

CUSTOMS AND EXCISE

EXTERNAL

TERMS OF REFERENCE

STAKEHOLDER ENGAGEMENT

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1 SCOPE

- a) This document applies to meetings between SARS and members of industry, for example industry organisations, associations and labour unions and when required Other Government Agencies (OGAs). The key members will depend on the industry in question or whether the meeting is conducted on a national, regional, multi- or bi-lateral level.
- b) The terms of reference (TOR) deals with the:
 - i) Composition of the Customs and Excise:
 - A) National Stakeholders Forum;
 - B) National Operations Stakeholder Forum;
 - C) Regional Stakeholder; and
 - D) Key Industry meetings.
 - ii) Functions of stakeholder engagement.
 - iii) Responsibilities of the Chairperson, the secretariat if situated in SARS, members and that of *ad hoc* invited participants.
 - iv) Requirements of the meeting proceedings to ensure:
 - A) Compliance with the principles of good governance; and
 - B) Communication regarding discussions and recommendations by the stakeholder engagement.

2 MANDATE

- a) Stakeholder engagement aims to identify opportunities for collaboration between the South African Revenue Service (SARS) and external stakeholders by working towards a framework of cooperation to establish a better partnership between SARS and industry by taking the following into consideration:
 - i) The protection of South Africa's economy, fiscus and people.
 - ii) Ensuring the efficient and effective regulation of Customs and Excise processes, such as:
 - A) Registration;
 - B) Reporting;
 - C) Customs clearance declaration, which may include but are not limited to cross-border movement of goods, warehousing of goods; as well as prohibited and restricted goods and sectorally controlled goods, including counterfeit goods.
 - D) Payment;
 - E) Inspection;
 - F) Offences and Penalties; and
 - G) Disputes.
 - iii) Improving South Africa's reputation as a reliable and trustworthy trade partner by promoting trade facilitation and traders' compliance with Customs and Excise legislation.
- b) Stakeholder engagement:
 - i) Represents the collective interest of its members in interaction with organs of State and public entities by:
 - A) Informing members of trade trends, requirements or developments that impacts on business;
 - B) Providing advice on issues to enhance trade facilitation and compliance; and
 - C) Reviewing challenges experienced in SARS or by industry in order to:
 - I) Suggest strategic business directions; and
 - II) Best practices.
 - ii) Endeavours to improve compliance and trade facilitation by:
 - A) Maintaining standards and timeframes;
 - B) Exploring the alignment of trade practices and Customs and Excise processes;
 - C) Promoting the removal of trade impediments, non-tariff barriers and/or technical barriers to trade; and
 - D) Recommending practical and effective solutions that enhance the South African supply chain and deals with constraints.
 - iii) Represents the collective interest of its members in interaction with organs of State and public entities by informing members of trade trends, requirements or developments that impacts on business.

- c) The following existing stakeholder engagements are mandated:
 - i) National Stakeholders Forum deals with regulatory or strategic issues;
 - ii) National Operations Stakeholder Forum addresses any operational issues that impacts more than one (1) regional Customs and Excise office and therefore cannot be addressed at regional or branch office level;
 - iii) Regional Stakeholder (Customs Compliance Centre and Branch Office) engagements discuss the day-to-day operational issues experienced by clients when conducting business within their regions which cannot be resolved bilaterally with SARS; and
 - iv) Key Industry engagements are held to discuss operational or strategic issues limited to the specific industry.

3 MEMBERSHIP

- a) Stakeholder engagements are at the discretion of SARS and membership by industry organisations and labour is not an entitlement. Members’ representatives must be appointed by their respective organisations.
- b) Non-SARS members of the meeting are accountable to the organisations that they represent, in line with their governance structures and practices.
- c) Members will execute responsibilities assigned to them by the relevant stakeholder meeting:

