



Customs Procedures for Postal & Courier Operators:

An Introduction to the International & Regional Trade Framework



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INTRODUCTIONS

- Brief introduction of lead facilitator
- Participants introduce themselves (name)
- The Business Unit you work
- Your expectations of this course





INTRODUCTIONS CONT'D...

- Discuss housekeeping matters
 - Location of rest rooms
 - Fire escapes
 - Breaks
- Discuss ground rules and behavioural agreement





GROUND RULES

- **Purpose:** To facilitate a healthy discourse within the group in an atmosphere of mutual respect where all are ready to learn, share and discuss freely in a conducive environment.
- **Confidentiality:** No personal issues to be referred to during the training session.
- **Independence:** All opinions expressed in this training should be respected, even if you do not personally agree with them.
- **Speak for yourself:** Say “I” when that is what you mean, not “you”, “we”, etc.



GROUND RULES CONT'D...

- **No put-downs:** Do not criticize or express negative judgments about what others have said. Equally important, do not put yourself down.
- **Only one person to speak at a time:** Do not interrupt others when they are speaking.
- **Noise:** Mobile phones, tablets, laptops etc. must be off or in silent mode to avoid class disruption.
- **Commitment:** Endeavour to attend all lessons, unless there is a genuine reason, and be on time. Active participation of all participants is highly encouraged.





COURSE OVERVIEW

- Customs in the international context
- Evolution of Customs Nomenclature & Terms used
- WTO Agreement in customs valuation
- Defining terms import & export
- Definition of prohibited and restricted cargo and goods
- Identifying customs prescribed report forms
- Customs procedures on arrival and departure by air & sea



GENERAL COURSE OBJECTIVE

- Establish short and long term strategic improvement in customs clearing & forwarding to improve on cost of doing business and also establish new capacity
- Acquire vast knowledge on the international standards involved in international trade



SPECIFIC OBJECTIVES

- Understand the Protocols & International Conventions that govern Best Practice in the application of customs procedures & processes to facilitate the smooth movement of goods, conveyances and services across international borders, with particular focus on postal and courier articles.
- Equip the participants with general competency and skills in Customs matters in order to effectively represent their customers' interests.





SPECIFIC OBJECTIVES CONT'D...

- To gain a general understanding, interpretation and application of the Customs law and other relevant laws and subsidiary legislations governing international trade and facilitation in the Kenyan tax jurisdiction.
- Demonstrate the role of Customs in International Trade and the role it plays in domestic revenue mobilization in Kenya.





SPECIFIC OBJECTIVES CONT'D...

- Enable participants to effectively navigate through complex customs matters aimed at securing a win-win outcome for both their customers and the tax authorities.
- Participants to gain knowledge and understanding of the compliance tools available to assist importers/exporters remain compliant with the regulatory requirements in international trade.
- Participants to gain a positive attitude towards the current developments in Customs policy and operational programs within the context of the national and institutional reforms agenda.





LEARNING OUTCOMES

- The participants should be well equipped to handle all consignments that attract customs duty, with particular reference on postal & courier shipments.
- The participants should be able to respond to customer enquiries with professionalism.
- The participants should be able to proactively articulate to customs authorities customer concerns.





METHODOLOGY

- Four days training of 6 hours per day
- Power Point presentations
- Class/Plenary Discussions
- Case Studies
- Group Work





REFERENCE MATERIAL

- The East African Community Customs Management Act, 2004 (EACCMA) & the EACCMA Regulations, 2010; The VAT Act 2013 & The Excise Duty Act 2015.
- Various Acts used by other government border agencies (now commonly referred to as Partner Government Agencies) including KEBS, Kenya Police, KEPHIS, KPA, KAA etc. involved in the international trade supply chain
- The World Customs Organization: *Revised Kyoto Convention, 1999 & The Harmonized Commodity Description & Coding System*
- The World Trade Organization: *Agreement on Customs Valuation*





REFERENCE MATERIAL cont'd...

