

**CUSTOMS**

**EXTERNAL POLICY**

**CLEARANCE DECLARATION**

## TABLE OF CONTENTS

<b>1</b>	<b>SUMMARY OF MAIN POINTS</b>	<b>4</b>
<b>2</b>	<b>POLICY</b>	<b>5</b>
2.1	Licensing and Registration	5
2.2	Designated ports	5
2.3	Imports	5
2.4	Exports	7
2.5	Where origin must be proved	11
2.5.1	Import	11
2.5.2	Export	11
2.6	Prohibited and Restricted Goods	11
2.7	Supporting Documents	12
2.7.1	Submission of supporting documents for Customs clearance declaration processing	12
2.7.2	Standard set of supporting documents	13
2.7.3	Clearing Instructions	14
2.7.4	Bills Of Lading	15
2.7.5	Air waybills and date of shipment	17
2.7.6	Indent	17
2.7.7	Irrevocable Letter of Credit	18
2.7.8	Sight Draft	18
2.7.9	Draft or bill of exchange	19
2.7.10	Covering Statement (Shippers' Statement of Expenses)	19
2.7.11	Certificates, special permits or declarations	20
2.7.12	Confirmation of sale or other contract	22
2.8	Completion of Customs clearance declarations	22
2.9	Submission of Customs clearance declaration	23
2.10	Declaration system validations	25
2.11	Release	25
2.12	Customs declarations based provisional payment	25
2.13	Anti-Dumping, Countervailing and Safe Guarding Duties	26
2.14	Rebates of Duty Schedules 3 and 4	28
2.14.1	Reduction of duties and taxes	28
2.14.2	Extent of Rebate	30
2.14.3	Clearance under rebate	31
2.15	Determination of Duty Applicable	35
2.16	Accepting of Warehouse Customs clearance declaration	37
2.17	Documentary Inspections	37
2.18	Request for exception	38
2.19	General instructions regarding the detention of goods	39
2.20	Conditional Release	39
2.21	Embargo Release	40
2.22	Simplified Clearance and Release Procedures	42
2.22.1	Sight declarations – DA 22	42
2.22.2	Application for release of goods in terms of Section 38(1)(a) – DA 306	43
2.23	Physical movement of goods	44
2.23.1	Exportation of goods from Customs warehouses	44
2.23.2	Road freight consignments	44
2.24	Abandoned wrecks along the coast of South Africa	45
2.25	Refunds and drawbacks	46
2.26	Amendments	49
2.27	Substitutions	51
2.28	Cancelations	53
2.29	Payments	53
2.30	Keeping of records	53
2.31	Penalties	54
2.32	Promotion of Administrative Justice Act	54

2.33	Appeals against decisions	55
<b>3</b>	<b>REFERENCES</b>	<b>55</b>
3.1	Legislation	55
3.2	Cross References	55
3.3	Quality Records	56
<b>4</b>	<b>DEFINITIONS AND ACRONYMS</b>	<b>56</b>
<b>5</b>	<b>DOCUMENT MANAGEMENT</b>	<b>59</b>

## 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 when goods are imported into or exported from South Africa, except when exempted by Rule. Declarants 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) users experiencing technical problems or difficulty, for example difficulty to insert the provisional payment (PP) requirements, must contact their Service Providers or the SARS Contact Centre to log a call.
- d) Customs can release the consignment or request supporting documents to validate the correctness of the CCD by means of a documentary inspection. The declarant 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. Declarants 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 declarant may apply for a sight declaration (DA 22).
- f) Declarants may request expedited clearances, conditional- or embargo release if the set criteria are complied with.
- g) 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) Declarants dealing with goods moved in transit with the temporary suspension of duties and VAT must retain the proof of export (paragraph 2.4(l) 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 registered foreign principal (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 declarants 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 declarant 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, substituted 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. **Reusable transport equipment is also cleared in this fashion.**
- 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 POLICY

### 2.1 Licensing and 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 importer or exporter:
  - 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:
    - A) Home consumption (code A11 and A12);
    - B) Temporary exports (code A13); or
    - C) Export (code H60 and H61).
  - iii) Is a natural person located in South Africa; and
  - iv) Reflects his / her identity number 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 into 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 stipulates 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 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 that are not cleared within the time period mentioned in (b) above must be removed to the States Warehouse (SC-CW-01-02).
- d) 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.
- e) Waste or Scrap
- i) Waste or scrap cannot be landed in South Africa without obtaining clearance and release. The client must submit a CCD to declare the importation into South Africa.
  - ii) All import requirements must be met.
- f) In certain circumstances the declarant must lodge a provisional payment (PP) as a 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.
- g) **Temporary Imports**
- i) The declarant completes a CCD which reflects the applicable rebate item, CPC and submits the CCD to Customs, refer to paragraph 2.9.
  - ii) A PP may be called for to cover possible duties and taxes due pending re-exportation of temporary imported goods (PPT). Refer to paragraph 2.12.
  - iii) When the goods which were received for repair or processing are exported the declarant submits proof of export to Customs in order to acquit the declarant of his / her liability for the duties and taxes. Refer to SC-TR-01-02.
  - iv) In cases where the conditions of the relevant rebate item cannot be met, the declarant remains liable for the duties and taxes.
  - v) Upon re-exportation the goods must be entered according to the relevant process.
  - vi) **When goods are temporarily imported under an ATA or CPD Carnet, no CCD is required. Refer to SC-TA-01-04 and SC-TA-01-06.**
  - vii) **Reusable transport equipment temporarily imported must be cleared on a DA 306. Refer to paragraph 2.22.2.**
- h) For assistance with:
- i) The value of goods imported see SC-CR-A-03 and SC-CR-A-05;
  - ii) Tariff classification refer to SC-CR-A-09;
  - iii) Goods liable to control requirements set by OGAs refer to SC-CC-32 as well as paragraph 2.6.
  - iv) The acquittal of the import CCD refer to SC-TR-01-05; and
  - v) Refunds 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 into 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) **Temporary Exports**
- i) The declarant 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) 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.
  - v) Upon re-importation the goods must be entered according to the relevant process.
  - vi) **When goods are temporarily exported under an ATA or CPD Carnet, no CCD is required. Refer to SC-TA-01-04 and SC-TA-01-06.**
  - vii) **Reusable transport equipment temporarily exported must be cleared on a DA 306. Refer to paragraph 2.22.2.**