STAKEHOLDER ENGAGEMENT	CHAIRPERSON	DEPUTY CHAIRPERSON	SARS MEMBERS	OTHER MEMBERS	INDUSTRY MEMBERS
National Stakeholder Forum	Director: Customs Border Operations, Port of Entry & Customs Compliance (Customs Director)	The officer who is appointed to act on behalf of the Chairperson during the time of his / her absence	Customs Cluster Chairpersons or their delegated representatives (if they are unavailable) and other SARS Officials, depending on the items on the agenda	OGA, if required; Labour, if required; and Any other Officer appointed by the Chairperson as a full member	Industry associations / organisations as represented by duly authorised persons
National Operation Stakeholder Forum	Customs Executive as designated by the Customs Director				
Regional Stakeholder Key Industry Branch Office	The Chairperson for any regional and other stakeholder meetings must be appointed and accepted in writing		SARS Officials, depending on the items on the agenda, or their delegated representatives		

- d) If the Chairperson cannot attend a meeting, the Deputy Chairperson may act on behalf of the Chairperson. If neither the Chairperson nor the Deputy Chairperson can attend the scheduled meeting, a member may be appointed in writing to lead the meeting on behalf of the Chairperson.
- e) The Chairperson must appoint the committee members and secretariat. The Chairperson may nominate an officer to act in the role of an Administrative Officer to deal with the administrative work.
- f) The member appointments must be noted on the minutes by the secretariat (SR-01-A02).

- g) SARS reserves the right to terminate membership, after fair notice, should conditions arise under which SARS considers that the continued membership of the affected person or industry organisation is no longer desirable or compatible with the aims and objects of the stakeholder engagement or of SARS.
- h) Invited specialists and other participants may join the meeting to provide expert knowledge to the Chairperson and committee members per subject matter and for that subject only in order to make informed recommendations.

4 QUORUM

- a) For the Stakeholder Forum meeting to proceed there must be at least ten (10) industry representatives and five (5) SARS Officials (including the Chairperson) present.
- b) If a quorum of more than 50% is not achieved the meeting may not take place.
- c) Invited specialists and other participants joining the meeting to provide expert knowledge to the Chairperson and committee members in order to make informed recommendations do not form part of the quorum.

5 DISCLOSURE OF ANY (POTENTIAL) CONFLICT OF INTEREST

- a) The Chairperson must, at the beginning of each meeting, ascertain the existence of current or potential conflicts of interest for any item reflected on the agenda.
- b) Members must disclose any such conflict of interest to the Chairperson and must then be excused from the meeting during the deliberation of the case in which they have a current (potential) conflict of interest.
- c) At the discretion of the Chairperson, enquiries may be made into potential conflict of interest and the member indicating conflict of interest could be questioned and / or requested to provide information supported with evidence.
- d) The Chairperson may rule on the continued participation of the effected member. Such ruling may be based on a justifiable finding of conflict of interest or as a matter of caution.
- e) The secretariat must accurately note the disclosure of conflict of interest, keep record of the proceedings relating thereto and any ruling by the Chairperson.

6 MEETING PROCEEDINGS

6.1 Meeting prerequisites

- a) Meeting dates set by the Chairperson must be confirmed by electronic invitations, issued to all the members prior to the meeting.
- b) Meetings will be held at an identified SARS Office unless otherwise stipulated.
- c) Meetings must be scheduled as indicated below or as followed or if required on an *ad-hoc* basis with permission of the Chairperson:
 - i) The National Stakeholder Forum meeting must be scheduled at least twice (2) a year.
 - ii) The National Operations Stakeholders Forum meeting must be scheduled once a month.
 - iii) Any other stakeholder meeting must be scheduled as agreed by the members.
- d) The meeting must be:
 - i) Governed by the relevant legislation, the SARS Governance Framework and SARS policies;
 - ii) Outcome-focused; and
 - iii) Must proceed according to the agenda.

- e) The action list (SR-01-A04) must be maintained on a financial year basis.

