



Technical Report:

**Modernization of the Customs and Excise
Procedures Manual of Botswana Unified Revenue
Service (BURS)**

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EXECUTIVE SUMMARY

Methodology:

Following the Trade Hub team preparation and presentation of the Draft Customs and Excise Regulations to the Commissioner of Customs and Excise in July 2009, the Trade Hub team drafted the Botswana Unified Revenue Service (BURS) Customs and Excise Procedures Manual. The Team prepared the Draft Manual on the basis of guidelines received from BURS Customs and Excise Division, and also those prepared by the Trade Hub team in some specific areas which are important in customs administration.

The Draft Customs and Excise Procedures Manual were based on the following source materials:

- Current BURS Customs and Excise Departmental Instructions;
- Botswana Customs and Excise Duty Act, Chapter 50:01 of the Laws of Botswana;
- Botswana Customs and Excise Duty Regulations;
- Japan's Customs Administration Procedures Manual;
- Customs Procedures in Finland;
- Customs Procedures in Zimbabwe; and
- Customs Procedures in Zambia.

Structure of the Botswana Draft Customs and Excise Procedures Manual

The Trade Hub team adopted a structure that is similar to that of the current BURS Customs and Excise Departmental Instructions (which are out of print and no longer available to officers) with some modifications where appropriate. The Draft Manual contains twenty-seven Chapters whose basic format is as follows:

- Title,
- Purpose of the guidelines,
- Legal authority,
- Definitions – where appropriate,
- General overview of the subject,
- Procedures, and
- Further references, where appropriate.

The Trade Hub team recommended that the final copy of the Procedures Manual be in loose-leaf form to facilitate amendments.

On Friday, January 29, 2010, the Trade Hub team presented soft copies of the Draft Customs and Excise Procedures Manual to the commissioner of Customs and Excise. This was then followed by a PowerPoint presentation by the Trade Hub team giving an overview of the methodology used to prepare the Draft and highlighting the new provisions and the further work to be done before their promulgation. The Commissioner expressed satisfaction with the Draft and encouraged his team to work on them as soon as possible and ensure their publication by March 2010.

The meeting between the Trade Hub team and the commissioner on January 29, 2010 agreed that the commissioner would review the Draft Procedures Manual with his team and provide feedback to the Trade Hub within two weeks time before presenting it to BURS management and the commissioner-general.

INTRODUCTION:

In May 2009, the commissioner of Customs and Excise in the Botswana Unified Revenue Service (BURS) requested technical assistance from the Southern Africa Global Competitiveness Hub (Trade Hub) in the following areas:

- WCO Time Release Study (TRS);
- Updating of the Customs and Excise Regulations;
- WCO Revised Kyoto Convention Gap Analysis; and
- The development of Procedural Guideline/Manuals.

The Trade Hub agreed to the request and advised that the Trade Hub was ready to commence the technical assistance program, except on World Customs Organization (WCO) Time Release Study (TRS), which required agreement of the WCO to second a technical officer who would work with the Trade Hub.

OBJECTIVES:

- To review the various pieces of Botswana Customs Procedures Handouts and draft one single Botswana Customs Procedures Manual; and
- Consolidation of Botswana Customs and Excise Sector Procedures into one Customs and Excise Procedures Manual based on the international best practice.

ISSUES AND RECOMMENDATIONS:

- **Methodology**

Following the Trade Hub team preparation and presentation of the Draft Customs and Excise Regulations to the commissioner of Customs and Excise in July 2009, the Trade Hub Team drafted the BURS Customs and Excise Procedures Manual. The team prepared the Draft Manual on the basis of guidelines received from BURS Customs and Excise Division, and those prepared by the Trade Hub team in some specific areas which are important in customs administration.

The Draft Customs and Excise Procedures Manual were based on the following source materials:

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Structure of the Botswana Draft Customs and Excise Procedures Manual

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- Title,

- Purpose of the guidelines,
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- Procedures, and
- Further references, where appropriate.

The Trade Hub team recommended that the final copy of the Procedures Manual be in loose-leaf form to facilitate amendments.

Highlights of the Draft BURS Customs and Excise Procedures Manual

New important Guidelines:

- **Chapter 1: Organization and functions of BURS Customs and Excise Division**

This is an introductory Chapter which has been included to provide an overview of how the Customs and Excise Division is structured including the duties and powers of customs officers as provided in Botswana's Customs and Excise law. Customs trainers can also use information contained in this Chapter to prepare training material, especially for the training of new recruits.

- **Chapter 3: Transit**

Transit systems have been put in place by various countries worldwide in order to facilitate the movement of goods across borders. In this regard, arrangements have been made under international agreements whereby countries that are signatories to such agreements apply standard procedures for the treatment of goods carried in customs transit through their territories.

The purpose of this Chapter is to provide guidance to customs officers on transit procedures and how they should be applied as improper application of transit procedures can be a barrier to international trade.

- **Chapter 4: Baggage Declaration and Passenger's Baggage Concessions**

Guidance has also been provided in the following areas:

Duty – free allowances for travelers:

Duty free allowances for travelers have been included in this Chapter as these were previously not covered. This is because Customs duties and taxes are not charged on certain goods imported as accompanied or unaccompanied passenger's baggage.

Red and Green Channels:

The Red and Green Channels system is designed to simplify and speed up the handling of travellers at airports. Under this system, travellers who are not carrying dutiable or restricted goods are able to pass unhindered through customs controls. It is important that customs officers are made aware of and apply international best practices.

- **Chapter 12: Customs Tariff**

For purposes of customs clearance, the declarant is required to complete the customs declaration form Single Administrative Document (SAD) 500 by supplying, among other information, the customs tariff of the goods. The purpose of this Chapter is to provide customs officers with information which helps them to deal with customs tariff matters effectively. For example, issues such as the need to correctly apply the General Interpretative rules, the need to consult Explanatory Notes, how to handle for Advance Tariff Classification rulings, appeals, among others, have been included in this Chapter to guide customs officers accordingly.

- **Chapter 13: Valuation of goods for Customs Purposes**

In addition to tariff classification of goods for duty purposes, the value and origin of the goods are also important determinants of the amount of duty to be collected.

The valuation of imported goods for customs purposes is based on the General Agreement on Tariffs and Trade (GATT)/World Trade Organization (WTO) Valuation Agreement. This Chapter provides guidance to customs officers on the valuation of goods, especially goods imported into Botswana. Not only does the Chapter cover the valuation rules, it also covers administrative provisions (e.g. verification of declared values, need for a valuation data base, appeals, etc) to assist officers to determine correct values for duty purposes.

- **Chapter 14: Value Added Tax**

VAT is a tax on consumption which is charged on most goods and services supplied in Botswana. This tax is also charged on some imported goods and services. However, certain goods do not attract Value Added Tax (VAT) either because they are zero rated or are not subject to VAT at all, that is, they exempted from VAT.

The purpose of this Chapter is to guide customs officers on the application of VAT legislation to imports and exports.

- **Chapter 17: Excise Management**

The list of goods subject to excise duty was added in this Chapter including how excise duty on those goods is calculated with examples provided to ease understanding.

- **Chapter 19: BOBS Certification**

The purpose of this Chapter is to assist the implementing officers especially at the Ports of Entry on how to go about the whole process of controlling quality of the prescribed imports as listed in the regulations, what documents to look for, when to call Botswana Bureau of Standards (BOBS) inspectors, and so on.

It is recommended that both Chapters 18 (on Prohibitions and Restrictions) and 19 be removed from this Procedures Manual and they be incorporated in a "Controls" Manual for ease of reference.

- **Chapter 20: Audit**

Audit is a control tool through which management is kept informed of how ports and border posts are performing. Both internal and external audits are carried out to ensure, among others, that all accounts are properly kept, that returns are correctly rendered, that all imports and export bills of entry are in order, and that correct collections have been made. This Chapter is intended to guide customs officers on internal, external and post-clearance audit procedures.

- **Chapter 21: Investigations**

The purpose of this Chapter is to assist investigation officers engaged in the investigation of customs and other tax related offences. The guidelines are an invaluable point of reference and should help investigation officers in developing their overall investigation techniques, which will facilitate the performance of their duties, and in establishing the degree of self-confidence vital to this work. The guidelines also assist other customs officers in general, including new entrants to appreciate the functions of the Investigations unit.

- **Chapter 22: Management of Informants**

This Chapter is intended to guide those officers whose duties entail gathering information from different sources, evaluating such information for substance and relevance for customs purposes with a view to increase compliance, facilitate trade and at the same time protecting the society from illegal trade by professionally/systematically following up allegations of suspected risks in customs perspective.

- **Chapter 23: Debt Management**

This Chapter is intended to guide customs officers on how to effectively manage debts arising in transacting customs business to ensure that all established debts to the Division are consolidated and effectively managed in order to enhance and sustain revenue collection.

- **Chapter 27: Correspondence and Registry**

The efficiency of an organization is often judged by the standard of its correspondence and this Chapter provides guidance on how to deal with both internal and external correspondence to enhance the efficiency of the Customs and Excise Division.

Presentation to BURS Customs and Excise Experts

The trade Hub team made a PowerPoint presentation and discussed the Draft Procedures Manual with the Customs and Excise experts who were grateful that finally after seven years, there was now a Draft Procedures Manual. The consultant and the BURS experts went through the Draft Chapter-by-Chapter noting areas that needed further clarification from management and suggesting some amendments to the Draft. Additional areas for consideration were proposed and evaluated by the group. It is from this process that some new areas were identified, such as, among others, VAT and guidance on how to calculate excise duty.

Presentation to BURS Commissioner of Customs and Excise

On Friday, January 29, 2010, the Trade Hub team presented the Draft Customs and Excise Procedures Manual to the commissioner of Customs and Excise and his management team. The commissioner expressed satisfaction with the Draft and made some useful comments on it.

The presentation gave an overview of the methodology used to prepare the Draft Procedures Manual highlighting the new provisions and further work to be done before its publication and distribution to officers.

The commissioner of Customs and Excise thanked the Trade Hub for the technical assistance provided. He also advised that he would see to it that the Draft is promulgated soon, probably some time in March because of the urgency of the matter. He however noted that further internal and external consultations with stakeholders were still necessary before finalizing the Draft.

ANNEXES:

Annex 1 – Work Program

Annex 2 – List of Participants

Annex 3 – Draft Customs and Excise Procedures Manual

**ANNEX 1: WORK PROGRAMME FOR REVIEW OF DRAFT BURS CUSTOMS AND
EXCISE PROCEDURES MANUAL**

DATE	AREAS FOR REVIEW
<p align="center">Tuesday 26/01/10</p> <p>0830 – 1600 hrs</p>	<p>Chapter 4: Passenger Clearance</p> <p>Chapter 5: Temporary Admission of goods</p> <p>Chapter 6: Temporary Importation of motor vehicles</p> <p>Chapter 7: Detention of goods</p> <p>Chapter 8: Seizure of goods</p> <p>Chapter 9: Bonded Warehouses</p> <p>Chapter 10: State Warehouses</p> <p>Chapter 11: Customs Auction Sales</p> <p>Chapter 12: Tariff</p> <p>Chapter 14: Value Added Tax</p>
<p align="center">Wednesday 27/01/10</p> <p>0830 – 1600 hrs</p>	<p>Chapter 13: Value for duty purposes</p> <p>Chapter 15: Origin and Preferences</p> <p>Chapter 21: Investigations</p> <p>Chapter 22: Management of informants</p> <p>Chapter 2: Entry of imported and exported goods</p> <p>Chapter 3: Transit</p> <p>Chapter 16: Drawbacks, Rebates and Refunds of duty</p> <p>Chapter 17: Excise Management</p>
<p align="center">Thursday 28/01/10</p> <p>0830 - 1600</p>	<p>Chapter 18: Prohibited and Restricted Goods</p> <p>Chapter 23: Debt Management</p> <p>Chapter 24 Registration and control of Customs Clearing Agents</p>

Chapter 25: Procedures for internal Customs Appeals

Chapter 19: BOBS Certification

Chapter 26 Accounting

Chapter 20: Audit

Chapter 27: Correspondence and registry

Chapter 1: Organization and functions of BURS Customs and Excise Division

ANNEX 2 – LIST OF PARTICIPANTS

MEMBERS OF THE BURS CUSTOMS WORKING GROUP ON PROCEDURES

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BOTSWANA UNIFIED REVENUE SERVICE

CUSTOMS AND EXCISE DIVISION

DRAFT

***CUSTOMS AND EXCISE PROCEDURES
MANUAL***

Issued under the authority of the Commissioner - General

FOREWORD

The Customs and Excise Procedures Manual is intended to provide Customs officers with an overview of Customs and Excise procedures applicable in the Republic of Botswana. The Manual focuses on the different sections of the Botswana Customs Administration, their purpose, definitions, legal authority and general overviews which are simplified for better understanding and easy use.