g) **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.

h) It is the responsibility of the declarant 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.

i) The value of goods exported is discussed in SC-CR-A-07.

j) Where the goods concerned are to be re-imported; the declarant must complete a DA 65 and take it to Customs to check and stamp prior to export.

k) **Goods cleared for export not to be removed or returned without approval**

- i) Goods cleared for export and loaded onto any vehicle exporting the goods or placed into any Customs Controlled Area such as export stacks or cargo depots may not be removed there from and returned to the country without the permission of Customs.
- ii) Permission is requested by submitting:
  - A) Where the entire consignment is to be returned – a cancellation CCD; or
  - B) Where part of the consignment is to be returned – an amended CCD.
- iii) Customs may request supporting documentation to verify the reason for the request.
- iv) Where supporting documents are requested a letter clearly explaining why the goods need to be removed from the export stack must be submitted with the normal supporting documents, see paragraph 2.7.2.
- v) Where required Customs may request a physical inspection.
- vi) If the cancellation or amended CCD is released, Customs has granted permission and the goods may be removed from the export stack.
- vii) To resume the export an additional amended CCD may be submitted provided the original consignment has not yet departed or a new export CCD must be submitted.

l) **Proof of export requirements**

- i) 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.
- ii) 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.
- iii) A declarant 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.
- iv) 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.
- v) Electronically generated bills of lading must be accepted without the endorsement “Shipped on Board” but must conform to the following:
  - A) The shipped on board date must be clearly printed on the presented bill of lading (not the “Shipped on Board stamp impression).
  - B) The print date from the SARS system must be the same as or must be greater than the shipped on board date.
  - C) The date of issue as on the bill of lading must not be accepted as the shipped on board date.
  - D) An electronically generated bill of lading can be processed and printed at any place, for example Swaziland, Zimbabwe, etc.
  - E) Electronically generated bill of lading with disclaimers must not be accepted, for example dates or times are estimates without guarantee and subject to change at any time without prior notice, etc.



- F) The following information on the electronically generated bill of lading must correspond with the information on the processed CCD:
- I) Bill of lading number;
  - II) Exporter's name and address;
  - III) Consignee name and address;
  - IV) Consignee number, if applicable; and
  - V) Voyage or flight number and date.
- G) The website address of the shipping or airline must be printed on the electronically generated bill of lading.
- H) If the declarant cannot comply with the above requirements, the bill of lading 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>	<p>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, for example 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</p> <p>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 CCD.</p>
<b>Sea freight</b>	<p>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.</p>
<b>N 76</b>	<p>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.</p>
<b>Fast Forwarded or PX</b>	<p>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.</p>
<b>N 81 and CTO</b>	<p>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 CCD 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 CCD.</p>

Rail consignment note or Freight Transit Order	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.
Rail manifest	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.
Road export CCD	<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) 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>b) Where goods were packed and sealed under Customs supervision a copy of the inspection report and the endorsed application letter of the declarant must be provided. This verification in conjunction with the other documents already mentioned will be accepted for refund or drawback applications.</li> <li>c) Bonded cargo, for example national transit, international transit and ex-warehouse, requires the completion and submission of the duly completed DA 187.</li> <li>d) It is the responsibility of the trader to approach Customs in order to obtain endorsed copies of relevant documents.</li> <li>e) 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> <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> <ol 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> </ol>
Airfreight	<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>

**Airfreight (cont.)**

.....  
**AIRLINE DATE STAMP**

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.

m) Goods exported through the mail / post office is discussed in SC-MT-02.

## 2.5 Where origin must be proved

### 2.5.1 Import

- a) The declarant 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 declarant 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, for example 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 or Exports and reference must therefore be made to this list, when necessary. Refer to SC-CC-32.
- 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 declarant 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 declarant 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 declarant 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 declarants.
    - B) Declarants may download the software from the official SARS website or alternatively they may request a CD containing the software.
    - C) The declarant 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 declarant 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 2.4 of this document.
- e) **Scanning of supporting documents:**
  - i) When scanning documents the declarant 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 declarant 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 declarant 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 declarant 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.
- iii) 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 declarant and provide reasons.