6.2 Pre-meeting

- a) All agenda items must be submitted to the secretariat before or on the date as agreed in the meeting minutes (SR-01-A01).
- b) Responsibilities of the secretariat:
 - i) Providing logistical and secretarial support.
 - ii) Ensuring availability of a meeting venue which includes telecom facilities.
 - iii) Forwarding an electronic invitation to the Chairperson, committee member(s) and invitee(s) in the agreed timeframes.
 - iv) Ensuring that the agenda (SR-01-A01) is correct and that the relevant officers and or invited persons for each agenda item have been identified and invited and the time slots allocated;
 - A) Assimilate and scrutinise all relevant stakeholder inputs and requests in order to set the agenda for the stakeholder meeting.
 - B) The industry representatives must inform their members on the reasons for the rejection of their request not being placed on the agenda, if applicable.
 - v) Forwarding an electronic agenda to the Chairperson, Committee Member(s) and invitee(s) prior to the meeting;
 - vi) Confirming the relevant Forum Members inputs and requests are assimilated and scrutinised in order to set the agenda (SR-01-A01) for each the Stakeholder Forum meeting;
 - vii) Attaching the upcoming meeting's SR-01-A01 and the previous meeting SR-01-A02 together with any reports and ancillary documents to the electronic invitation; and
- c) The Chairperson must ensure that representatives from affected business units are identified and invited to the meeting if there are matters for discussion which affect such business units.
- d) Responsibilities of the members and invited participants must:
 - i) Give written notice to the Chairperson and the secretariat at least three (3) working days prior to the meeting if they are unable to attend the meeting. At the same time, they must also submit the names of their delegated representatives, as applicable.
 - ii) Scrutinise the agenda, previous minutes and any other documents circulated and prepare thoroughly before the meeting.
 - iii) Be satisfied that, objectively, they have been furnished with all the relevant information and facts in relation to a matter on the agenda.

6.3 Meeting

- a) The attendance register (SR-01-A03) must be distributed and completed by all the attendees.
- b) If the appointed members of a stakeholder meeting has agreed to sign the terms of reference the signature page (SR-01-A06) which caters for amendments, must be signed.
- c) The Chairperson must:
 - i) Manage the meeting according to the agenda;
 - ii) Conduct the opening of the meeting by:
 - A) Opening the meeting and welcoming all attendees; and
 - B) Establishing the members present, apologies received and absentees.
 - iii) Ascertain the existence of any conflicts of interest (refer to paragraph 5);
 - iv) Confirm and sign the minutes of the previous meeting on SR-01-A02 after noting disagreement and proposed amendments;
 - v) Confirm the agenda and establish new discussion points to the agenda that are not tabled, if any; and
 - vi) Oversee the discussion and allocate sufficient time to deliberate on complex matters or where additional information is required before a recommendation can be made.

- d) The secretariat must accurately note:
- i) The attendees in the appropriate field on SR-01-A02 clearly indicating whether the attendee is a member or not.
 - ii) Discussions and recommendations on SR-01-A02.
 - iii) SR-01-A03 must be updated with the name of all the attendees clearly separating the members from the invitees as only the Chairperson and committee members or their delegated representatives will have a vote, if required.
 - iv) Actions on SR-01-A04:
 - A) SR-01-A04 must contain action points (action items) emanating from recommendations made during the meetings throughout the financial year;
 - B) Outstanding tasks must be kept open until completion;
 - C) Completed tasks must be marked off; and
 - D) Outstanding tasks must be carried to a new action list at the beginning of each financial year.
- e) Forum Members must:
- i) Consider all the relevant facts;
 - ii) Participate constructively and transparently in the discussion and utilise their knowledge and skills in deriving at recommendations;
 - iii) Ensure recommendations are fair and consistent with the provisions of the Act, Rules, business decisions and policies and procedures of SARS; and
 - iv) Keep discussions confidential.
- f) The following principles of meeting apply:
- i) **Confidentiality** – in sharing information regarding the subject matter, the parties operate within the ambit of their respective confidentiality regulatory frameworks;
 - ii) **Collaboration** – reliable interdependence i.e. a clear vision with members operating in an environment of sharing and trust;
 - iii) **Conscience** – embody or invoke ethical behaviours for service, trust and respect;
 - iv) **Capability** –members will have the requisite technical and institutional expertise to meaningfully engage in discussions and the formulation of recommendations or action items; and
 - v) **Clarity** –members will provide strategic, operational, tactical and regulatory advice to their respective principals.