This Manual contains standard guidelines which should be applied uniformly and consistently by all Customs officers in order to achieve the objectives of the mandate of the Customs and Excise Division.

The Customs and Excise guidelines have been developed basing on the Customs & Excise Act and Regulations including international conventions and other laws that control the movement of goods across borders, are issued for use by customs officers to execute their duties. These guidelines amplify the law but cannot be a substitute for the law. They should therefore be applied in conjunction with the law.

The contents of these guidelines must not be availed to the public or business community. In addition, copies of the Customs and Excise guidelines are issued to:

- Commissioner General (BURS)
- Customs and Excise Commissioner
- Customs & Excise General Managers
- Customs & Excise Regional Managers
- Training Unit

These guidelines will from time to time be reviewed then amended or edited to ensure that they remain relevant to the dynamic environment that the Customs and Excise Division operates in.

F. Modise
Commissioner-General
January, 2010

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CHAPTER 1 ORGANISATION AND FUNCTIONS OF BURS CUSTOMS AND EXCISE DIVISION

1.1 Introduction

The Customs and Excise Division's mandate includes: collection of government revenue (customs and excise duties, import Value Added Tax and other levies), facilitation of legitimate imports and exports, protection of Botswana society against cross-border crime and combating unfair and harmful trade practices. These are achieved through effective and efficient implementation of the Customs and Excise Duty Act Chapter 50:01 of the Laws of Botswana and other pieces of legislation relating to the control of imports and exports.

1.2 Central Administration

Head office comprises of two main sections namely:

(a) Regions and Compliance

Under this section, there are different units which are listed below

- Customer Support
- Compliance and Enforcement

Duties:

- (i) Investigation of different offences and criminal cases related to customs
- (ii) Provision of service customs customers like rebates and refunds, appeals
- (iii) Ensuring that customers comply with the laws and regulations of customs by conducting audits, managing risk.

(b) Technical Services

Also the different units of this section are:

- Systems Clearance
- Classification, Valuation and Origin
- External Relations & Trade Facilitation

Duties:

- (i) Participate in trade negotiations at regional and international level
- (ii) Management of the ASYCUDA system
- (iii) Ensuring that goods are correctly classified and valued
- (iv) Issuing of certificates of origin to traders

1.3 Regional Administration

1.3.1 The regional administration comprises of Customs and Excise offices and border posts at:

<u>Region</u>	<u>Branch office</u>
1. South Central	Gaborone Long room Sir Seretse Khama Airport Ramotswa Sikwane
2. Tlokweng Gate	
3. Southern region	Bray Ghanzi Jwaneng Mamuno Pioneer Gate Ramatlabama Werda Makopong Pitshane Molopo Middlepits Makopong
4. Northern Region	Francistown Airport Francistown Longroom Orapa Ramokgwebana Matsiloje Maitengwe
5. Central Region	Palapye Mahalapye Platjaan Pont Drift Sowa Town Selibe Phikwe Airport

Parrs halt
Zanzibar
Martins Drift

6. North West Region

Maun Airport
Maun Regional Office
Kazungula Road
Kazungula Ferry
Kasane Airfield
Ngoma
Pandamatenga
Mohembo

1.3.2 Duties

Under the directions of the Customs & Excise Commissioner, the regional managers will be responsible for:

- (i) The administration of the laws relating to customs and excise
- (ii) The assessment and collection of customs and excise duties
- (iii) The administration of the import and export control legislation
- (iv) Assistance in the preparation of administrative instructions and the supervision of their subsequent implementation
- (v) The supervision of customs and excise staff at all stations in the region
- (vi) Such other duties as may be allocated by the commissioner

1.4 Laws and regulations

The Customs and Excise Division applies the Customs and Excise Duty and Regulations including other Laws of Botswana to guide and control its daily operations.

1.5 Duties and powers of officers

(1) Subject to the Constitution and the laws governing the public service, officers employed in the Customs & Excise Division shall act under the control and direction of the Commissioner of Customs & Excise.

(2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods or fuel levy goods.

(3) No officer shall disclose any information relating to any person, firm or business acquired in the performance of his duties, except-

- (a) for the purposes of the Customs & Excise Act;
- (b) when required to do so as a witness in a court of law; or
- (c) such information in relation to any person as may be required by the Government Statistician in connection with the collection of statistics in complying with the provisions of the Statistics Act or any regulations made thereunder.

(4) An officer may, for the purposes of the Customs & Excise Act-

(a) without previous notice, at any time enter any premises whatsoever and make such examination and enquiry as he deems necessary;

(b) while he is on the premises or at any other time require from any person the production then and there, or at a time and place fixed by the officer, of any book, document or thing which is required by the Customs & Excise Act to be kept or exhibited or which relates to or which he has reasonable cause to suspect of relating to matters dealt with in the Customs & Excise Act and which is or has been on the premises or in the possession or custody or under the control of any such person or his employee;

(c) at any time and at any place require from any person who has or is believed to have the possession or custody or control of any book, document or thing relating to any matter dealt with in the Customs & Excise Act, the production thereof then and there, or at a time and place fixed by the officer; and

(d) examine and make extracts from and copies of any such book or document and may require from any person an explanation of any entry therein and may attach any such book, document or thing as in his opinion may afford evidence of an offence.

(6) An officer may take with him on to any premises an assistant or a member of the police force.

(7) Any person in connection with whose business any premises are occupied or used, and any person employed by him shall at any time furnish such facilities as may be required by the officer for entering the premises and for the exercise of his powers.

(8) If an officer, after having declared his official capacity and his purpose and having demanded admission into any premises, is not immediately admitted, he and any person assisting him may at any time, but at night only in the presence of a member of the police force, break open any door or window or break through any wall on the premises for the purpose of entry and search.

(9) An officer or any person assisting him may at any time break up any ground or flooring on any premises for the purpose of search and if any room, place, safe, chest, box or package is locked and the keys thereof are not produced on demand, may open such room, place, safe, chest, box or package in any manner.

(10) An officer may require any person to appear before him at any time and place fixed by the officer and may then and there question that person, either alone or in the presence of any other person, as he thinks fit, with respect to any matter dealt with.

(11) An officer may question either alone or in the presence of any other person as he thinks fit, with respect to any matter dealt with, any person whom he finds on any premises entered or whom he has reasonable grounds for believing to be or to have been employed on any premises in respect of which any provision of the

Customs & Excise Act is applicable, or whom he has reasonable grounds for believing to be or to have been in possession, custody or control of anything, in respect of which any such provision is applicable.

(12)(a) An officer may stop and board any vehicle in Botswana and may search any such vehicle or any person found therein or thereon for goods upon which duty has not been paid, or in respect of which he has reasonable cause to believe that there has been a contravention of any provision, and may freely remain on such vehicle in pursuance of his duties.

(b) If any vehicle, or any place, safe, chest, box, package or container (as defined in section 1(2) of the Customs & Excise Act thereon is locked and the keys thereof are not produced on demand, the officer may open such vehicle, place, safe, chest, box, package or container in any manner.

(c) An officer shall have free access to and the right to rummage every part of any such vehicle and to examine all goods on board, with power to fasten down hatchways and to mark any goods before offloading, and to lock up, seal, mark or otherwise secure any goods on board the vehicle, including any apparatus thereof, and he may also demand from the driver of any vehicle or the pilot of any aircraft concerned or the person in charge of any other vehicle the production of any document to which any provision of the Customs & Excise Act relates.

(d) If any lock, seal or mark placed upon any goods on board a vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered, or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed or if the hatchways of any such vehicle are, after having been fastened down by an officer, opened without his consent, the pilot of any aircraft concerned or the person in charge of any other such vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.

(13)(a) An officer may stop any person whom he has reason to suspect of having dutiable

goods or goods in respect of which a contravention under the Customs & Excise Act has been committed, secreted about him or in his possession and he may search such person.

(b) If such person fails to stop, the officer may take such action, including the use of force, as he may deem necessary to stop such person.

(14) Where, on the exportation of any goods from Botswana, any certificate, declaration or other proof has been furnished regarding the origin of such goods to comply with the provisions of any agreement contemplated in section 49, 57 or 58 or any other requirement or any practice, an officer may, for the purposes of verifying or investigating such certificate, declaration or other proof, require-

(a) the exporter; or

(b) any other person appearing to the officer to have been concerned in any way with-

(i) the production or manufacture or exportation of such goods;

(ii) any goods from which directly or indirectly such goods have been produced or manufactured; or
(iii) the furnishing of such certificate, declaration or other proof, to furnish such information in such manner and within such time as the officer may determine, and to produce on demand for inspection and to allow the making of copies or extracts from such invoices, bills of landing, bills of entry, books of account or other documents in whatever form, as the officer may specify.

(15) No person may, without good cause shown, refuse to comply with any such requirement of an officer.

(16) A female shall only be searched by a female.

(17) An officer may lock up, seal, mark, fasten or otherwise secure any warehouse, store, room, cabin, place, vessel, appliance, utensil, fitting, vehicle or goods if he has reason to believe that any contravention under the Customs & Excise Act has been or is likely to be committed in respect thereof or in connection therewith.

(18) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under section(6) of the Customs & Excise Act.

CHAPTER 2 IMPORTATION OF GOODS

PART I:

2.1 GOODS CONSIGNED BY RAIL

2.1.1 Purpose

The purpose of these notes is to guide Customs and Excise officers on the procedures to follow when clearing goods consigned by rail.

2.1.2 Legal authority

2.1.2.1 Section 7 (1) (b) of the Customs and Excise Duty Act

(b) “the roads or routes (including railways) over which persons may enter or leave Botswana or imported goods or goods intended for export or transit carriage may enter or leave Botswana or may be carried from any one point to any other point or the means of carriage of such goods;”

2.1.2.2 Section 12(1) of the Customs and Excise Duty Act

Upon or before arrival at a railway of any train with any goods thereon from beyond the borders of Botswana, the station master or other person in control of the station shall deliver to the Commissioner a copy of all advice and delivery notes received by him relating to the goods consigned to that station by that train.

2.1.2.3 Section 45 (1) of the Customs and Excise Duty Act

If entry of any imported goods (other than goods which are exempted from the provisions of section 40) has not been made under the provisions of the said section 40, the Commissioner may, on expiry of the period prescribed in subsection (1) of the said section, require the pilot or other person who brought the goods in Botswana to remove

them to a State warehouse or other place indicated by the Commissioner or may himself so remove them.

2.1.2.4 Regulation 6(2) of the Customs and Excise Duty Regulations

No person shall enter any place appointed under section 7 of the Act, except the persons required by the department to enter it, the proper officers and such other person as the Commissioner may permit to enter such a place.