### 2.7.2 Standard set of supporting documents

- a) The standard set of supporting documents (Section 39) the declarant 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) The client's written and signed clearing instructions (where not exempted from this requirement).
  - ii) 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.
  - iii) Packing list, if required to verify the CCD.
  - iv) Certificates, declarations or permits (if not produced and marked off electronically) if applicable.
  - v) 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 freight - signed document confirming what was loaded / accepted onto the truck, for example a road consignment note (contract of carriage) or any other transport document applicable;
    - E) Delivery or release order issued by shipping companies; and / or
    - F) Advice and delivery note or any other transport document applicable.
  - vi) 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, for example indents, commercial invoices, etc., that no further F.O.B. charges and commission will accrue the covering statement need not be called for.
  - vii) Landing, delivery order and / or forwarding order (LD&FO).
  - viii) 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.
  - ix) 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.
  - x) If a CCD is amended or cancelled resulting in an "over entry" the supporting documents listed in SC-DT-C-13 must be attached.
  - xi) 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 (See SC-CC-38);
  - 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 declarant 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. Blanket clearing instruction [one (1) clearing instruction used for all repetitive clearances] is not allowed. It is mandatory for importers and exporters to provide their clearing agents with clearance instructions in an approved form (see paragraph b below), for each CCD submitted to Customs, except where:
  - i) A single warehouse CCD is subsequently cleared out of the bonded warehouse on multiple CCDs. If the circumstances and purpose of each subsequent CCD is identical to the first ex warehouse CCD copies of this original clearing instruction can be used to clear all the ex warehouse CCDs.
  - ii) A single consignment is being cleared on more than one (1) CCD (split consignment). A copy of the clearing instruction used to clear the first part of the consignment can be used to clear all the CCDs related to that single consignment.
- 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 or certificates;
  - vii) Insert the declaration as below:
    - A) "I <insert full names>, request <insert clearing or registered 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 or 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 declarants' individual requirements.

- d) 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 OR BY FAX/E-MAIL" must be placed on the face of the clearing instruction.
- e) 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 or exporters to confirm the instructions in writing.
- f) If an importer desires to amend the Customs Procedure Code (CPC) under which a consignment was originally cleared, a fresh clearing instruction form must be completed (See SC-CF-04).
- g) The following goods are exempted from the issue of clearing instructions (Rule 39.03):
  - i) Unaccompanied baggage;
  - ii) Household effects, etc. of rebate item 407.06; and
  - iii) Goods cleared in terms of the simplified clearance procedure, Section 38(1).
- h) 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) 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.
- j) 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 (See SC-CW-01-04).

- k) The shipped on board dates can serve as the date of shipment of containerised goods and the bill of lading date must be used for bulk and break bulk cargo. 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.
- l) 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.
- m) 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.
- n) 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.
- o) 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, for example 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, for example 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) In the case of non-negotiable liner waybills in respect of containerised cargo on the UK or 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.



- vi) 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.
  
- p) 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 should 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, for example 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, for example 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 2.12.
  - 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 (See SC-CF-25).

- 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 declarant 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 2.12.
- 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 declarant 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 declarant 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 or by letter.

## 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 for processing and release by 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 or 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 declarant 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 declarant 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 declarant 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, for example item 522.03 the 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 and the notes to Schedule 5).

- 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, for example 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. Declarants, 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 declarant 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.
- ii) 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.
- iii) 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.
- iv) 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.
- v) 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.
- vi) The CCD is validated by the declaration system.
- vii) 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.
- viii) 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.
- ix) 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 or exporters or agents.



- x) 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.
- xi) No alteration of a CCD is permitted after the final acceptance, except by way of an amended CCD.
- xii) 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 send a 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 **GEN-PAYM-01-G01**; 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, if required.
- b) Refer to **GEN-PAYM-01-G01 – Payment Rules – External Guide** and paragraph 2.29.

## 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 declarant can prove that the temporarily 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 2.21.
  - 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, for example 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 or client.
- e) The PPs must be paid in cash by EFT, E-Filing or Cash desk at a Customs Branch Office but a maximum amount applies for payments on Cash desk.
- f) If a declarant 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 declarant 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;
  - ii) If a PP has been lodged to cover the duties and tax on a temporary import, the client must request an EWP to be conducted for verification purposes at the time of re-exportation;
  - iii) The re-exported goods must be readily reconciled with the goods originally imported. Without this verification and the proper proof of export, the PP cannot be liquidated in favour of the client; and
  - iv) 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 an Anti-dumping Duty may be imposed, 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 Countervailing Duties may be imposed, 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 a Safe Guard Duty may be imposed, 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 the applicable rate (%) = 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 declarants 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, for example 20% of R2 000. Similarly, specific rates of duty are based upon the quantities declared, for example 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 Schedules 3 and 4

### 2.14.1 Reduction of duties and taxes

- a) Declarants 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, for example 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, for example 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 / her possession.
    - B) Of any change or contemplated change:
      - I) No matter of what nature, in his / her legal identity, the name under which he or she trades;
      - II) The address of his / her registered premises;
      - III) The position,
      - IV) Size; or
      - V) Other particulars of his / 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 in 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 / 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 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.

### 2.14.3 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) The declarant must verify the following before submitting the CCD:
- i) The name and address of the registered manufacturer on the CCD agree in all respects with the corresponding particulars registered with Customs;
  - ii) The portion of the tariff heading reflected under any item of Schedule 3 agrees with the corresponding portion of the tariff heading on the CCD;
  - iii) The description against the tariff heading under an item agrees with the description on the CCD;
  - iv) Valid and adequate security exists;
  - v) The materials in question are admissible under the item cleared;
  - vi) The value and duty (if any) are correct;
  - vii) The CCD complies with the Schedule notes to the rebate item; and
  - viii) The names and addresses on the documents on which delivery is authorised agree with the corresponding particulars on the relevant CCD.