- Other Regional/National Protocols governing international trade
 - EAC Treaty
 - EAC Development Strategy
 - EAC Customs Union Protocol
- Other Administrative Guidelines
 - Routine Orders & Information Circulars
 - Procedures Manual
 - Internal & General Standards (Tax Payers' Charter)





Lesson Objectives

- Understand the role and functioning of customs in trade facilitation across international borders
- Understand the role of the World Customs Organization and the World Trade Organization in trade facilitation
- Understand the legal framework governing Customs operations in the EAC Region



Topics to be covered

- Defining Customs & the Operating Sphere
- The Role of Customs
- Key Institutions that shape international trade
- Relevant International Protocols, Agreements & Conventions that govern international trade
- The Regional Legal Context



Nexus Between Postal & Courier Services and Customs

- Postal and courier services are generally treated as as subsectors of communication services
- These services are dependent on physical means of delivery, particularly air and road transport services
- The services traverse not just national but also transnational boundaries
- Products and services moving across transnational boundaries is regulated by Customs authorities.





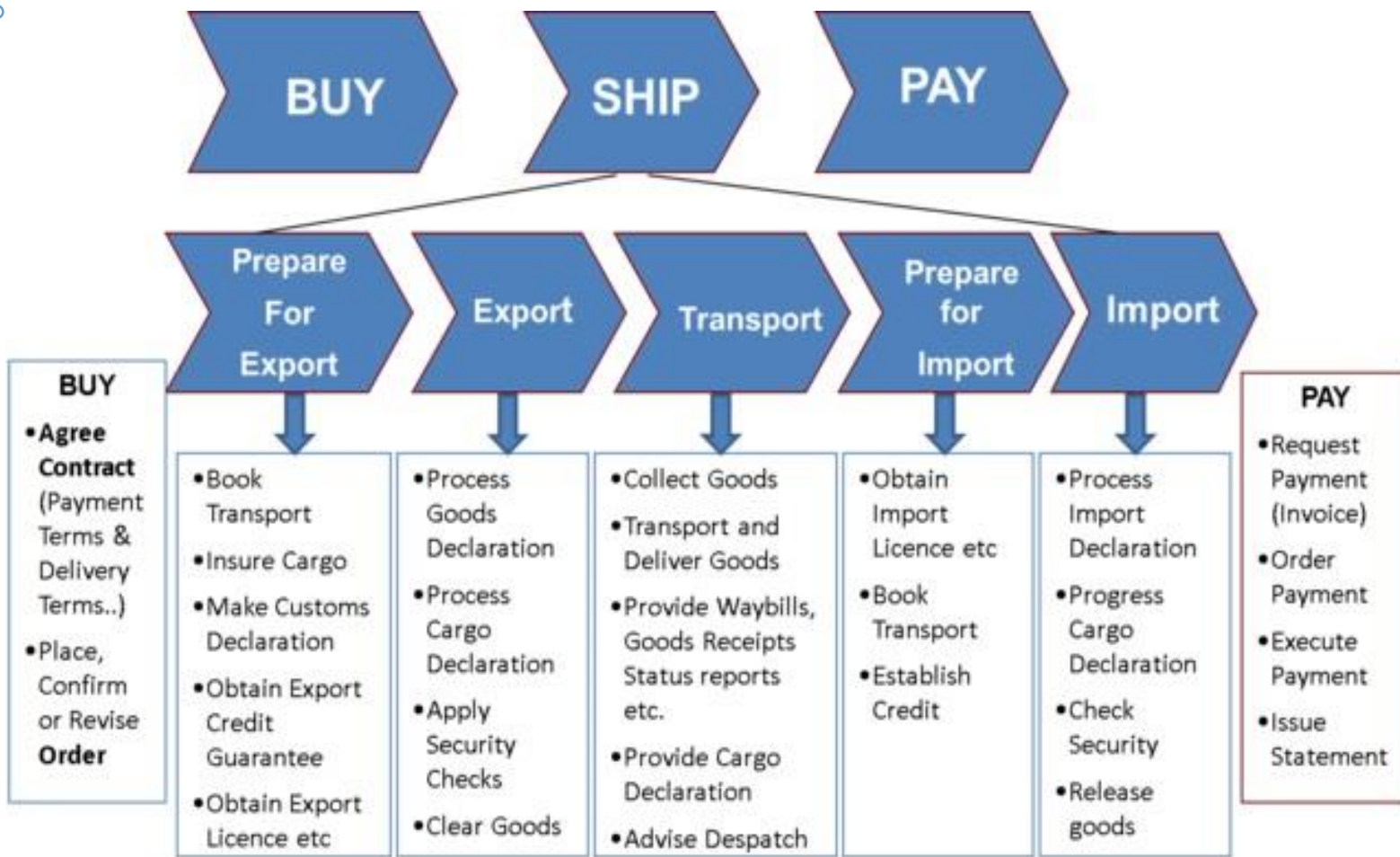
So what is Customs?