2.1.2.5 Section 73: Licensing of Container Depots

The Commissioner may license any place appointed by him for the purpose of a Container Depot for storing, packing or unpacking of containers provided such security as he may require is furnished.

2.1.3 Definitions

The definitions used in these guidance notes are as prescribed in the Customs and Excise Duty Act CAP (50:01 of the Laws of Botswana).

In this Act, unless the context indicates otherwise the word “vehicle” as defined in (Section 2) of the Act shall be taken to mean an aircraft, train, motorcar, van, truck or any means of conveyance.

2.1.4 General overview

2.1.4.1 When goods are transported by rail from the Republic of South Africa (RSA) and from Zimbabwe they are issued with rail notes and upon arrival at the railway stations in Botswana, the Station Master would notify the importers of the arrival of their goods, by sending them copies of the railway notes and by dispatching copies of the same to Customs offices to notify Botswana Unified Revenue Service (BURS) of the arrival of the goods.

2.1.4.2 There is a standing arrangement between the Station Master and Customs and Excise Division that, before goods are released from the railway station they should first be cleared through Customs. This means that only importers who produce duly stamped rail notes accompanied by a stamped bill of entry, SAD 500 form, certifying that duties and taxes had been paid can get release of their goods.

2.1.4.3 Goods entering Botswana in transit and destined to places beyond the borders of Botswana have been granted a general permission to facilitate trade, and shall not, therefore, be subject to customs formalities

2.1.5 Procedures to be followed when goods arrive by rail: -

2.1.5.1 Upon arrival at a railway station of a train laden with goods deemed to have been imported, the Station Master or the person in

control of the station at the appointed place of entry shall deliver to the Customs office all copies of the advice and delivery notes received by him relating to goods consigned to that particular station.

- 2.1.5.2 Customs officers, shall upon receipt of all copies of rail notes, open and enter into a register, in numerical sequence, all rail notes numbers issued by the stationmaster for accounting and audit purposes. This makes it easier to find out when a number is missing.
- 2.1.5.3 To secure release of goods from the transit shed, the Customs officer shall issue a Delivery Order (form CE 61) that is numbered, signed, date stamped and bears the number and date of the bill of entry (form SAD 500) on which the goods were cleared. It follows therefore, that, an importer can only obtain release of goods from the railways by presenting a valid Delivery Order accompanied by form SAD 500.
- 2.1.5.4 The Customs officer may, by endorsement on a customs Delivery Order, or in any other manner order the detention or delivery to a place indicated by him of the whole or any part of the goods to which such order relates and such goods shall not be delivered or removed except as ordered by the proper officer.
- 2.1.5.5 The Station Master shall within a period of 14 days or within such further period as the proper officer may allow furnish to the Customs officer a report of goods in his custody whose 14 days period has expired and such goods are to be transferred to the Customs and Excise State warehouse.

2.1.6 Control of bonded sidings

- 2.1.6.1 The Commissioner may allow goods to be removed by rail to a trader's premises and it is required that such a siding be registered with BURS, division of Customs and Excise and a security bond lodged to cover the duties and taxes on goods that could be removed to such a siding at any one time.
- 2.1.6.2 The station master is required to warn Customs officers immediately upon the arrival of goods consigned to a bonded siding. The bonded siding owner is required to bring completed bills of entry (SAD 500) forms to the nearest Custom office and make due clearance of the goods before off loading them from the wagons, any action contrary to this will be constituted as an offence. The Customs officer will then clear the goods and stamp the rail notes as normal and allow the importer to off load or the officer may choose to examine the wagons before allowing off loading.

2.1.7 Acquittal of rail notes

- 2.1.7.1 Officers responsible for railway traffic should open a register to enter, in serial numbers, all rail notes received from the station master and

should maintain such register updated each time copies of rail notes are received. The practice is that, rail notes are numbered in sequence to facilitate checking and ease of verification by Customs.

2.1.7.2 For acquittal purposes, as and when goods are cleared, the Release Order number should be endorsed in the Rail Note Register to give reference to a particular serial number of the rail notes to signify that Customs clearance had occurred. Customs Officers are to regularly record and check the registers as a monitoring mechanism to ensure that no goods are released prior to Customs clearance.

2.1.7.3 The Officer-in-charge should check the register to ensure that goods, which remain in the transit shed for a period not exceeding 14 days, are delivered to the State warehouse. Officers should also carry out regular inspection and spot checks of the transit shed to ensure that goods are not removed from bonded premises prior to customs clearance. Officers are urged to visit the goods shed regularly to check and verify the acquittal of delivery notes in the possession of railway officials against those submitted to Customs.

2.1.8 Disposal of goods on failure to make due entry

If clearance of imported goods has not been made after expiry of 14 days from the date of arrival of the goods, the Customs officer shall upon call upon the station master to arrange for the transfer of such goods to the State warehouse. After delivery of such goods, the customs officer at the State warehouse may call upon the importer of the goods to make due entry within a specified period and if the importer fails to do so such goods shall be liable to seizure.

2.1.9 Sale of goods removed to warehouse

2.1.9.1 The Act provides that, if after the expiry of 3 months or any period prescribed in section 40 of the Act, goods that remain in the State warehouse and are not cleared with Customs, the Commissioner may allow them to be sold by public auction.

2.1.9.2 The proceeds from goods sold by auction shall be applied to pay the following: -

- Customs Duty and VAT expenses
- Charges due to freight
- Charges due to container operator
- Charges due to depot operator
- The surplus, if any, shall, if goods were not imported in contravention of any law, be paid to the owner of the said goods upon application supported by proof of ownership within two years from date of sale of the goods.

2.1.9.3 If goods cannot be sold for a sum sufficient to cover the duty expenses, charges and freight aforesaid, the Commissioner may accept the sum offered and apply it in discharge of the said debits in the order mentioned in paragraph 2.1.9.2 above.

- 2.1.9.4 Alternatively if goods cannot be sold at a price regarded by the Commissioner as reasonable, they may, in his discretion, be appropriated to the state.
- 2.1.9.5 Perishable goods should be sold at once to make sure that the proceeds are sufficient to cover the duties and other charges. If goods are of a dangerous nature, the Commissioner may order that they be destroyed.

PART II:

2.2 GOODS CONSIGNED BY POST

2.2.1 Purpose

The purpose of this guidance notes is to guide officers on the procedures to follow when dealing with goods imported or exported through the post office.

2.2.2 Legal Authority

- 2.2.2.1 Sections 13, 15 and 47 (3) of the Customs and Excise Duty Act, 1970, as read with regulations 40 (6) and 46 (12) (13) and (14) of the Customs and Excise Duty Regulations.

“Section 13 - For the purposes of entry and collection of duty on goods imported into Botswana by post any form or label completed by the sender in respect of the postal item in question and on which the particulars necessary for the assessment of duty are set forth, shall be deemed to be an entry made under the provisions of this Act, and the

particulars on any such form or label shall, for the purpose of this Act, be taken as the declaration to be made by the importer under Section 40.

Section 15 - “The Commissioner may, in the absence of the importer or exporter of any package imported into or landed in or exported from, or suspected by the Commissioner to have been imported into or landed in, or exported from Botswana, open and examine such packages at the importer’s or exporter’s risk and expense.”

Provided that wherever possible the Commissioner shall first make all reasonable efforts to ascertain the whereabouts of such importer or exporter and afford the said importer or exporter the opportunity of himself appearing before the Commissioner and opening the package in questions.

Section 47 (3) - For the purpose of this section, the time of

entry for home consumption of –

- a) goods imported by post (and not entered at a customs and excise office before the Commissioner) shall be deemed to be the time when such goods are assessed for duty; and
- b) goods imported otherwise shall be deemed to be the time when the bill of entry concerned is delivered to the Commissioner in terms of section 41 (1) of the Act and at a place indicated by the Commissioner, irrespective of whether that bill of entry is returned by the Commissioner in order to be adjusted as required by the Commissioner, provided it is redelivered, so adjusted, to the Commissioners within five days after the day on which it was to be returned by the Commissioner”

Regulations 40 (6) - The provisions of sub-regulation (1) and (5) shall mutatis mutandis apply in respect of goods imported or exported by post but the Commissioner may, in respect of any class or kind of goods or any class or kind of postal package specify and provided entry at a customs and excise office under the provision of section 13 of the Act is not a requirement, dispense with the production of an invoice on such conditions as he may impose in each case.”

Regulations 46 (12), (13 and 14) -

46(12) Whenever a person in Botswana wishes to transfer by post between Botswana and any of the other partner states any goods to which sub-regulation (2) or (3) applies, he shall first complete and deliver form G to a postal official at the post office or receipt or dispatch, as the case may be.

46(13) No goods shall be delivered by post or accepted for carriage by post unless form G completed in accordance with these Regulations is delivered to a postal official at the post office of dispatch.

46(14) The postal official referred to in sub regulation (12) and (13) shall send the form G to the nearest Customs house in Botswana.”

2.2.3 Definitions

The definitions are as prescribed in the Customs and Excise Duty Act but by virtue of the definition of “owner” in section 2 of the Customs and Excise duty Act, the Postmaster is responsible for performing those duties on behalf of the owner.

2.2.4 General overview

2.2.4.1 Goods imported or exported into the country through the

medium of the Post Office are subject to customs control equally as goods imported or exported or transferred by any other means.

- 2.2.4.2 Duties and taxes have to be charged on goods brought by post and the Postmaster is responsible for collecting such duties/taxes from the consignees on behalf of BURS.
- 2.2.4.3 Each imported post parcel is required by international post office regulations to bear a customs declaration by the sender. Such declarations are usually in the form CN 22 providing details of contents, mass and value. The value for customs purposes is to be taken as the declared value plus the cost of postage stamps. Duties and taxes should be assessed based on the information provided on the declaration form CN 22.
- 2.2.4.4 The Customs Officer is to examine all imported parcels by reference to the customs declaration affixed to the packages and raise a charge for duty and VAT in accordance with the customs tariffs. In assessing duty and VAT regard must be paid to the definitions of value for customs duty as contained in Section 75 of the Customs and Excise Duty Act

2.2.5 Customs Procedures to follow when goods are imported/exported by post –

2.2.5.1 Duty Assessment

- i. All post parcels whether from overseas or from the Common Customs Area (CCA) imported into Botswana by post shall be entered for customs duty and VAT purposes.
- ii. The Postmaster is responsible for the opening of mailbags and the sorting of parcels which he must hold and produce individually to the Customs Officer for recording of the declared contents, values, and the assessment of duties and VAT.
- iii. Once duties and taxes have been assessed, the Customs Officer will prepare a post parcel duty assessment advice in the form Cus /Misc. 42. The form is in the form of a booklet and after completion the original and duplicate advices are to be affixed to the parcel and the triplicate and quadruplicate left in the book as station copies.
- iv. Where a foreign parcel has an incomplete, vague or indecipherable value or indeed, no declaration at all, the parcel must be opened for examination to determine the contents and the value of the goods.
- v. The assessed package will then be given back to the Postmaster to forward to the owner of the goods for subsequent collection of all the assessed duties and taxes.

2.2.5.2 The Postmaster should arrange for the collection of duties and taxes from the addressee and remit such duties to the Commissioner on a monthly basis. He will be required to complete form SAD 500 and state the amount collected at each post office and the period of collection. He will then forward the bill of entry to the Regional Office.