- e) **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 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.
- f) **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.
- g) The Commissioner will consider granting an extension on good cause shown, subject to conditions as he / she may impose in each case.
- h) 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.
- i) **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 outside South Africa 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) (l) 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 off” 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, for example 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.
- j) The circumstances under which CCDs under rebate may be refused are prescribed in Section 75(17).
- k) 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, for example duty collected on goods imported in passengers' baggage.
  - ii) Excisable goods and goods subject to VAT 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 declarant 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 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 or bond are applicable.
- c) 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.
- d) 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 declarant 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 declarant 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 declarant; 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) Declarants 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 Offences and Penalties 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 declarant 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 declarant 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, for example 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 Offences and Penalties Policy (SC-CO-01-02).
  - 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 declarant 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 declarant. 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 declarants 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

- a) In cases where Customs cannot determine from the invoiced particulars that the goods have been correctly entered, such consignments are 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 declarant 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 declarant has complied with the provisions of the Act or any other applicable legislation cease to apply to the goods.
- b) The declarant 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 declarant'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 number>.
  - iv) Importer's details, if not the applicant <insert name and Customs client number>.
  - v) Clearing Agent's details <insert name and Customs client number>.
  - 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 / declarant'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 declarant is notified that a physical exam of the goods is required or the consignment conveyed by road arrives at the border and the declarant 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 declarant 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 declarant 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 number>.
  - iv) Importer's details, if not the applicant <insert name and Customs client number>.
  - v) Clearing Agent's details <insert name and Customs client number>.
  - 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 / declarant'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 declarant 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 declarant will be notified in writing if the request was approved or not. If approved Customs will request the declarant to pay the appropriate amount of security on a PP (see SC-CF-25).
    - i) The declarant will be informed via CUSRES 26 message, the amount required as a PP for embargo release.
    - ii) The declarant 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 declarant 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 declarant submits an amended CCD to request liquidation of the PPE for Customs approval.

## 2.22 Simplified Clearance and Release Procedures

### 2.22.1 Sight declarations – DA 22

- a) The declarant 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.

### 2.22.2 Application for release of goods in terms of Section 38(1)(a) – 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) Reusable transport equipment**

- i) In addition to the goods mentioned in paragraph a) the DA 306 may be used for reusable transport equipment to enter or exit South Africa; and
  - ii) In these cases, should the identification marks and numbers not be available, the declarant may use countable quantities.
- c) 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).
  - d) The declarant verifies if the goods imported qualifies for the simplified clearance process. If the goods comply too obtain release the declarant:
    - 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.
  - e) Customs Officer must deal with DA 306 CCDs at the time of submission in the presence of the declarant. In the event that a physical inspection is required the Customs Officer must inform the declarant where to arrange for the inspection.

## 2.23 Physical movement of goods

### 2.23.1 Exportation of goods from Customs warehouses

- a) Any person who exports any goods from a Customs warehouse to any place outside 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.

### 2.23.2 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 declarant.
- 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 declarant 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).

## 2.24 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 appraisalment 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 dispose 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.

## 2.25 Refunds and drawbacks

- 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 and health promotion levy.
- b) An application for a drawback must 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.
- c) 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. Refer to SC-DT-C-13.
- d) Amended export CCD:
  - i) To insert the intention to claim a drawback will only be allowed on condition that the goods are not yet exported and are readily available for inspection. Refer to SC-CC-13.
  - ii) Where the drawback item or tariff heading is amended or inserted will only be accepted for drawback purposes, if the goods were still under Customs control in South Africa and are readily available for inspection.
  - iii) Where quantity is reduced and the goods have already left Customs control, 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.
- e) 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.

- f) 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.
- g) 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.
- h) 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 declarant 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.
- i) 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.
- j) 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 declarant's application letter to that effect enabling the declarant to use this letter as prove in their drawback application; and
  - B) The land post must endorse the declarant'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 declarant's application letter to reflect that an EWP was conducted; and
  - C) The result of the EWP must be reported on a P1.47;
  - D) 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 (proof of export).
- k) 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 declarant identifies a possible application of drawback item 522.03, due to the exportation of his / her goods.
  - iv) Submit the export CCD electronically.
  - v) The declarant 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 declarant 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 declarant must add the export MRN on the DA 63.
- vi) The declarant lodges his / her export CCD via EDI or manual. The export CCD can be submitted electronically or simultaneously with the DA 63 if the declarant submits a manual CCD (SC-CF-04).
- vii) 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 declarant conducts his / her business (see SC-DT-C-09 for the completion of the DA 63).
  - A) An export CCD with CPC H 62-11 must reflect a declarant'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, for example 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 declarant receives a CUSRES 13 notification, requesting supporting documents, a copy of the draft 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.
- viii) 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, for example 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.
- ix) The declarant submits:
  - A) The original DA 63 / DA 63A;
  - B) A copy consisting of the first and last page of the DA 63 / DA 63A (tracking copy); and
  - C) The supporting documents.
- x) To confirm that the DA 63 / DA 63A and the export CCD was received by Customs on the same day the Registry / Enquiry Officer must date stamp the date of receipt on the original DA 63 / DA 63A and the tracking copy in the top-middle of the DA 63 / DA 63A.
- xi) The Registry / Enquiry Officer must hand the client the tracking copy.
- xii) The onus rests upon the client / applicant to ensure that he / she receives a dated tracking copy of the application at the time of submission.
- xiii) 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.
- xiv) A copy of the finalised DA 63 will be returned to the applicant together with all the supporting documents.



