

DISPOSAL METHOD OF CLOTHING, TEXTILES, LEATHER AND FOOTWEAR (CTLF) GOODS

1. BACKGROUND

The Customs State Warehouse as an integral part of Customs and Excise is administered in terms of The Customs and Excise Act No. 91 of 1964 (the Act) as amended. The Act provides the regulatory framework in order to facilitate legitimate trade whilst the State Warehouse (SWH) is instrumental regarding the detention, storage, payments, seizure and disposal of goods; which negatively impact legitimate trade. This is further entrenched in terms of South African Revenue Service Act No. 34 of 1997 that enacts SARS as the organization mandated to ensure maximum compliance with Tax and Customs legislation.

Previously, the State Warehouse would dispose of the clothing and textile by shredding the goods and thereafter dumped with soil, chemicals and water at the landfill sites. A certificate of safe disposal would then be provided by the service provider to authenticate the safe disposal of the goods. This disposal process from start to finish was undertaken and strictly monitored by the Customs Supervision Team as well as a State Warehouse Officer and a Physical Security Officer. As per office practice, this continued with no impediments nor non-compliance cited with the process.

An agreement was instituted in 2009¹ and 2012² stemming from engagements with National Economic Development and Labour Council (NEDLAC) to have CTFL goods disposed by auctioning goods for export off the African continent instead of destruction. This practise has been carried on since with no CTFL goods being destroyed by the SWH.

It has been discovered that there is a high occurrence of the goods mentioned above that are sold on auction / tender for export off the African continent or export outside SACU being rerouted back to South Africa, thus compromising the country's economy .

Due to this risk of the goods being brought back into the country, it stands to reason that these goods be disposed of by means of destruction in terms of the State Warehouse – Internal Policy and Standard Operating Procedure (SOP).

¹ Draft NEDLAC Report in Respect of Textile, Clothing and Footwear

²NEDLAC Report Of The Task Team On Customs Fraud And Illegal Imports

The disposal of CTFL goods would be conducted in a manner that is compliant with the environmental standards as prescribed by the National Environmental Management: Waste Act No. 59 of 2008. To ensure SARS compliance with environmental standards, a new process of shredding and recycling would be undertaken. A service provider/(s) will be appointed to undertake the shredding and recycling of the goods with the resultant VAT being paid over to SARS.

2. CURRENT STATE

The CTFL goods that are detained and stored in the SWH are due to a variety of reasons including undervaluation, misdeclaration of goods description and quantity, diversion, abuse of rebates, and labelling and Intellectual Property Rights (IPR) infringements. The SWH is currently experiencing capacity constraints due to the volume of CTFL goods that are ready for disposal but cannot be disposed through the destruction process. The lack of space in the warehouses also has an impact on the shipping lines as they need the goods to be removed to the SWH in order to free up their containers and this may result in litigation against SARS.

The table below is an overview of the number and of CTFL goods at the various SWH and the places deemed to be SWH (depots) as at February 2021:

MODALITY	Total number of goods at the warehouse (various packages i.e bags, cases, bales, pieces etc.)	Total weight of the consignments (tons)	Total number of goods at the depots	Total weight of the consignment(tons)
SEA	154	890.06	36	648.49
AIR	281	4.7	65	10
LAND 1	474	1,94	0	0
LAND 2	29	1.05	0	0
LAND 3	361	46.82	0	0
		942.63		658.49

Destruction through shredding and recycling of goods will result in the following benefits for SARS and the country as a whole:

- Prevention of CTFL goods diversion
- Growing the local clothing and textile industry
- Unburdening the state warehouses with goods
- Cleaner environment

- More space at warehouses to decrease reliance on depots
- Avoidance of lawsuits from shipping lines for goods that take long to dispose
- Revenue increase through the VAT payable the recycling company
- Job creation

3. FINANCIAL IMPLICATIONS

- Growth of our clothing textile industry by preventing diversion of goods
- Cost benefit of VAT is expected from the service provider

4. RECOMMENDATION

It is recommended that the disposal method for CTFL goods by way of destruction by means of shredding and recycling in accordance with the State Warehouse Internal Policy and SOP be adopted as the primary means of disposal.