2.2.6 Procedure to follow after duty has been assessed

- i) After completing the assessment the Customs officer is then required to record the contents and values of all parcels on the Post Parcel Examination Schedule **Cus/Misc 6 forms (Appendix B)**. When the entire mail has been recorded the value columns will be totaled and the totals transferred to the Post Parcel Mail Summary sheet Cus/Misc 5 (Appendix C).
- ii) After completion of the Post Parcel Summary Sheet Cus/Misc 5, and the examination schedule Cus/Misc 6, they should be submitted to the Senior Customs and Excise Officer- in -charge for checking and signature. The original form Cus/Misc 5 is to be dispatched to the Customs Statistical Unit and the duplicate of Cus/Misc 5 together with Cus/Misc 6 is to be filed as station copies in monthly series.
- iii) Officers are reminded that statistics derived from the assessment of post parcels are included in the common revenue pool sharing formula and it is of utmost importance, therefore, that every parcel is taken into account and that the schedules and summaries are completed with utmost accuracy.

2.2.7 Procedure to follow when Prohibited goods are brought by post

In the case of packages imported by post containing prohibited or restricted goods, the following procedure must be observed: -

- a) The prohibited goods must be seized and sent to the Customs warehouse and a seizure notice should be issued to the importer and a report written to the Commissioner;
- b) Where there are other goods amongst the prohibited goods they should be removed and given to the importer provided they have been properly declared.
- c) Restricted goods should be detained pending further investigation i.e. production of import permit.

2.2.8 Production of supplier's invoice for commercial goods

Where commercial goods are imported by post a supplier's invoice must be produced before clearance of the goods can be made and the importer (owner of the goods) must be called upon to complete a bill of entry SAD 500 form.

2.2.9 Unclaimed and Return to Sender Parcels (RTS) Parcels

2.2.9.1 After expiration of the 40 days period, the postmaster shall return all unclaimed duty assessed parcels to the sender by undertaking the following steps: -

- i. The Postmaster shall produce to the customs officer in attendance all unclaimed parcels together with the original assessment form CUS/Misc 42,
- ii. The Customs officer shall endorse the parcel with the words 're-exported under customs supervision' and quote the dispatch advice slip serial number and append his/her signature and date stamp and give the parcel to the Postmaster for export..
- iii. Where the parcel is send to the sender at a Post office other than Gaborone, the Postmaster may contact the nearest Customs office for assistance. The Customs officer will then sign and stamp the Cus/Misc 42 form presented with the parcel and thereafter send the form to Gaborone confirming that the exportation of the parcel had taken place under customs supervision. It is important that the forms are returned to the originating station for acquittal purposes.
- iv. In cases where the Postmaster returns goods to the sender without customs supervision, duties and taxes due on those parcels will be borne by the Postmaster.

2.2.9.2 Where goods are left unclaimed for a period exceeding three months from the date of assessment and there is no possibility of returning them back for the sender, the Postmaster must hand over such goods to the Commissioner to be included in the customs auction sale. It should be noted that such goods are State property and should be duly accounted for.

2.2.9.3 Dutiable parcels remaining unclaimed for a period not exceeding three months should be transferred to Customs Warehouse where they will be auctioned and the proceeds dealt with as follows: -

- In payment of duty;
- In payment of rent and
- In payment of postal charges

2.2.10 Accounting procedures

2.2.10.1 Bills of Entry SAD 500 forms received from the Postmaster will be checked on receipt by the Regional Manager or by a Senior Customs Officer, after certifying them correct, the forms would then be forwarded to the Revenue Cashier for

payment. The Revenue Cashier would then pass the Bill of Entry in the normal way and bring the duty to account.

The documents will be disposed of as follows:

- a) Original Bill of Entry - Region
- b) Duplicate – Post Master
- c) Triplicate - Finance
- d) Quadruplicate - file copy.

2.2.10.2 On receipt of the assessment Cus/Misc 42 forms, the Officer-in - charge will refer to the relevant quadruplicate and endorse them with a reference number to the fact that duty had been paid; thereafter the original Cus/Misc.42 form will be attached to the relevant copy of the Cus/Misc 42 which was left in the Booklet.

2.2.10.3 The Officer-in charge is to perform monthly checks of forms Cus/Misc. 42 to ensure that original forms indicating that duty has been paid are received. Where evidence of duty payment is not received after three months from the date of assessment, headquarters is to be advised so that arrangements may be made to call upon the postal authorities to account for the parcels which remain unacquitted. These acquittals are very important and should be checked on weekly basis to make sure those duties and taxes due to the state are all accounted for.

2.2.11 Export of goods by post

When a person in Botswana wishes to transfer goods by post to another country he/she shall first complete form CN 22 and affix it to the parcel and then deliver it to the postal officials at the post office of dispatch. The postal officials are required to send one copy of form CN 22 to the nearest Customs office for accounting of goods being exported.

CHAPTER 3 TRANSIT

3.1 Purpose

The purpose of these notes is to provide guidance to Customs officers on transit procedures and how they should be applied.

3.2 Legal authority

Section 17(1A) of the Customs and Excise Duty Act, Chapter 50:01 of the Laws of Botswana.

Sections 9, 10, 11 and 12 of the Customs and Excise Duty Regulations

3.3 Definition

Transit is a Customs control procedure to facilitate the movement of goods potentially liable to duties and taxes, from one customs point to another within a customs territory, or between two or more different customs territories, without payment of such duties and taxes. The revenue liability usually being secured through a guarantee mechanism"

3.4 General overview

Transit systems have been put in place by various countries worldwide in order to facilitate the movement of goods across borders. In this regard, arrangements have been made under international agreements whereby countries that are signatories to such agreements apply standard

procedures for the treatment of goods carried in Customs transit through their territories.

3.5 Conditions for the operation of transit systems

Basic conditions:

- The countries traversed must be party to the arrangements.
- Security must be provided.
- Customs approved documentation must be used.
- Goods must normally be carried in approved means of transport to and be sealed by Customs.

3.6 Types of transit systems

Generally there are four types of transit and these are the terms normally used to describe them:

(a) Through transit:

A transit movement from the customs office of departure (commencement) into the customs territory to a customs office of exit out of the customs territory of transiting country.

(b) Outward transit:

A transit movement from an inland Customs office within the customs territory to a customs office of exit from the Customs territory

(c) Inward transit:

A transit movement from the Customs office of introduction into the customs territory to an inland Customs office within the customs territory of introduction

(d) National/Community transit:

A transit movement from one inland customs office within the customs territory to another Customs office within the same customs territory.

3.7 Transit procedures

3.7.1 Office of commencement

- Transit procedures start at the office of commencement by presentation of SAD 500, SAD 502 (for BW) together with related documents like T1, and the goods (where required

- For smaller stations which are non-commercial like Sikwane and Ramotswa, C. misc 54 (for commercial goods) and C. misc 53 (for private vehicles).
- Form T1 is to be completed in duplicate, and original given to the driver after the goods have been checked against the declaration.
- The particulars of export documents are to be endorsed on the transit documents.
- The goods are to be removed in bond by someone who has a bond with Customs, or else there should be a security.
- The vehicle used to carry the goods should be locked and sealed if it is the closed type.
- These goods always need close supervision and monitoring. In some countries the vehicles may be escorted to the port of exit.
- It is advisable for the entry point where the transit advise document (T1) is prepared to alert the port of exit about the goods.

3.7.2 Office of Departure:

- Documents to be presented at the office of departure:
SAD 500, SAD 502, Original copy of T1 with supporting documents-
invoices, manifest, waybills etc
- Check the goods against the supporting documents.
- If the vehicle is sealed, check whether the seal is intact.
- The officer should then stamp and endorse his/her comments, then send the forms to the place of entry for acquittal.
- Penalty becomes payable where necessary if the officer finds any discrepancy or irregularities.
- The necessary steps are to be taken before the vehicle is allowed to continue.

3.8 Release of goods

- After completion of all formalities at the office of destination/departure, the goods are released.

3.9 References:

This Manual covers the general transit procedures. However, detailed ASYCUDA transit procedures are contained in the following publications:

- i. ASYCUDA++ MODTRS GUIDE - TRANSIT and
- ii. GUIDE TO COMPLETION OF SAD 500/ 501 /502CUSTOMS DECLARATION – IMPORT, EXPORT & TRANSIT

These publications are issued and maintained by the SYSTEMS Clearance unit and Customs officers are encouraged to refer to these publications in the course of their work.

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CHAPTER 4 BAGGAGE DECLARATION AND PASSENGER'S BAGGAGE CONCESSIONS

4.1 Purpose

The purpose of these guidance notes is to assist Customs Officers on the clearance procedures for individuals who bring in goods for their personal use and the various baggage concessions granted to such individuals.

4.2 Legal authority

4.2.1 The legal authorities for these guidelines are: -

- (i) Section 14 of the Customs and Excise Duty Act, Cap 50:01 states that “Any person entering or leaving Botswana shall, in such a manner as the Commissioner may determine unreservedly declare goods- “.
- (ii) Rebate Items 407.01 and 407.02 of Schedule No. 4 to the Customs and Excise Duty Act Cap 50:01:-

407.01: Personal effects, sporting and recreational equipment, new or used; Imported either as accompanied or unaccompanied passengers’ baggage by non-residents of Botswana for their own use during their stay in Botswana. Exported by residents of Botswana for their own use while abroad and subsequently re-imported either as accompanied or unaccompanied passengers ’ baggage by such residents.

407.02: Goods imported as accompanied passengers’ baggage either by non-residents or residents of Botswana and cleared at the place where such persons disembark or enter Botswana.”

4.3 Definitions

The definitions of terms used in these guidelines are as prescribed in the Customs and Excise Duty Act.

4.4 General overview

4.4.1 Persons entering Botswana

Persons entering Botswana can be divided into four main categories, and each category has a certain way in which it should be treated when they arrive at the port of entry, namely: -

- (i) Visitors and Tourists.
- (ii) Persons intending to take up permanent residence in

Botswana.

- (iii) Returning permanent residents.
- (iv) Persons in transit through Botswana.

4.4.2 Visitors or tourists

Visitors or tourists are required by law to complete Form 'J' (Appendix.) on entry into Botswana to ascertain the kind of goods they have in their possession which they intend to consume i.e. food, spirits wine etc or leave in Botswana after their stay in the country. If the proper officer is satisfied that there is no requirement for Form 'J' or that Form 'J' has been completed satisfactorily, the visitor or tourist may be allowed to proceed without further customs formality if their goods are within the allowed limit.

4.4.3 Persons intending to take up permanent residence in Botswana

Persons intending taking up permanent residence in Botswana are required to complete Form 'J' in respect of all baggage and goods which accompany them at the time of their entry into Botswana. Such persons should not declare unaccompanied baggage or household effects which are being shipped separately to Botswana.

4.4.4 Returning Permanent Residents

Permanent residents returning to Botswana are required to complete Form 'J' in respect of goods, articles of personal wear, food etc., which were purchased during their absence from Botswana and which are in their possession at the time of their entry into Botswana. Their attention should also be drawn to item 'C' on the form regarding repairs to motor vehicles, household appliances, etc which must also be declared to Customs.

4.4.5 Persons in Transit through Botswana

Persons who are in direct transit through Botswana to a place outside Botswana are not required to complete Form 'J'.

4.5 Duty free allowances for travelers

Customs duties are not charged on the following goods imported as accompanied or unaccompanied passenger's baggage:

- (i) Personal effects, sporting and recreational effects, new or used;
 - (a) Imported by non-residents of Botswana for their own use.

- (b) Imported by persons making a bona fide change of residence to Botswana.
- (c) Exported by residents of Botswana for their own use whilst abroad and subsequently re-imported by such residents. These particular goods must be identifiable as those exported from Botswana.
- (ii) The following articles and consumables (excluding and goods of which the importation is prohibited), declared at the place where the traveler enters Botswana and not imported on behalf of other persons or by way of trade, may be admitted free of duty and where applicable, Value Add Tax (VAT).