## 2.26 Amendments

- a) Invalid or incorrect CCDs must be adjusted by the declarant 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 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 declarant 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. <insert number> dated <insert date>". 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 declarant 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) Declarant 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 declarant submits an amended CCD while the initial CCD is still within the inspection process;
  - ii) Customs requested an amended CCD and the declarant submits such amended CCD without a valid case number;
  - iii) Declarants submit amended CCDs reflecting a case number which is not valid; and
  - iv) The declarant submits an amended CCD to substitute the declaration. For assistance with substitution, refer to paragraph 2.28.
- 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 declarant (CUSRES 26) the declarant 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 declarant 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 declarant 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 declarant to submit a new CCD for processing;
      - II) Substitution (5): Must be used by the declarant to submit a request to substitute a prior CCD;
      - III) Change or Amendment (4): Must be used by the declarant to submit a request to amend a prior CCD; and
      - IV) Cancellation (1): Must be used by the declarant to submit a request to cancel a prior CCD.

- B) Refer to SC-CF-04.
- ii) **Manual submissions**
  - A) The declarant requests or submits the request to amend, cancel 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, cancelations and substitutions.
    - III) CCDs that exceed ten (10) lines must be submitted via EDI.
  - B) When a declarant 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 Substitutions

- a) In terms of Section 40(3)(a) the declarant may apply for a substitution of a CCD if:
  - i) The original duty paid CCD (A 11) has been declared in error and not according to the clearing instructions and is replaced by:
    - A) An E 40.00 CCD; or
    - B) A CCD for goods qualifying under any item of Schedule 3 or 4 with its corresponding CPC combination. The declarant must be able to prove that all the requirements of that specific rebate item has been complied with at the time the duty was paid on the original CCD.
  - ii) An importer, exporter or manufacturer has cleared the goods under one (1) Customs procedure but cannot carry on with the declared procedure due to circumstances not known at the time of clearance.
- b) Allowable time periods
  - i) Applications for a substitution of a CCD must be received by Customs within a period of six (6) months from the date of original duty paid CCD, except when dealing with substitutions in terms of:
    - A) Section 40(3)(aA), amendment of tariff headings with retrospective effect or amendment of determinations in respect of Section 40(3)(b)(ii) - the six (6) months must be calculated from when the amended tariff heading or determination came into force.
    - B) Section 75(14A) and 75(14B), granting of retrospective permits issued by ITAC in exceptional circumstances - the six (6) months must be calculated from the date of the letter or notification from ITAC on which the retrospective permits are issued.
  - ii) Where no duties has been paid on the original CCD Customs must receive the application for a substitution within a period of one (1) month from the date of the original (code 9) CCD. Refer to paragraph (a)(ii).
  - iii) There is no provision for the Commissioner or Controllers / Branch Managers to extend this period. Applications received for substitution which fall outside the period mentioned above must be rejected.
- c) Permission to substitute must be obtained from Customs. The declarant must ensure that the goods are covered by a CCD at all times [Rule 40.02(b)] by submitting:
  - i) First the substitution (code 5) CCD:
    - A) With the rate of duty applicable at the time of the
      - I) Assessment of the original CCD; or
      - II) Acceptance date of the original CCD.
    - B) Inserting in the additional information column the code VTE if VAT was paid on the original CCD.
    - C) If an import permit is applicable: endorsed "Import permit originally produced in respect of substituted CCD number <insert number> dated <insert date>".

- ii) Then the cancellation (code 1) of the original CCD, which is dealt with as an amended CCD and must be endorsed to the effect:
  - A) "This CCD is cancelling the original (code 9) CCD" <insert MRN number> of original CCD"; and
  - B) Where applicable "Permit / No permit reinstatement, see CCD Number <insert MRN number> of substitution CCD".
- d) The following documents must be uploaded to the case by the declarant when the substitution (code 5) CCD or cancellation (code 1) CCD is stopped for documentary inspection:
  - i) Attached to both:
    - A) A signed and dated letter detailing the reasons for the substitution on the declarant's company letter head containing the following minimum information:
      - I) Local- (LRN) and Movement reference number (MRN) of the original (code 9) CCD.
      - II) Applicant's name and Customs client number.
      - III) Importer's name and Customs client number, if not the applicant.
      - IV) Clearing agent's name and Customs client number.
    - B) The first page of the original CCD.
    - C) In cases where they are not already submitted for the original (code 9) CCD:
      - I) The invoice;
      - II) The worksheets;
      - III) The transport documents; and
      - IV) The clearing instructions.
    - D) The standard set of supporting documents as listed in paragraph 2.7.2(a).
    - E) Any other documentation requested by the Customs Officer.
  - ii) Attached to the cancellation (code 1) CCD:
    - A) Copy of the substitution (code 5) CCD, reflecting the LRN and / or MRN.
    - B) If the cancellation (1) CCD results in an over-payment, a CR1 must be completed and attached. The conditions for a refund application as contained in SC-DT-C-13, is applicable.
  - iii) Attached to the substitution (code 5) CCD:
    - A) An inspection report, if conducted or an EWP.
    - B) Permits or certificates if applicable. If insufficient amounts are available on the permit / certificate the declarant must log a call for assistance. Refer to paragraph 1(c).
- e) A physical inspection can be required. The declarant must make a booking for the inspection with the relevant Customs team, taking a copy of the reason for substitution letter and the request from the Adjustment Officer to submit an inspection report.
  - i) If the goods are still in the Customs control area the Physical Inspection (PI) team must conduct the inspection.
  - ii) If the goods are no longer in the Customs control area the Supervision team must conduct the inspection (SC-CF-22).
- f) When the declarant makes a booking for an inspection the Operations Manager of the Physical Inspection or Supervision team must use his / her discretion to decide if an inspection can be conducted.
  - i) If an inspection is not conducted the Operations Manager must endorse the declarant's reason for substitution letter detailing the reasons why the inspection was declined.
  - ii) Where an inspection is conducted:
    - A) The location where the inspection takes place is at the discretion of the Controller / Branch Manager.
    - B) If necessary, the goods must be delivered to the State Warehouse or any other location for inspection on an agreed date. The removal of the goods to the indicated premises for an inspection for the purpose of opening, unpacking or repacking must be performed at the risk and expense of the declarant.
    - C) The following policies and procedures apply:
      - I) State Warehouse (SC-CW-01-04); and
      - II) Special and Extra Attendance (SC-CF-22).
    - D) The result of the inspection must be reported on the inspection report.