- “**Customs**” is an international term and as per the World Customs Organization definition, means the Government Service which is responsible for the **administration of Customs law** and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the **importation, exportation, movement or storage of goods**.
- Under the EAC Customs Management Act, it is defined as the Customs Departments of the Partner States.





International Trade Process Flows



Source: United Nations Economic Commission for Europe



The Operating Sphere





The Role of Customs

- Revenue Collection
- Facilitation of legitimate trade
- Safeguarding National Security
- Protection of Society (e.g. illicit drugs & narcotic substances, counterfeits)
- Protection of the environment by enforcing various Protocols, e.g. CITES restrictions (our elephants!)
- Compilation of international trade statistics
- Domestication & implementation of International Trade Agreements e.g. WTO's ACV, WCO's RKC etc....





So what does International TF cover?

- Trade procedures
- Customs and other border regulatory bodies
- Provisions for official control procedures applicable to import, export and transit including: general arrangements, customs controls, official documentation, health and safety, financial securities, and transshipment
- Provisions relating to transport and transport equipment (conveyances), including: air transport; sea transport; and multimodal transport
- Provisions relating to the movement of persons

Source: UN/CEFACT and UNCTAD 2002



TF coverage...cont'd...

- Provisions relating to the management of dangerous goods
- Provisions relating to payment procedures
- Provisions relating to the use of information and communication technologies
- Provisions relating to the commercial practices and the use of international standards
- Legal aspects of trade facilitation



Source: UN/CEFACT and UNCTAD 2002



Key Definitions

- Customs Union
- EACCMA
- CET & CIT
- Imports & Exports
- Prohibited & Restricted goods





Key Definitions cont'd...

“Customs Union” means a Union constituted by and composed of Members of the World Customs Organization (WCO), of the United Nations or its specialized agencies, which has competence to **adopt its own legislation** that is binding on its Members, in respect of matters **governed by the Convention to which it wishes to accede**, and has competence to decide, in accordance with **its internal procedures**, to sign, ratify or accede to that international instrument.

A WCO definition.....





Key Definitions cont'd...

- A Customs Union is a stage of regional integration where the partners forming the union agree as follows:

- Remove Internal tariffs on goods traded amongst themselves (CIT)
- Application of a common external tariff (CET) on goods originating from foreign
- Elimination of non-tariff barriers (NTBs)
- Application of Common Rules of Origin
- Application of Customs Laws, Regulations & Procedures





Key Definitions cont'd...

- **EACCMA** is simply the acronym for the **E**ast **A**frican **C**ommunity **C**ustoms **M**anagement **A**ct, the legal instrument that governs the administration of customs related matters within the EAC Partner States.
- **“CET”** & **“CIT”** are terms that refer to the Common External Tariff and the Common Internal Tariff applicable for goods imported into the Community or trading block from third countries and within the trading block itself, respectively.
- In essence, there are distinct tariff bands applicable to imported goods depending on their origin or nature.