Wines	2 litres
Spirituous and other alcoholic beverages	1 litre
Cigarettes	200
Cigar	20
Cigarette or pipe tobacco	250 gms
Perfume	50 ml
Toilet water	250 ml
Other new or used goods of a total Value not exceeding (from outside SACU)	3000UA*
Other new or used goods of a total value not exceeding (from SACU)	500 UA*

Additional goods imported from outside SACU, new or used, of a total value not exceeding 12 000 UA per person, excluding the consumable items detailed above, are admissible at a flat rate of 20%, if the owner so elects.

NOTES:

Customs duty at applicable rates and 10% VAT will be payable where travelers import goods exceeding the above allowances. Travellers importing goods for business or commercial purpose will not qualify for the above allowances.

- i. The concession for the new and used goods specified above do not apply to goods imported by residents of Botswana returning after an absence of less than 48 hours.
- ii. With the exception of those relating to tobacco and alcoholic products, the concession may be claimed by children under the age of 18 years, whether or not their parents or guardians accompany them, provided the goods are for use by the children themselves.

*UA is equivalent to one South Africa Rand.

4.6 Procedures

4.6.1 Preparation of Form ‘J’, (Baggage Declaration)

- 4.6.1.1 Form 'J' is to be completed by all travellers coming into the country by declaring their accompanying passenger's baggage as stated by Section 14 of the Customs and Excise Duty Act quoted above.
- 4.6.1.2 Every person entering Botswana shall make a declaration of his/her accompanied baggage and goods, if any. It is at the discretion of the proper customs officer to determine whether such declaration is made orally or in writing.
- 4.6.1.3 The Customs officer at every station where a Form J is presented, will after due assessment of the declaration, allocate a rotation number to the form which are to be numbered sequentially on a monthly basis prefixed by the station number as per the following example- first form J issued at Kazungula in any month in 2007 will be 37/001/07, where 37 is the station code number, 001 is the form J number and 07 is the year. At stations where the form J is not yet computerized it should be completed in triplicate and should be distributed as follows:-
- Original - Head office (ASYCUDA)
1st copy - Station Copy
2nd copy - Owner of the goods
- 4.5.1.4 As a general rule, customs duties payable on goods are normally assessed on individual articles at the rates prescribed in Schedule No.1 to the Act but in order to expedite clearance of accompanied baggage and to facilitate calculation of duties at ports of entry, a special duty rebate item 407.02/00.00/02.00 has been provided under Schedule No.4 authorizing payment of duty at a flat rate of 20%, ad valorem. The rate of duty includes Customs, Excise and Ad valorem Excise Duties but does not include 10% import VAT that will be charged separately.
- 4.6.1.4 The flat rate of 20%, is applied only to goods imported by passengers for their own use and provided that the value of all the goods is not more than 12 000 UA in excess of the duty free allowances set out in rebate item 407.02/00.00/01.00 of Schedule No. 4 to the Act, (Show allowances)
- 4.6.1.5 The flat rate of 20%, does not apply to spirituous and alcoholic beverages, manufactured tobacco and perfumery which, when imported in excess of the duty-free allowances provided for under Rebate Item 407.02 will be chargeable with duty according to schedule No.1 to the Act.
- 4.6.1.6 If a person mis-declares the goods he/she is attempting to import or is otherwise detected in an offence situation, and then, notwithstanding any action, which may be taken against him/her regarding the offence, the Commissioner may refuse to grant him/her

any rebate concession on his/her accompanied baggage.

4.6.2 Red and Green route Channels

The Red and Green Channels system is designed to simplify and speed up the handling of travellers at airports. Under this system travellers who are not carrying dutiable or restricted goods are able to pass unhindered through Customs controls.

Pamphlets setting out the allowances granted to travellers and tourists and listing the more important restrictions will usually be made available to travellers on the aircraft before it lands in Botswana or upon arrival in the arrivals hall. In addition, travellers can read from posters in the arrivals hall and should be in a position to decide for themselves which channel they should select after they disembark and collect their luggage.

Red Channel :-

This channel is to be used by travellers who are carrying dutiable or restricted goods.

Travellers who elect to proceed along the Red Channel should be dealt with as at present. The allowance should be allowed on declared items and duty and tax collected on declared items not covered by the allowance.

Green Channel :-

This channel is to be used by travellers who are not carrying any dutiable, prohibited or restricted goods. Such travellers will be subject to spot-checks.

If excess goods are found, the passenger should be moved from the Green Channel and dealt with as detailed in paragraph 4.5.1.7 above.

4.7 Assessment of duty on goods imported in excess of the duty free allowances

- 4.7.1 In order to facilitate calculation of customs duty on spirits; wines; tobacco, and perfumery imported by passengers in excess of the duty-free allowances set out above, VAT will be payable at the rates specified in the VAT Act on all products imported.
- 4.7.2 In cases where duty is payable on goods imported in excess of the duty free allowances the importer has to declare such goods on a customs baggage declaration form J, and the duty is to be collected against a receipt. A reference to the receipt and date of its issue is to be endorsed on the body of the Form J by the assessing officer. VAT should be similarly endorsed after assessment.

4.8 Commercial Goods Imported as accompanied Baggage

Commercial goods imported as accompanied baggage are not covered by the duty-free allowances and must therefore be charged duties at the rates prescribed in the Customs tariff schedule No.1 and such goods intended for trade purposes are to be entered against a bill of entry (SAD 500) supported by the usual documentary papers needed for payment of duty.

4.9 Prohibited Imports

The duty free allowance mentioned in this guidance notes does not apply to goods the importation of which is prohibited under the Customs and Excise Duty Act or any other Law of Botswana dealing with the importation and exportation of goods and should therefore be seized.

CHAPTER 5 TEMPORARY ADMISSION OF GOODS

5.1 Purpose

The purpose of these guidance notes is to explain the procedures for processing goods temporarily imported into Botswana and to ensure that there is consistent application by the Customs and Excise staff in the outfield.

5.2 Legal Authority

5.2.1 Part III of Schedule 4 to the Customs and Excise Duty Act as read with Regulation 62 to 68 of the Customs and Excise Duty regulations provides the legal framework for handling goods temporarily imported into Botswana for re-exportation in the same state.

5.2.2 The notes to the specific Rebate Items 470.00, 480.00 and 490.00 of the Customs and Excise tariff, as amended from time to time also offer specific guidelines in respect of goods temporarily imported.

5.3 Definitions

The definitions of terms used in these guidelines are as prescribed in the Customs and Excise Duty Act.

5.4 General Overview

5.4.1 The Customs and Excise Duty Act and the Customs and Excise Tariff provide that goods can be temporarily admitted into Botswana under certain specified conditions.

5.4.2 The notes in Schedule 4 of the Customs and Excise Tariff under specific rebate items should be used as a basis for the procedures to be followed in dealing with temporary imports particularly for goods coming from outside SACU.

5.7 Circumstances under which goods can be admitted temporarily into Botswana

Goods can be temporarily imported into Botswana under the following conditions:-

- Rebate Item 490.00 - Goods temporarily admitted subject to exportation in the same state
- Rebate Item 480.00 – Goods temporarily admitted for specific purposes
- Rebate Item 470 .00 - Goods temporarily admitted for processing ,repair, cleaning, reconditioning or for the manufacture of goods exclusively for export
- Temporary imports from SACU countries
- Temporary importation of goods for exhibition at trade fairs/shows

5.8 Procedures to follow when dealing with temporarily imported goods

5.6.1 Rebate Item 490.00 - Goods Temporarily Admitted Subject To Exportation In The Same State

Temporary admission of any goods under rebate item 490.00 shall be subject to the following:-

- i). Lodgment of security in the form of either a bond (CE 185C) APPENDIX I obtained from a Bank or an Insurance Company incorporated in Botswana or payment of a cash deposit on Customs form CE 70 (application for Provisional Payment) APPENDIX II equivalent to Customs duties and VALUE ADDED TAX (VAT) applicable on the temporarily imported goods. The bond forms CE 185C and VAT 13 are approved at Headquarters.
- ii) Completion of a Customs declaration form SAD 500 a copy of such entry should be sent to Customs Headquarters, Customer Support Unit.
- iii). At the time of re-exportation of the goods, which is normally after six months or such other period as may be prescribed in the Customs Tariff, the exporter should complete Form SAD 500 to acquit the Import transactions.
- iv). Temporary admission may be terminated by entering the goods for home consumption by completing form SAD 500 using the same value declared at the time of importation and at the rate of duty current at the time of such entry at any Customs and Excise office.

5.6.2 Rebate Item 480.00 – Goods Temporarily Admitted For Specific Purposes

Temporary admission of any goods under rebate item 480.00 shall be subject to notes in the Tariff under the item.

5.6.3 Rebate Item 470 .00 - Goods Temporarily Admitted For Processing, Repair, Cleaning, Reconditioning Or For The Manufacture Of Goods Exclusively For Export

Temporary admission of any goods under rebate item 470.00 shall be subject to notes in the Tariff under the item.

5.6.4 Temporary imports from SACU countries –

As a general rule goods temporarily imported into Botswana from other countries within the Southern African Customs Union (SACU) are **not** liable to import duties. However such goods may be liable to VAT therefore the VAT on such goods has to be secured in the same manner as goods covered by rebate item 490.00.

- i). Lodgment of security in the form of either a bond issued by a commercial Bank or Insurance Company incorporated in Botswana on Form ST 13 or payment of a cash deposit on Form CE 70 equivalent to the VAT applicable on the goods. In the case of zero rated goods a deposit will not be required.
- ii) The importer should complete the Customs Form SAD 500 to cover import VAT and a CE 70 where a cash deposit is paid, copies of which should be sent to the Customs Regional Office for monitoring purposes.
- iii). At the time of re-exportation, within three months from the date of entry or further period as may be allowed in terms of the VAT ACT , the exporter should complete an export SAD 500 to acquit the import transactions.
- iv). The importer may elect to import the goods permanently within the three months period in which event full clearance formalities including the completion of form 500. If the importer so elects, the VAT paid as deposit at the time of entry is transferred to revenue.

5.7 Temporary importation of goods for exhibition at Trade Fairs/Shows

- i) Temporary Importation of goods for exhibition at trade fairs/shows refers to goods, which will be re-exported from Botswana at the end of a trade fair/show as provided for under rebate item 480.10 of the customs Tariff.
- ii) All goods should be cleared at the first port of entry into Botswana i.e. border post, airport or inland station.

Goods for Exhibition at Trade Fairs/shows, Show Stands, etc **may** be imported temporarily into Botswana subject to the following conditions:-

- a) The goods would be in Botswana for a period not exceeding 3 months, should there be a need for goods to remain in Botswana for a period of more than 3 months, prior arrangements should be made in writing for the extension at the port of entry or any nearest Regional Office.
- b) The following documents should be produced at the time of clearance:-
 - A duly completed form CE 70 either covered by a cash deposit, or a bond guaranteed by a Bank or Insurance Company registered in Botswana. The deposit should be equivalent to the duties and VAT at stake and will only be refunded once goods have been re-exported from Botswana. It is recommended that exhibitors use a clearing agent who will clear the goods and take responsibility for the deposit against a fee.

- A list of goods in triplicate showing the quantities, descriptions and values,
- Commercial invoices for the goods,
- Transport documents e.g. Airway Bills, Bills of Lading,
- Certificate of origin where applicable,

5.8 Permanently imported goods and goods for sale

- 5.8.1 This refers to goods for exhibition, which will remain permanently in Botswana after the trade fair/show and includes consumables and free give-away. Full duty and VAT is payable on these goods on importation.
- 5.8.2 All goods which are to remain in Botswana must, at the time of importation, be entered for home consumption with duty and VAT paid.
- 5.8.3 Documentation that will be required at the time of clearance includes, form SAD 500, Original Invoices, packing lists and all normal shipping documents as well as certificates of origin where applicable.

5.9 Printed advertising matter and technical literature for free distribution

There is no duty on brochures but VAT will be payable on those items at the time of entry.

Note.