6.4 Post-meeting

- a) The secretariat must:
- i) Discuss the notes taken during the meeting with the Chairperson to ensure accuracy;
 - ii) Distribute the presentations made at the meeting in electronic format within fourteen (14) days of the relevant meeting to the members;
 - iii) Record the minutes of the meeting accurately by transcribing the notes taken during the meeting on SR-01-A02;
 - iv) Ensure that the approved minutes are signed by the Chairperson and correctly filed;
 - v) Maintain the minutes of the previous meeting and ensure that they are always up to date in case of amendments;
 - vi) Update SR-01-A04, according to the minutes against the correct discussion item; and
 - vii) Ensure all record keeping are up to date.
- b) The secretariat must keep record for a period of five (5) years of all documents related to any Industry meeting or task teams, such as:
- i) Agendas (SR-01-A01);
 - ii) Minutes (SR-01-A02);
 - iii) Attendance Register (SR-01-A03);
 - iv) Action lists (SR-01-A04);
 - v) Signature page to the terms of reference (SR-01-A06), if applicable;
 - vi) Reports;
 - vii) Presentations; or

- viii) Any other relevant information pertaining to the matter at hand.
- c) The five (5) year period is calculated from the end of the calendar year in which the document was created, lodged or required. In instances of litigation, arising from a recommendation made the Chairperson must engage the litigation division in relation to time frames for document retention.

7 DECISION MAKING

- a) The meetings are not for decision making but for discussion and recommendation.
- b) Representatives can make recommendations on matters affecting their business units only. No person(s) may make recommendations on behalf of other business units.
- c) Recommendations made with regard to prioritisation of deliverables must take into consideration workload, capacity, and financial resources.
- d) In instances of recommendations pertaining to policies and ancillary documents, old or new, additional criteria must be considered:
 - i) SARS and divisional strategies and plans;
 - ii) Relevant legislation;
 - iii) Operational conditions;
 - iv) Specific Customs and Excise matters covered in the Customs and Excise legislation for example manufacturing, imports and exports; and
 - v) Regional and International organisations and / or their treaties for example, Southern African Customs Union (SACU), World Customs Organisation (WCO).
- e) The Chairperson must:
 - i) Take full accountability of the recommendations taken by the members.
 - ii) Present recommendations to the relevant sub-committee for approval, if required.

8 DEFINITIONS AND ACRONYMS

Forum	An assembly of officers / personnel from Customs and Industry
OGA	Other Government Agency
QMS	Quality Management System
TOR	Terms of Reference
WCO	World Customs Organisation
Industry	Industry associations or organisations including business and labour

9 REFERENCES

9.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Customs and Excise Act No. 91 of 1964: All
Other Legislation:	Constitution of the Republic of South Africa, 1996: Section 33 Promotion of Administrative Justice Act No. 3 of 2000: Sections 3 and 5 Promotion of Access to Information Act No. 2 of 2000: Parts 1 to 4
International Instruments:	None

9.2 Cross References

DOCUMENT #	DOCUMENT TITLE
HR-ESIC-03	Human Capital and Development Conflict of Interest – Internal Policy
QMS-01	Quality Management System Manual

9.3 Quality Records

NUMBER	TITLE
SR-01-A01	The Customs and Excise Stakeholder Engagement Agenda – External Annex
SR-01-A02	The Customs and Excise Stakeholder Engagement Minutes – External Annex
SR-01-A03	The Customs and Excise Stakeholder Engagement Attendance Register – External Annex
SR-01-A04	The Customs and Excise Stakeholder Engagement Action List – External Annex
SR-01-A06	Signature Page to the Stakeholder Engagement TOR – External Annex

10 DOCUMENT MANAGEMENT

Business Owner	Head: Stakeholder Relations, Office of the Commissioner
Document Owner	Senior Manager: Policy and Procedure (Customs)
Author	Y. Els
Detail of change from previous revision	<p>a) To align with the current SARS structure the:</p> <ul style="list-style-type: none"> i) Naming convention in paragraph 3 was revised; and ii) Following information was updated: <ul style="list-style-type: none"> A) Business Owner from Group Executive: Customs Branch to Head: Customs: Border Operations, Ports of Entry & Customs Compliance; and B) Document Owner from Senior Manager Governance Compliance: Customs to Senior Manager: Policy and Procedure (Customs). <p>b) SR-01-A05 - Appointment Letter of Stakeholder Engagement Chairperson - External Annex is withdrawn. Any written communiqué for the appointment and acceptance of a Committee Chairperson is acceptable as long as it adheres to the provisions set in this document.</p>
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