More definitions.....

- **Import** means to bring or cause to be brought into the Partner States from a foreign country
- **Export** means to take or cause to be taken out of the Partner States
- **Prohibited goods** means any goods of which the importation, exportation, or carriage coastwise is prohibited under the EACCMA or any law for the time being in force in the Partner States
- **Restricted goods** means any goods the importation, exportation, transfer, or carriage coastwise, of which is prohibited, save in accordance with any conditions regulating such importation, exportation, transfer, or carriage coastwise, and any goods the importation, exportation, transfer, or carriage coastwise, of which is in any way regulated by or under the Customs laws





Key Institutions that shape Int'l Trade

- The **World Customs Organization** is an **intergovernmental organization**, the voice of the global customs community, whose primary objective is to enhance the efficiency and effectiveness of member customs administrations, thereby assisting them to contribute successfully to national development goals, particularly revenue collection, national security, trade facilitation, community protection, and collection of trade statistics.
- It works in areas covering the development of international conventions, instruments, and tools to assist in such matters as commodity classification, valuation, rules of origin, collection of customs revenue, supply chain security, international trade facilitation, customs enforcement activities, combating counterfeiting in support of Intellectual Property Rights (IPR), integrity promotion, and delivering sustainable capacity building to assist with customs reforms and modernization.
- Simply put, the WCO is a multilateral body (headquartered in Brussels) through which Member countries seek to simplify and rationalize customs procedures.





Key Institutions that shape Int'l Trade cont'd...

- The “**World Trade Organization**” (WTO) is the global international organization **dealing with the rules of trade between nations**. One of its primary functions is to administer trade agreements.
- Other functions are:
 - Forum for trade negotiations
 - Handling trade disputes
 - Monitoring national trade policies
- It is a stronger multilateral organization (as opposed to its forerunner....the GATT....) since whilst GATT focused almost exclusively on goods, the WTO encompasses all goods, services, and intellectual property, as well as some investment policies. Indeed, one of its other core functions is to help developing countries benefit fully from the global trading system.





Other relevant Agreements, Conventions & Protocols in International Trade

- **Revised Kyoto Convention** is one of two key legal instruments first developed by Customs Cooperation Council (the forerunner to WCO) in Kyoto, Japan, in 1973. The Convention was designed to facilitate international trade through the **Simplification and Harmonization of Customs Procedures & Processes.**





Other relevant Conventions etc...cont'd....

- **RKC** was adopted in June 1999 (the forerunner was simply called the Kyoto Convention that was adopted in 1976) and is recognized as an international standard, and used as a benchmark, for the global Customs community.
- It essentially provides for:
 - the simplification, harmonization and modernization of Customs procedures.
 - modern Customs formalities and procedures
 - harmonized Customs documents for use in international trade and transport
 - the use of risk management techniques, and;
 - the optimal use of information technology by Customs administrations.





Other relevant Conventions etc...cont'd....

- **Agreement on Customs Valuation (ACV)** - drawn from the WTO's General Agreement on Tariffs & Trade (GATT), Article VII of GATT 1994 - is the **primary basis for customs value**.
- Article VII lays down the general principles for an international system of valuation.
- The Article stipulates that the value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.





Other relevant Conventions etc...cont'd....

- The **Harmonized Commodity Description and Coding System**, also known as the **Harmonized System (HS)** of tariff nomenclature, is an internationally standardized system of names and numbers to classify traded products. It came into effect in 1988 and has since been developed and maintained by the WCO.
- Under the HS Convention, the Contracting parties are obliged to base their tariff schedules on the HS nomenclature, although parties set their own rates of duty.



Other relevant Conventions etc...cont'd....