Other give-away e.g. T-shirts, pens and the like should be cleared and duty and VAT paid.

5.10 Imports under Trade Agreements (SADC, Botswana/Zimbabwe Trade Agreement, etc)

- 5.10.1 Botswana has preferential trade agreements with a number of countries where preferential rates of duty apply on goods originating from these countries.
- 5.10.2 Goods permanently imported and originating from a contracting member state would enjoy preferential rates on the following conditions:-
- a) The exporting company should be registered for export to the preferential areas;

- b) A relevant Certificate of Origin authorized by the approved body in the country of export must cover the goods

The above conditions also apply for temporarily imported goods which are subsequently cleared for home consumption.

5.11 General requirements

- 5.11.1 Where necessary goods should be physically checked at the time and place of importation/exportation.
- 5.11.2 On completion of the fair/show all imported goods should be exported under Customs supervision.
- 5.11.3 It has been decided that all temporary imports in exception of motor vehicles covered by T.I.P and T.E.P. are entered in **form** CE 70 including free-undertaking imports. The CE 70 is used as a control document and when goods are e-exported a copy of the CE 70 should be sent to the originating station for acquittal. A register will be maintained with temporary deposits and free-undertaking details.
- 5.11.4 All goods have to be identifiable and where applicable, serial numbers and marks that could help in identifying the goods on return have to be on the goods.
- 5.11.5 The invoices should be detailed and specify quantities, weights and descriptions.
- 5.11.6 The manifest and packing lists have to be specified and should clearly stipulate what is on the vehicle.
- 5.11.7 It is recommended that exhibitors should engage clearing agents who will be able to provide in detail, individual shipping instructions and advice to each exhibitor on request to cover special needs.

5.12 Exemption from temporary import formalities

- 5.12.1 For administrative convenience motor vehicles registered in other SACU countries and temporarily imported by visitors and tourists and commercial vehicles transporting goods coming for short periods are exempted from the above mentioned temporary Import formalities. Private vehicles temporarily imported by visitors from Malawi, Zambia and Zimbabwe are also exempted from payment of temporary deposits. Such vehicles are covered in Chapter 6.
- 5.12.2** The notes under Rebate Item 490.00 and the VAT legislation adequately explain the provisions and should be read in conjunction with this guide.

5.13 Goods that require Import Permits

There are some goods that require Import Permits, amongst which are pets, arms and ammunition, boats and aquatic equipment etc. and such goods would require permits if temporarily imported.

5.14 Temporary import processing

5.14.1 A manufacturing company imports raw materials and processes them into finished goods for subsequent export to NON-SACU countries

5.14.1.1 Import Procedures

- Prepare an IM 5 declaration for temporary import with Customs Procedure Code (CPC) 5200 000.

Note:Duties and VAT are exempted

- Submit the completed IM 5 declaration together with all supporting documents for approval

5.14.1.2 Export procedures

- Prepare EX 1 declaration for direct export with CPC 1052 000.
- Submit the completed export declaration together with all supporting documents for approval

5.15 A manufacturing company imports raw materials and processes them into finished goods for subsequent export to SACU countries

5.15.1 Import Procedures

- Prepare an IM 4 declaration with CPC 4000.523 Note: Customs duty is payable, VAT is exempted.
- Submit the completed declarations together with all supporting documents for approval.

5.15.2 Export Procedures

- Prepare an Ex 1 declaration for direct export with CPC 1000 000.
- Submit the completed export declaration together with all supporting documents for approval

5.16 A manufacturing company sells the finished goods inside Botswana

Import Customs Duty (ICD) has already been collected on the raw materials component under CPC 400 523. No Customs declaration is required. Import VAT has already been exempted under CPC 4000.523. Therefore no

import VAT is payable or deductible. Output tax on the supply should be accounted for in the trader's VAT return.

5.17 A company imports goods to come and undertake some work

5.17.1 Import Procedures

- Prepare an IM 5 declaration with CPC 5300 000. Note: Customs duty and VAT is exempted.
- Submit the completed declaration together with all supporting documents for approval
- Prepare an IM 4 declaration with CPC 4053000 if goods are not exported but rather cleared for home consumption and collect the necessary duties and taxes on the origin/export of goods.

5.17.2 Export Procedure

- Prepare an Ex 3 declaration for re-export with CPC 3053 000.
- Submit the completed export declaration together with all supporting documents for approval.

5.18 General Notes for goods coming for manufacturing

- ASYCUDA does not automatically convert one type of goods to another as a result of a process. For example – import textiles, thread, buttons etc. made up into shirts. There is no conversion program for this.
- There are so many variables – design of shirts, etc. in a manufacturing process that it is also recommended those traders' records including key subsidiary paper work, should be audited to verify conversion factors, wastages percentages, etc and to confirm that all goods are properly accounted for.
- ASYCUDA has a facility through which we can incorporate a processing application.
- Again, the system has been set to a “temporary admission learning mode” so that re-exports do not have to link to a previous declaration. Learning mode means the system does not control or enforce the restrictions on temporary importation.
- It would be possible to deal with goods that change state by completing a re-export declaration that shows the processed goods, for example shirts, as one item with a special CPC and the amount of temporary imported goods that went into the manufacture of the shirts as separate items, again with specific CPCs so that the statistics remain correct. The system would automatically acquit the goods that are used in the process.

CHAPTER 6

TEMPORARY IMPORTATION OF MOTOR VEHICLES

6.1 Purpose

The purpose of these guidance notes is to set out procedures for dealing with motor vehicles, which are being temporarily imported into Botswana from countries outside the Southern African Customs Union (SACU).

Motor Vehicles registered in SACU countries namely Lesotho, Namibia, South Africa and Swaziland are therefore not covered as they are permitted to enter Botswana temporarily without restriction.

6.2 Legal Authority

- 6.2.1 Paragraph 16 of Part 3 of the Fourth Schedule to the Customs and Excise Regulations, 1974 as read with Rebate Items 490.50 and 490.60 of Schedule No. 4 to the Customs and Excise Duty Tariff, as amended from time to time as well as the Third Schedule of the Value Added Tax (VAT) Act, Cap 50.03 of the Laws of Botswana provides the legislative framework for clearance and control of temporarily imported motor vehicles.
- 6.2.2 Rebate Items 490.50 and 490.60 specify that motor vehicles imported into the Common Customs Area by bona fide tourists resident outside the Common Customs Area and commercial vehicles used in

the conveyance of imported merchandise, respectively, may be admitted into Botswana without payment of duty and VAT. These concessions are however, subject to the conditions set out in Paragraph 16 Part 3 of the Fourth Schedule to the Customs and Excise Duty Regulations and the Third Schedule of the VAT Act.

- 6.2.3 Subject to compliance with the Regulations, the concessions under item 490.50 may be extended to include all foreign visitors, whether businessmen or other and persons who arrive in Botswana to take up short term employment under contract for a period not exceeding six months or such further period as may, in exceptional circumstances, be allowed by the Commissioner.

6.3 Definitions

The definitions of terms used in these guidelines are as prescribed in the Customs and Excise Duty Act.

6.4 General Overview

- 6.4.1 *Admission of a motor vehicle under rebate of duty in terms of items 490.50 or 490.60 is conditional upon the provision of security for the duty liability in the form of a cash deposit, or a bond furnished by a recognised bank or insurance institution in Botswana in an amount equal to the duty and VAT applicable to the temporarily imported vehicle. Importers may also elect to obtain a Carnet de Passage or triptyque issued by an internationally recognised Automobile Association.*
- 6.4.2 In the case of bond security, the bond is to be given in the Form CE 185C (Appendix 1), properly executed by the bank or insurance institution concerned. Any other form of surety such as “bank guarantee” letter issued by a commercial bank is not to be accepted.
- 6.4.3 Importers may also elect to secure the duty and VAT applicable by paying a cash deposit at the time of importation equivalent to the duty and VAT and in every case, the cash deposit or bond security is to be furnished at the time of importation and before the vehicle is released from customs control.
- 6.4.4 It should be noted particularly that any cash deposit, bond security, Carnet de passages or Triptyque accepted at the first port of entry for the vehicle into the CCA is valid for the whole of the CCA. Thus a deposit secured in Botswana will cover the movement of the vehicle to RSA, Lesotho, Swaziland and Namibia. Equally, a bond security accepted at a South African port will be valid for the importation of the vehicle into Botswana.

6.5 Countries in Africa who’s Carnets/Triptyques are guaranteed by the AA of RSA

6.5.1 The following is a list of countries in Africa whose carnets/triptyques are guaranteed by the Automobile Association of South Africa:

Algeria	AIT and FIA carnets
Affars & Issas	AIT carnets
Burundi	AIT carnets
Egypt	AIT and FIA carnets
Ethiopia	FIA carnets
Ghana	AIT carnets
Ivory Coast	FIA carnets
Libya	AIT and FIA carnets
Malawi	AIT and FIA carnets, S.A. triptyques
Morocco	AIT and FIA carnets, S.A. triptyques
Zimbabwe	AIT and FIA carnets, S.A. triptyques
Rwanda	AIT carnets
Spanish Sahara	AIT and FIA carnets
Tunisia	AIT and FIA carnets
DRC	AIT and FIA carnets
Cape Verde Islands	AIT and FIA carnets
Malagasy Republic	AIT and FIA carnets
Mauritius	AIT carnets
Reunion	AIT carnets
Senegal	AIT Carnets

6.5.2 Triptyques/carnets issued by motoring associations in Angola, Kenya, Mozambique, Tanzania, Uganda and Zambia are no longer guaranteed by the AA of South Africa and are, therefore, not acceptable.

6.6 Vehicles Imported from Malawi, Mozambique, Zambia and Zimbabwe against Temporary Import Permits

6.6.1 As an exception to the general rule, motor vehicles the bona fide property of residents of Malawi, Mozambique, Zambia or Zimbabwe imported temporarily by road or rail, may be admitted into the CCA without payment of duty and without any security, provided such vehicles are covered by a Temporary Import Permit in the form CE 307 (Appendix II), completed at the border post of importation.

6.6.2 The period of validity of a Temporary Import Permit is 14 days. This period may be extended for a period not exceeding two months in all at the discretion of an officer not below the rank of Senior Customs Officer, provided application for extension is made before expiry of the initial period.

6.7 Temporarily Imported hired Motor Vehicles

6.7.1 The TIP may also cover hired motor vehicles on condition that the documents produced by the driver confirm that the journey to

Botswana has been authorised by the Hire Company concerned, who should also provide the necessary insurance cover as well as making appropriate arrangements with the Customs Authorities in the country from which the vehicle is being temporarily exported. This applies only to those vehicles from countries covered in paragraph 9.5.1 above. Vehicles from other countries should be covered by carnets or triptyques

6.7.2 The TIP is to be completed in the name of the Hire Company and include details of the driver. The residential status of the driver need not be taken into consideration when determining whether or not the TIP facilities may be granted in respect of hired vehicles.