- iii) The declarant uploads the inspection report or, if no inspection was conducted, the endorsed reason for substitution letter, to the case.
- g) After verification of the substitution (code 5) and cancelation (code 1) CCD compliant CCDs are accepted on the system and the request for substitution approved.
- h) If the cancelation (code 1) CCD is rejected, the declarant must cancel the substitution (code 5) CCD stating in the reason that the substitution was not approved – “cancelled not acted upon”.

## 2.28 Cancelations

- a) The declarant must submit a cancelation CCD to Customs when:
  - i) A CCD is lodged but the goods did not arrive.
  - ii) Goods have been declared with an incorrect Procedure Category Code (PCC) and a substitution is required (2.28).
  - iii) A CCD is lodged, but
    - A) Goods cannot be used according to the PCC or Customs Procedure Code (CPC) combination declared; or
    - B) The declarant is not entitled to clear goods under the original PCC or CPC combination declared (paragraph 2.27).
  - iv) A CCD is lodged in duplicate, meaning two (2) identical CCDs for the same consignment were lodged. These CCDs could have been lodged by one (1) declarant or more.
- b) Deferment clients may cancel a CCD without paying the amount due, if the amendment is done within the deferment period. Refer to SC-DT-B-02 for the deferment process.
- c) If a CCD relates to a cash clearance on which a PRN has been issued the client must first pay the amount due before the CCD may be cancelled.
- d) If a declarant can prove dual clearance and:
  - i) One (1) of the CCD involved in the dual clearance has been stopped for an inspection, that case must be finalised before a cancelation CCD can be submitted.
  - ii) Both of the CCDs in the dual clearance have been stopped, then both the cases must be finalised before a cancelation CCD can be submitted.
  - iii) Both of the CCDs in the dual clearance have been released by the system then the CCD that was not presented to the release authority to obtain release of the goods must be cancelled.
- e) CCD that contains a PP for PPE on line one (1) must not be cancelled unless the amended CCD liquidates the PP.
- f) When cancelling a complete CCD the “AFTER TOTAL LINES” in the header of the amended CCD must be left blank.
- g) A cancelation CCD, after acceptance closes the original CCD and no further transaction or action against the original CCD or cancelation CCD will be possible.

## 2.29 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 [GEN-PAYM-01-G01](#).

## 2.30 Keeping of records

- a) Every declarant 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 declarant must produce such books, accounts and documents on demand.

### 2.31 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 declarant 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.

### 2.32 Promotion of Administrative Justice Act

- a) The Promotion of Administrative Justice Act (PAJA) No. 3 of 2000 gives effect to everyone's right to administrative action that is lawful, reasonable and procedurally fair. Any person whose rights have been adversely affected by administrative action has the right to be given written reasons, as contemplated in Section 33 of the Constitution of the Republic of South Africa, 1996. PAJA:
  - i) Provides for the review of administrative action by a court or where appropriate, an independent and impartial tribunal;
  - ii) Imposes a duty on the State to give effect to those rights;
  - iii) Promotes an efficient administration as well as good governance; and
  - iv) Creates a culture of accountability, openness and transparency in the Public Administration or in the exercise of a public power or the performance of a public function, by giving effect to the right to just administrative action.
- b) Administrative action which significantly and unfavourably affects the rights or valid expectations of any person must be procedurally fair. A fair administrative procedure depends on the circumstances of each case.
- c) A person must be given:
  - i) Written reasons of the nature and purpose of the proposed administrative action;
  - ii) A reasonable opportunity to make representations;
  - iii) A clear statement of the administrative action; and
  - iv) Adequate notice of any right of review or internal appeal, where applicable.
- d) **Just administrative action requires the Customs Officer to consider all the facts presented and obtained in addition to affording the client the opportunity to be heard, prior to instituting any administrative action.**
- e) Before administrative action can be taken by Customs the declarant must be allowed the opportunity to:
  - i) Obtain assistance and, in serious or complex cases, legal representation;
  - ii) Present and dispute information and arguments; and
  - iii) Appear in person.
- f) Declarants whose rights have been significantly and unfavourably affected by administrative action and who have not been given reasons for the action may, within ninety (90) days after the date on which the declarant became aware of the action, request Customs to furnish written reasons for the action.
- g) Customs must within ninety (90) days after receiving the request, give the declarant adequate reasons in writing for the administrative action. If Customs fails to furnish adequate reasons for the

administrative action, it is presumed in any proceedings for judicial review that the administrative action was taken without good reason.