- **CITES** (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments and aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.
- Annually, international wildlife trade is estimated to be worth billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse, ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines.
- Customs officials are thus expected to responsibly enforce this Convention so that endangered species are not exploited through illegal trade in them or their byproducts.





Regional Economic Communities (RECs)

- The **Regional Economic Communities (RECs)** in Africa group together individual countries in sub-regions for the purposes of achieving greater economic integration.
- The Common Market for Eastern and Southern Africa (**COMESA**) is a free trade area with twenty member states stretching from Libya to Swaziland.
- It was formed in December 1994, replacing a Preferential Trade Area which had existed since 1981.
- The **Southern African Development Community (SADC)** is an inter-governmental organization whose goal is to further socio-economic cooperation and integration as well as political and security cooperation among 15 southern African states.





Regional Trade Agreements

- **AU Tripartite Arrangements**

- Brings together 3 RECs, namely, EAC, COMESA & SADC aimed towards the first building block for all Africa economic integration
- Agenda 2063 and the 7 aspirations developed a few years ago to get Africa more “connected” and integrated in its development agenda.





Regional Trade Agreements cont'd....

- **Economic Partnership Agreement (EPA)** is all about trade deals between the EAC trading block and the European Union aimed at forging mutually beneficial market access.
- The five EAC countries have been negotiating this deal since 2007 but so far only Kenya and Rwanda have signed on.
- For it to take effect, all 5 countries must sign on.



The Regional Legal Context

- The Treaty for the establishment of the **East African Treaty**, Article 5 (2) reads:

“Partner States undertake to establish among themselves... a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation in order to strengthen and regulate the industrial, commercial, infrastructural, cultural, social, political and other relations of Partner States”.





The Regional Legal Context cont'd...

- The Treaty was signed on 30th November 1999 and came into force on 7th July 2000 but some clauses have since been amended on varying dates, namely, 14th Dec 2006 and 20th Aug 2007 respectively.
- Concerns itself with the development of closer co-operation between the five EA countries in several areas as under:
 - the fiscal,
 - monetary,
 - immigration,
 - Infrastructure, and
 - service fields and projects
- Provides a clear road map for stepwise regional integration and a peaceful economic development in the future. It is a people-centred and people-driven process.





The Regional Legal Context cont'd...

- The EAC Development Strategy captures the development priorities for the Region.
- The broad outline of the **4th EAC Development Strategy** encompasses priority projects and programmes to be implemented by 2015/16. These center on the consolidation of the Customs Union, Common Market, the establishment of a Monetary Union and laying the foundations for the political federation plus the promotion of solid and economic infrastructure (including energy) that would support and spur economic growth in the Partner States.





The Regional Legal Context cont'd...

- The EAC Customs Union Protocol was signed in 2004, launched on 1st January 2005, and became fully-fledged on 1st January 2010. It provides for the free movement of goods between Partner States which is considered to be a Single Customs Territory (SCT).
- The SCT is currently under implementation with selected items moving seamlessly across the Region with minimal controls.





Customs Legal Mandate

- “There shall be appointed, in accordance to each Partner State’s legislation, a Commissioner responsible for the management of Customs by each of the Partner States”
- “The Commissioner shall be responsible for the management and control of Customs including the collection of, and accounting for, Customs revenue”
- EAC Customs Management Act, Sec. 5





Types of Customs Revenue

- **CORE**
 - Import duty
 - VAT (on imports)
 - Excise Duty (on a limited category of imports)





Customs Revenue cont'd...

- **AGENCY** basis
 - Import Declaration Fee
 - Railway Development Levy
 - Petroleum Development Levy & Petroleum Refinery Levy
 - Road Maintenance Levy
 - Sugar Development Levy
 - APSC; concession fees; KPA – wharfage charges; KMA – merchant levy shipping charges etc.