6.8 Procedure

6.8.1 Importation against a Cash Deposit

- i) Any tourist or visitor resident outside the CCA, other than a resident of Malawi, Mozambique, Zambia or Zimbabwe, who is not in possession of a TIP in respect of his vehicle and who wishes instead to provide a cash deposit to cover the duty liability of his vehicle is to be asked to complete an Application to make Provisional Payment in the form CE 70 (Appendix 3). Since motor vehicles imported temporarily are not entering for home consumption, no bill of entry is required; however the importer should complete TIP setting the full details.
- ii) The amount of deposit to be collected in respect of motor vehicles imported temporarily is the exact amount of customs duties and VAT payable on the vehicle on the basis of the value declared at the time of importation.
- iii) A thorough examination of the vehicle is to be made by the responsible officer, who is to endorse his examination account on the reverse of the original and duplicate of the form CE 70. The examination account is to include sufficient details of the vehicle to render future identification absolutely certain, e. g. engine and chassis numbers, registration number, make and type of vehicle, kilometres run, general conditions, accessories fitted (such as radios, tape recorders, etc) and finally the value of the vehicle as agreed with the owner. It should be particularly noted that in the event of the vehicle being diverted for home consumption the officer's examination account would be the basis of the duty to be charged. Similarly, the examination account will be used to identify the vehicle (and accessories) at the time of re-exportation as a prelude to the refunding of the cash deposit originally collected.
- iv) The duties assessed are to be entered in the duty columns of the form CE 70 and the following endorsement made in the body of the form -

“Duties rebated, being covered by temporary cash deposit collected against Receipt No dated”

- v) All sums of money collected as temporary cash deposits in respect of motor vehicles are to be brought to account against the revenue head for “Temporary Deposits”.
- vi) On completion of the form CE 70, copies are to be distributed as follows -

Original: Station copy - to be retained at import station pending return of the duplicate copy, duly endorsed as to re-exportation. Thereafter to be sent to H.Q with a payment voucher for approval of the refund and return in due course for filing at the station.

Duplicate: Importer’s copy - To be presented at the place of final re-exportation of the vehicle for endorsement by the Customs Officer-in-charge and returned for marrying with the original. Thereafter the copy should be sent to H.Q. with the refund payment voucher. This copy will finally remain with the original payment voucher.

Triplicate: To Finance Division, Headquarters through regional managers.

- vii) The importer is to be informed that the vehicle is to be re-exported within six months, failing which the deposit will be written off to revenue and no refund will be permitted thereafter. He/she is also to be informed that application for an extension of the six months period must be made to the Regional Manager before the expiration of the initial six months period. Applications received out of time should not be approved.

viii) Action at Station of re-export:

In cases where a motor vehicle imported temporarily is re-exported through a border post other than the station of original import, the Officer-in-charge is to check the details of the vehicle as recorded on the reverse of the duplicate form CE 70 and, if correct, endorse the form to the effect that the vehicle has been re-exported. The duplicate form CE 70 is to be recovered from the importer and dispatched by the Officer-in-charge to the station of original import for preparation of a payment voucher in respect of the deposit refund.

6.8.2 Temporary Importations against a Bond Security

- i) In cases where an importer desires to furnish a bond security to cover the duties due on a motor vehicle imported for a temporary purpose, the procedure is to be exactly as described in paragraph 9.8.1(iii) above, save that the endorsement on the CE 70 mentioned

in paragraph 9.8.1(iv) should state the number of the bond security furnished instead of a reference to the cash deposit e.g.

“Duties rebated, being covered by bond security No. 25/08 filed at (Customs Office)”

- ii) It is emphasized that only bond securities executed by a Botswana bank, or an insurance institution resident in Botswana, may be accepted for security of customs revenue.

6.8.3 Temporary importation against Triptyques and Carnet de Passages en Douanes

- (i) A Triptyque is a document issued by recognised Automobile Association or club to a tourist or traveller who wishes to take his motor vehicle to one country only. It is a document by which the Automobile Association or club concerned binds itself to pay the duty due in the country visited on behalf of its client.
- (ii) A Triptyque comprises three vouchers joined together to form one perforated page. Reading from left to right, these vouchers are: a Counterfoil (or owner’s voucher), an Exit Voucher and an Entry Voucher. Triptyques may be written in either English or French language, but details furnished in the vouchers are the same in both languages.
- (iii) A Carnet de Passages en Douane is a multiple triptyque issued in soft cover book form, each book containing some 20 to 25 complete sets of entry and exit vouchers with their respective counterfoils, with all the vouchers and counterfoils bearing the same serial number. The purpose of a Carnet is to enable the tourist or traveller to visit a number of different countries using the same duty guarantee document.
- iv) Triptyques and Carnets may be accepted in respect of any of the following importations: -
 - a) Motor vehicles imported by tourists, foreign visitors, whether on business or otherwise, intending settlers who at the time of arrival in the CCA have not been granted permanent residence, and persons who arrive in the CCA to take up employment for a period not exceeding 12 months;
 - b) Motor vehicles imported temporarily for personal use by university students;
 - c) Wireless receiving sets permanently built into motor vehicles;
 - d) Motor cycles and auto cycles;

- e) Trailers and caravans for the conveyance of goods and passengers;
 - f) Motor vehicles spare parts, including tyres and tubes imported in vehicles admitted under temporary importation facilities;
 - g) Industrial vehicles carrying passengers; and
 - h) Motor racing cars irrespective of whether such cars are to be driven by persons domiciled outside or inside Botswana.
- v) It should be particularly noted that Triptyque and Carnets cannot be accepted in respect of the following: -
- a) Motor vehicles imported by returning residents of the CCA;
 - b) Commercial vehicles imported for commercial or industrial purposes, demonstration or exhibition (rebate item 480.10), etc;
 - c) Vehicles brought into the CCA for contract or construction work, or for use of a business concern in the CCA;
 - d) Motor vehicles the property of persons making a bona fide change of residence to Botswana for a period in excess of six months; or
 - e) Motor vehicles the property of persons entitled to privileges under rebate item 406.00 or 412.11.

6.9 Validity of Triptyques and Carnets

- i) In terms of the Fourth Schedule to the Regulations, the maximum time limit for re-exportation of goods admitted under Triptyque or Carnet may not exceed the period of validity of the Triptyque or Carnet concerned. The validity date is to be checked to ensure that the unexpired period of validity is sufficient to cover the importer's intended stay in the CCA.
- ii) Application for extension of the validity of carnet de passages en Douane issued by affiliated motoring organisations must be made to the Automobile Association of RSA in instances where the vehicle covered by such a carnet is already in the CCA.
- iii) It follows, therefore, that triptyques or carnets, which are surrendered after expiry of their 12 months period of validity, are in no circumstances to be accepted, instead the owner/driver of the vehicle is to be charged a fine of P250.00 for less than three (3) months overstay or P500 for a period more than three months and a full report of the circumstances, together with an explanation from the tourist concerned giving his reasons why the vehicle was not exported within the prescribed period sent to the Commissioner. It is

the prerogative of the Commissioner alone to decide whether or not such triptyques/carnets may be treated as fully discharged.

6.10 Temporary Import Permits, Form CE 307

- 6.10.1(i) The following procedure is to be applied in every case where a motor vehicle is imported against a TIP:-
- (a) The Customs Officer is to satisfy himself that the importer is eligible for this facility, e.g. that the vehicle is being imported for a temporary period only; -
 - (b) The importer is to be requested to complete parts 1, 2 and 3 of the TIP (in duplicate), as appropriate;
 - (c) The officer is then to check, sign and date stamp the declaration made by the importer in part 3 of the TIP.
 - (d) Particulars of the motor vehicles are to be verified by the officer and the kilometer/milometer reading of the vehicle noted in part 4, indicating the unit concerned. This is required in case an assessment for duty purposes becomes necessary;
 - (e) TIPs will be numbered (1 - up for each year) and the year indicated in the top right hand corner of the form. The number is to be given the Station prefix. For example the first TIP issued at Ramokgwebana in 2007 should be given the following rotation number **22/01/07**.
 - (f) The import certificate in part 4 will be completed, signed and stamped by the issuing officer and the original of the TIP will be issued to the importer.
- ii) A register of vehicles imported against TIPs is to be maintained at each border post in order that a check can be maintained that all vehicles imported are subsequently re-exported. To avoid keeping a separate register as such, the duplicate of the TIP, which the issuing officer should ensure is legible, is to be placed in a lever-arch file, which will serve as an inwards register.
- iii) On presentation of the vehicle for re-exportation at the station of original importation, the customs officer is to recover the original of the TIP from the Importer and, having satisfied himself that the TIP refers to the motor vehicle mentioned therein, is to complete the export certificate in part 5.
- iv) The original TIP is then to be filed (in numerical order in a separate lever-arch file and the duplicate TIP removed from the "inwards" file. Provided the original of the TIP is available and filed, the duplicate may be scrapped.

- v) In cases where a vehicle is re-exported at a station other than the original station of importation, the original TIP is to be endorsed as indicated in Paragraph iii above and thereafter dispatched by post to the Officer In charge at the station of original importation, which will then proceed as directed in Paragraph iv above.
- vi) Special attention should be paid to vehicles presented for re-export with time-expired TIPs. In such cases importers should be questioned closely and provided there is good reason for him not having applied for an extension (e.g. vehicle broken down and awaiting repair in a remote area), then re-exportation may be allowed without further formality.
- vii) Should there be any suspicion of serious mis-use of the temporary import facility; an admission of guilt is to be obtained on form CE 70, together with a deposit. The size of the deposit is to be determined by the length of the overstay.
 - a) If the vehicle has over-stayed for a period not exceeding 3 months an admission of guilt deposit of P250.00 is to be charged.
 - b) If the vehicle has over-stayed for a period exceeding 3 months an admission of guilt deposit of P500 is to be taken and paid into the Customs Fines revenue head.
 - c) The vehicle may then be allowed to be re-exported. A report should then be made to the Customs and Excise Regional Manager for noting.

6.10.2 No vehicle registered in Malawi, Mozambique, Zimbabwe or Zambia should be allowed to be re-exported from Botswana without handing in the TIP issued at the time of import, except if such a vehicle is being transferred to another SACU country.

6.10.3 In cases where the importer decides to re-export his/her vehicle through any border post to a country within SACU area, the importer should be told to hand-over the original CE 307 certificate to the Customs officer of that country, who shall then endorse the certificate in the appropriate space showing that the motor vehicle has been re-exported. The officer should then send the certificate to the Commissioner of Customs and Excise in Botswana who will then forward it to the originating station for acquittal purposes.

6.11 Third Party Insurance

6.11.1 Legal Authority

- i. The Motor Vehicle Insurance Fund Act 1986 (Cap 69:02).
- ii. Authority to the Director to issue insurance policies and tokens in respect of vehicles registered outside Botswana. See reference

FDP. 2/4/13 (19) of the 28 August 1972 filed in HQ file Cus 2/38, folio 5.

- iii. The Motor Vehicle Insurance Fund Act deals with the third party insurance requirements of vehicles registered in Botswana. As a facility to tourist and other persons entering Botswana, arrangements have been made with the Motor Vehicle Insurance Fund whereby officers of the Department at border posts will issue third party insurance against payment of the prescribed premium.

6.11.2 Definitions

6.11.2.1 In this instruction

“Driver” means the owner of a motor vehicle and includes any other person in charge of that motor vehicle.

“Motor vehicle” means any vehicle designed for propulsion on a road by means of any power (other than human or animal power) without the aid of rails, but does not include:-

- a) A vehicle designed for propulsion by means of human power with the assistance of mechanical power;
- b) A vehicle weighing not more than 1100kg which is specially constructed for the use of person who suffer from a physical defect of disability, and which is designed to carry only one person.
- c) A roller

6.11.2.2 Specifically insured in relation to a motor vehicle means insured by means of a declaration of insurance in terms of section three of the Motor Vehicle Insurance Proclamation, which related to that particular motor vehicle.

6.12 Responsibilities of Officers

6.12.1 Officers at all border posts will ensure that no motor vehicle registered outside the SACU entered Botswana unless the driver or owner thereof is in possession of a valid third party insurance policy and has displayed conspicuously upon his vehicle an insurance token issued under the Motor Vehicle Insurance Fund Act. All vehicles registered outside the SACU token issued under the Motor Vehicle Insurance Fund Act whether or not they may be covered by any other insurance policy issued in another country.

6.12.2 In the event of the arrival of a vehicle without specific insurance as required by law, the officer at the border post will offer to issue the requisite insurance cover and token for the vehicle upon payment of the prescribed premium.