### 2.33 Appeals against decisions

- a) In cases where declarants 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 declarants disagree with a decision of any appeal committee their recourse will be to lodge an application for ADR (Alternative Dispute Resolution) with the relevant appeal committee. The committee will add its comments thereto and forward the application to the ADR Unit for attention. The policy in this regard, as well as the process to be followed is contained in document SC-CC-26.

## 3 REFERENCES

### 3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	<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), 47(9)(d); 50A, 52, 59A, 64D, 64E, 72, 75 (10)(a)-(c); 75(14B)(b)(i)-(iii); 76B(a)-(e), 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 <b>Customs and Excise Rules:</b> 38, 39, 40, 41; 59A.03(1), 59A.03, 101A, 119A 120 – 120.07, and 201.10 <b>Value-Added Tax Act No. 89 of 1991:</b> Sections 7(1)(b), 13
Other Legislation:	<b>Promotion of Administrative Justice Act No. 3 of 2000:</b> Section 3 and 5
International Instruments:	<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, <b>Chapter 4(C) Repayment of duties and Taxes - All</b> <b>WCO Framework of Standards:</b> Annex 1 Standard 1.2 and 1.3.3 <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

### 3.2 Cross References

DOCUMENT #	DOCUMENT TITLE
GEN-PAYM-01-G01	Payment Rules – External Guide
SC-CC-24	Internal Administrative Appeal – External Policy
SC-CC-26	Alternative Dispute Resolution – External Policy
SC-CC-32	Prohibited and Restricted Goods – External Policy
SC-CC-38	Reporting of Conveyance and Goods – 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 Policy
SC-CF-22	Special and Extra attendance – External Policy
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 Policy
SC-CR-A-03	Valuations of Imports – External Directive
SC-CR-A-05	Method 1 Valuation of Imports – External Policy
SC-CR-A-07	Valuation of Exports – External Directive

DOCUMENT #	DOCUMENT TITLE
SC-CR-A-09	Tariff Classification – External Directive
SC-CW-01-04	States Warehouse – External Policy
SC-DT-B-02	Deferments – External <b>Policy</b>
SC-DT-C-09	Completion of DA 63 – External Manual
SC-DT-C-13	Refunds and Drawbacks – External <b>Policy</b>
SC-MT-02	International Mail – External Policy
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 <b>Policy</b>
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

ADR	Alternative Dispute Resolution
ATA	Admission Temporaire / Temporary Admission
Blanket clearing instruction	Open ended clearing instruction that is signed by the importer or exporter but does not pertain to a specific consignment
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 & F	Costs and Freight
C.I.F.	Costs Insurance and Freight
C.I.F.C	Costs Insurance Freight and Commission
C.I.F.I	Costs Insurance Freight and Interest
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.
CCC	Customs Compliance Centres
CCD	Any CCD made to declare goods imported, exported, moved in bond or transit or moved across the borders between the SACU countries
CN 1	Customs Notification 1 is used to notify declarants of the status of CCDs submitted, which may include specific actions required, for example 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 declarant 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 CCD level on the vehicle and is scanned at the point of exit which serves as prove that the goods left South Africa.
<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>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 CCD process this Officer deals with case involving an amended CCD; or</li> <li>b) Documentary Inspector – In the CCD process at the CCC, 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 CCD process at the CCC this Officer will perform the duties of a Quality Assuror; or</li> <li>d) Physical Inspector – This Officer conducts a physical inspection at the declarant's premises; or</li> <li>e) Branch Office - The Client Interface, Team Support, Enquiry Officer, Data Capture or Assessment Officer.</li> </ul>
<b>Customs Office</b>	<b>Source</b> The Customs Branch Office nearest to the exporter's place of business
<b>Declarant</b>	<ul style="list-style-type: none"> <li>a) Any natural or legal person who makes a CCD or in whose name such a CCD is made.</li> <li>b) The declarant may be any natural or legal person who makes a CCD whether in his / her own name and on his / her own behalf or in the name and on behalf of another natural or legal person or in his / her own name but on behalf of another natural or legal person.</li> <li>c) A natural person is any individual human being. A legal person is a person(s) representing a company, firm organisation, closed corporation etc.</li> </ul>
<b>DI</b>	Documentary Inspector
<b>Drawback</b>	When part or all of the import duties are refunded to importers after the following conditions are met: <ul style="list-style-type: none"> <li>a) Importer is registered in terms of the Act - Schedule 5 Part 1;</li> <li>b) Goods are manufactured from imported products; and</li> <li>c) End products have been legally exported out of the Customs Union</li> </ul>
<b>EDI</b>	Electronic Data Interchange
<b>Embargo release</b>	Embargo release is the term given to the process whereby the declarant gets permission to have the goods inspected at their premises instead of the Customs controlled area
<b>EWP</b>	Examination Without Prejudice
<b>Examination of goods</b>	The physical inspection of goods by the Customs to satisfy themselves that the nature origin, condition, quantity and value of the goods are in accordance with the particulars furnished in the goods declaration
<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>F.O.B.</b>	Free on Board
<b>FCL container</b>	A container with a full container load, containing goods from one (1) or more exporters to one (1) importer. These containers are delivered to container terminals.
<b>FOR</b>	Duty Tax Type: Provisional payment amounts for Forfeiture
<b>In bond</b>	Refer to definition "removal of goods in bond"
<b>In transit</b>	Refer to definition "removal of goods in transit"
<b>Inward processing</b>	The Customs procedure under which certain goods can be brought into a Customs territory conditionally relieved from payment of import duties and taxes, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation. This facility is provided for in the Act in the form of rebate provisions which can be found in Schedule 4
<b>ITAC</b>	International Trade Administration Commission of South Africa