The Implementing Authorities

- Implementing Authorities of the EAC Customs Union Protocol
 - Customs Administrations of the EAC Partner States
 - The Revenue Authorities, which “host” the Customs administrations
 - Other Partner Government Agencies (PGAs)





EAC Regional Integration Process

- The Secretariat which formulates regional trade policies
- Four Stages of Integration
 - Customs Union - established in 2005 and progressed to current status of SCT
 - Common Market
 - Monetary Union
 - Political Federation





Enabling Laws & Administrative Guidelines

- Enabling Laws
 - EACCMA, 2004 & The VAT Act 2013, The Excise Duty Act 2015 plus a host of other relevant laws as they pertain to international trade
 - Subsidiary Legislation
 - EACCMA Regulations, 2006 that specifies the prescribed forms and amplify the law for purposes of application
 - Legal/Gazette Notices (national and/or regional)
- Administrative Guidelines
 - Routine Orders
 - Information Circulars
 - Procedures Manual (DI's)
 - Internal & General Standards (Tax Payers' Charter)





Other Legal Enablers

- **EAC Rules of Origin (ROO)** whose purpose is to:
 - Implement the provisions of Article 14 of the EAC Customs Union Protocol and to ensure that there is uniformity among Partner States in the application of the Rules of Origin
 - Ensure that to the extent possible the process is transparent, accountable, fair, predictable and consistent with the provisions of the Protocol.
- Contain criteria to enable the authorities in Partner States to determine which goods qualify as originating in any of the Partner States.
- Four in number and only one of them must be complied with for any goods to qualify for preferential treatment





Other Legal Enablers cont'd...

- The four criteria are: -
 - Goods wholly produced as provided for in Rule 5 of EAC Rules
 - The C.I.F value of any foreign materials does not exceed 60%
 - The Value Added accounts for at least 35% of the ex-factory cost of the goods
 - The goods are / become classifiable under a tariff heading other than the tariff heading under which they were imported





Relevance of the ROO

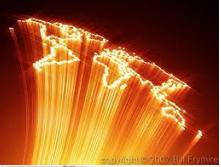
- Determination of a country of Origin of a product is relevant to Customs, trade policy and the trading public.
- Helps in the proper classification of goods, the basis not only for declaration of goods in general, but the collection of import and other duties
- Facilitates the determination of the correct values for the goods
- Helps in collection of accurate trade statistics



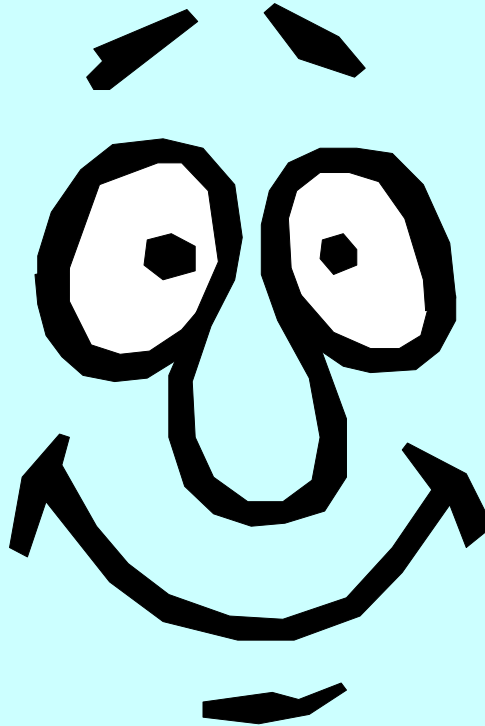


Certificate of Origin

- Exporter in an EAC Partner State intending to export goods to another EAC Partner State must obtain a Certificate of Origin from the issuing or competent authority in his state
- To obtain an EAC Certificate of Origin, exporter must present to issuing authority in his country evidence that the goods have been produced in conformity with the specified conditions



Reactions/Comments?



Questions?



KEY MESSAGE

Customs business traverses international boundaries and is influenced by global, regional, sub-regional and national dynamics.

