declaration provisional payment process.</p> <p>d) Inserting the conditional release requirements.</p> <p>e) Inserting a paragraph on abandoned wrecks listing the requirements.</p> <p>f) Inserting a paragraph on the requirements of the Promotion of Administrative Justice Act (PAJA).</p>
<b>Template number and revision</b>	ECS-TM-03 - Rev 8