<b>Kyoto Convention</b>	The expression commonly used to refer to the International Convention on the Simplification and Harmonisation of the Customs Procedures adopted by the Customs Co-operation Council in Kyoto in 1973
<b>LD&amp;FO</b>	Landing, delivery order and / or forwarding order
<b>LRN</b>	Local Reference Number
<b>MRN</b>	Movement Reference Number
<b>PAIA</b>	Promotion of Access to Information Act
<b>PAJA</b>	Promotion of Administrative Justice Act
<b>PCC</b>	Procedure Category Code
<b>PEN</b>	Duty Tax Type: Provisional payment amounts for Penalties
<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 Safeguarding
<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>Rebate</b>	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
<b>Re-exportation</b>	Exportation from a Customs territory of goods previously imported into that territory
<b>Re-importation</b>	Importation into a Customs territory of goods previously exported from that territory
<b>Removal of goods in bond</b>	The removal of goods from a place of entry or warehousing place to another place of entry or warehousing place in certain approved instances where the duties on such goods have not been paid
<b>Removal of goods in transit</b>	The direct transportation of goods on which duty has not been paid, from a place of entry in South Africa through the Customs Union to a place outside the Customs Union
<b>Reusable transport equipment</b>	Equipment of a durable nature, manufactured for repeated use without further alteration, designed for the continuous use in the transport of goods in the ordinary course of trade, for example: <ul style="list-style-type: none"> <li>a) Containers contemplated in Section 1(2);</li> <li>b) Unit load devices;</li> <li>c) Pallets;</li> <li>d) Racking equipment, specially designed to protect a specific type of goods;</li> </ul> or <ul style="list-style-type: none"> <li>e) Material used to pack, cover, protect, stow or separate goods</li> </ul>
<b>Rule</b>	A Rule made by the Commissioner under the Customs and Excise Act
<b>Rules of origin</b>	Specific provisions, developed from principles established by national legislation or international agreements ("origin criteria"), applied by a country to determine the origin of goods
<b>SACU</b>	The Southern African Customs Union, consisting of: <ul style="list-style-type: none"> <li>The Republic of South Africa</li> <li>The Republic of Botswana;</li> <li>The Kingdom of Lesotho;</li> <li>The Republic of Namibia; and</li> <li>The Kingdom of Swaziland</li> </ul>
<b>SAD</b>	Single Administrative Document
<b>SADC</b>	Southern African Development Community
<b>Samples</b>	Articles which are representative of a particular category of goods already produced or are examples of goods the production of which is contemplated; the term does not include identical articles brought in by the same individual or sent to a single consignee, in such quantity that, taken as a whole, they no longer constitute samples under ordinary usage
<b>SARS system</b>	Declaration processing system
<b>Seal</b>	A piece of metal or other material used to join together two (2) ends of a fastening in a secure manner
<b>Taxes</b>	Referred to in this document means levies or VAT paid at time of importation of goods

Temporary admission	The Customs procedure under which certain goods can be brought into a Customs territory, conditionally relieved from payment of import duties and taxes; such goods must be imported for a specific purpose and must be intended for re-exportation within a specified period and without having undergone any change except normal depreciation due to the use made of the goods
Temporary import	A type of import where the importer's attention is to later re-export the goods. Duties are not pay at time of importation, but a PP is required to be lodged to cover the duties until re-export is proven when the PP is liquidated and refunded to the declarant.
Transit	Refer to definition " removal of goods in transit"
Transit shed	A storage facility, approved by Customs, normally situated within a Customs controlled area at the place of entry or exit for the purpose of temporary storage of unlearned goods until due entry has taken place in terms of Section 38
Transport document number	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
VAT	Value-Added Tax
VDN	Value Determination Number
Verification	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
WIMS	Warehouse Inventory Management System

## 5 DOCUMENT MANAGEMENT

Standard Owner	Group Executive: Customs Branch
Detail of change from previous revision	<p>a) Added reusable transport equipment in document which includes:</p> <p>i) Imported or exported reusable transport equipment in the allowable goods cleared on a DA 306; and</p> <p>ii) The definition of reusable transport equipment.</p> <p>b) Appeals against decisions in terms of import VAT penalties can be made in terms of the Customs and Excise Act. Reference in this regard to the Tax Administration Act 28 of 2011 (TAA) has therefore been removed from Customs policies and Standard Operating Procedure.</p> <p>c) Substituted references to BP-01 - Customs and Excise Payments – Internal Policy with GEN-PAYM-01-G01 - Payment Rules – External Guide as it has been replaced.</p>
Template number and revision	ECS-TM-03 - Rev 8