6.13 Procedures

- 6.13.1 On the arrival inwards at the Border post of a motor vehicle registered in a country other than Botswana, South Africa, Swaziland, Lesotho or Namibia, the office is to enquire whether the vehicle is already covered by an insurance token issued under the Motor vehicle Insurance fund. If a token is produced it should be examined to ensure that it:-
- a) Is valid for the period during which the vehicle is expected to be in Botswana.
 - b) Is relevant to the particular vehicle being imported.
- 6.13.2 Officer should note that an insurance token must by law be exhibited in a conspicuous place on the vehicle. This token has particulars endorsed thereon which include its period of validity and identification of the vehicle. If the officer is satisfied that the vehicle specifically insured, no further action is required and the vehicle may be permitted to enter.
- 6.13.3 Should an officer consider that a token produced does not cover all the requirements mentioned in paragraph 6.15.1 (a) to (b) above, he should explain his reason(s) for his rejection to the driver.
- 6.13.4 In cases where vehicles are not insured, or when tokens are rejected under paragraph 6.15.3 above, the officer will offer to issue insurance cover to the driven of the vehicle. Should the driver decline to take out insurance, or refuse to pay for a policy once prepared, the vehicle concerned is to be refused entry into Botswana.

6.14 Preparation of policies

Whenever a driver elects to purchase in insurance cover at a border post, the officer will require him to complete a declaration on form MVA 1 and, on completion, the officer will examine the declaration to ensure that all relevant information requirement by the form has been furnished.

6.15. Calculation of premium Payable

- 6.15.1 The charging structure for token is presently P20 for one calendar year.

Officers should note that:

- a) Any token issued for 12 months is to be issued for exactly one year from the date of issue. It does not matter that its expiry date will be some date in the following year. Cover should not necessarily cease on the 31st December.

- b) As there is a minimum charge of P10.00, it is recommended that any token is issued for a minimum period of 5 months from the date of issue. This will prevent the need to issue free extensions.

6.15.2 It should be noted that insurance cover effected in Botswana extends also to Lesotho, Namibia, South Africa and Swaziland.

6.16 Completion of Policies

6.16.1 Having ascertained the premium payable, this is appropriately entered on form MVA 1 and copies, and the total sum payable is shown.

6.16.2 A token of identity on form D is then to be completed by the officer as follows:-

- a) Registration number of vehicle
- b) Date of expiry
- c) The station date stamp should then be legibly impressed on the token

6.16.3 The officer should then insert the token number on the form MVA 1 (and copies) in the space provide.

6.16.4 The token of identity form D and the receipt issued per paragraph 9.01 below are then to be handed to the driver.

6.17 Vehicles travelling between Botswana and South Africa

From the 1st May, 1989 a major change takes in the insurance procedures of vehicles travelling between Botswana and South Africa.

6.18 Vehicles visiting Botswana

6.18.1 Vehicles registered in countries serviced by the Multilateral Motor Vehicle accidents fund, "the MMF" and visiting Botswana will in future be insured under the requirements of the Botswana Motor Vehicle Insurance Fund Act of 1986 by the Botswana MVI fund.

6.18.2 If a vehicle registered in an MMF territory is involved in an accident in Botswana the owner and/or driver should report the accident to the Botswana MVI fund at Private Bag 00438, Gaborone (tel.3188533, Fax 3188124). Accident report forms may be obtained from Police Stations in Botswana or directly from the MVI fund, as well as Post offices in Botswana.

Those territories serviced by the MVF are:-

- o South Africa
- o Namibia

6.19 Vehicle Registered in Botswana

When a vehicle registered in Botswana is travelling in a territory services by the MMF is involved in a road traffic accident insurance cover under the terms of the various Motor vehicle Accident Act of those territories will no longer be provided by the Botswana MVI Fund. As from the 1st May, 1989 accidents will be insured by the MMF.

If a vehicle registered in Botswana is involved in an accident in any territory services by the MMF the owner and/or driver should report the accident to the "MMF" P. O.Box 2743, Pretoria, RSA (Tel. 012 2902040) within 14 days of the date of the accident. Accident report forms may be obtained from Police Stations or directly from the MMF.

6.20 Vehicles registered in Swaziland and Lesotho

At present there is no charge in the system of insurance. Vehicles registered in Botswana will continue to be covered in Swaziland and Lesotho by the Botswana MVI fund, vehicles registered in Swaziland and Lesotho will continue to be insured in Botswana by their own insurers. Accidents should be reported to the 'home' insurer or fund within 14 days of the date of accident.

6.21 Accounting Procedure

- 6.21.1 The total due on the insurance policy is to be collected from the driver of the vehicle and a general receipt issued for the amount of the premium only. The sum collected is to be allocated to Head 36 Subhead 606 Item 102.
- 6.21.2 Particulars of insurances issued are to be entered on the M.V.A. premium list as soon as practicable after issue of the insurance. This list is to be totaled on a Revenue Collector Cash Book paying-in basis and not weekly as shown on the list.

6.22 Disposal of documents

- 6.22.1 The totaled M.V.A. premium list, with the relevant applications on forms M.V.A. 1 attached is to be forwarded to Headquarters with the Duplicate copy of form T69 (CUS).
- 6.22.2 The third copy of the M.V.A. premium list. Together with the relevant Declaration Copies of the policies, is to be suitably filed at the Border Post.
- 6.22.3 Any tokens of identity Form D, or M.V.A. premium lists, which have become spoilt are to be forwarded to Headquarters at the end of each month with a covering minute requesting amendment of Headquarters records.

6.23 Road user permits

A road user permit is valid for a single trip and costs P40

6.24 Supplies of Stationery, etc.

- 6.24.1 Insurance stationery will be supplied by the Motor Insurance Fund through Headquarters on requisition by officers in charge of stations. Officers should ensure that requisitions are submitted timesously.
- 6.24.2 Particulars of the receipt by stations of tokens of identity (M.V.A. 8 or 5) are to be shown on the inside cover of the current M.V.A. Premium list.

6.25 Headquarters Accounting

- 6.25.1 On receipt of the M.V.A Premium list(s) and forms M.V.A. 1 the officer in charge Accounts will scrutinize the list for correctness and by the list for correctness and by reference to the computer sheet satisfy himself that the total shown on the Premium list has been credited to the proper revenue head and is shown on the computer sheet.
- 6.25.2 When so satisfied the office will calculate 20% of the total premiums collected on the Premium lists. This sum is the commission due to the Government and is calculated to the nearest thebe (an amount of ½ thebe or less being disregarded – over ½ thebe being regarded as 1 thebe).
- 6.25.3 A payable voucher on form T25 is now to be prepared for the amount of premium collected less the commission calculated in paragraph 12.01. The completed payment voucher is to be forwarded to the Accountant General for payment.
- 6.25.4 The relevant M.V.A. premium list(s) and forms M.V.A. 1 are to be forwarded to Motor Vehicle Insurance Fund under cover of a compliments slip.

CHAPTER 7

DETENTION OF GOODS

7.1 Purpose

The purpose of these Notes is to guide Customs officers on the procedure to follow when making a detention, handling and disposal of detained goods. However the guidance notes are intended as a guide only, therefore officers must be conversant with the relevant Legislation and Regulations to ensure efficiency and good service delivery.

7.2 Legal Authority

Section 99 sub section 1 (a, b, C) of the Customs and Excise Duty Act, 1970.

7.3 Definition

Goods held by Customs pending payment of duties and taxes, production of a permit, license e.t.c and or goods held pending investigation in to the circumstances of their importation or exportation.

7.4 General Overview

An officer may detain goods if he or she has reason to believe that correct duties and taxes have not been paid on such goods or where there is a contravention of any provisions of this Act or any law relating to the importation or exportation of goods. Goods may be detained from whomsoever found in possession thereof and no person shall remove such goods, plants, vehicle or thing from the place indicated by the officer or anywhere to deal with them except with the permission of the officer or until such conditions under which the goods were detained are fulfilled.

7.5 Circumstances under which goods can be detained/issue of detention notice:

- i) Goods can be detained where the importer had declared them but does not have money to pay duties and taxes due.*

- ii) *Where the goods require a permit, license, certificate or any document according to the Customs and Excise Duty Act or any other Act dealing with the importation or exportation of goods but the importer is not in possession of such a permit, license, certificate or any other document.*
- iii) *Where the proper officer is not satisfied with the classification, valuation or the country of origin of the goods or any other condition, which may require further investigation on the goods.*
- iv) *The importer may also request that the goods may be detained for re-exportation.*
- v) *Goods may be detained pending payment of outstanding debt or for any other circumstances as stated in section 125 of the Customs and Excise Duty Act.*

7.6 Procedure for detention

7.6.1 *If goods are officially detained for any reason the person importing or exporting the goods must be issued with a Detention Notice (Form Cus/Misc 34 Appendix A) complete in all respects and signed by the officer making the detention.*

7.6.2 *The goods must be fully described by including type, number, weight etc and if any of the goods are detained in a damaged condition it is most important that full details of such damaged/breakage be recorded. Detained goods are to be marked at the time of making the detention in such a manner as to enable the releasing officer to identify them at the time of release from detention.*

7.6.3 *If the goods are left at the owners premises, that should be clearly stated and the owner should sign to acknowledge custody of such goods.*

7.6.4 *The circumstances under which the goods are detained must be entered in the appropriate part. For example, if goods are detained pending documentary evidence it is sufficient to enter this fact on the following lines:*

*“Goods detained pending production of _____ within
_____ days from the date of detention (____/____/____)
_____.”*

7.6.5 *The owner, importer, exporter, or agent is to acknowledge being served with Detention Notice by signing at the back of the detention form, under “certificate of Return of Service”. The officer must ensure that the acknowledgement section is signed.*

7.6.6 *The detention Notice is to be completed in quadruplicate and*

given a reference (rotation) number in an annual series prefixed by the station number for example, the first Detention Notice made at Tlokweng Gate Commercial Office in 2007 should be numbered as 06/001/07, where 06 is the station prefix, 001 is the seizure number and 07 is the year. Copies of detention notices are to be distributed as follows:

- Original - Station copy*
- 1st Copy - Customer*
- 2nd Copy - Regional Manager*
- 3rd Copy - to be attached to the detained goods*

7.6.7 *If the importer, exporter or agent wishes to make a statement in connection with the detention, it should be taken on form Cus/Misc 66, a copy of which should be forwarded with the officer's report and detention notice to the Regional manager.*

7.7 Storage of detained goods

7.7.1 *All detained goods must be stored by the state warehouse keeper under lock and key in a state warehouse or at an identified place of detention. However the accountable officer is the Customs Officer-in – charge at the place of detention as he/she is responsible in all respect for the security of the detained goods.*

7.7.2 *A copy of the detention notice is to be affixed to the goods and, if possible the detained goods are to be sealed in a parcel form marked on the outside with the relevant Reference number.*

7.7.3 *Formal or proper handing over of the detained goods between the detaining officer and the state warehouse keeper must be adhered to in order to eliminate allegations of mishandling and subsequent shortages.*

7.7.4 *Vehicles and other similar goods that cannot be securely stored in the state warehouse or at BURS premises should be stored under Customs authority and with the approval of the officer- in- charge at the Police compound or at the Central Transport Organisation Depot or any secure compound with the knowledge and consent of the officer or person in charge of such a compound.*

7.7.5 *Live animals and perishable goods are not to be detained but should be seized and the owner given an option to re-export the goods. The matter should be reported to the Regional Manager without delay.*

7.8 Disposal of detained goods

7.8.1 *Detained goods can only be released from detention where the conditions for detaining them had been fully satisfied or fulfilled for example-*

- i) Goods detained pending production of an import or export permit or declaration of value, etc, may be released when the owner produces the necessary documentary evidence or pays the duties and /or taxes due.
- ii) The owner, exporter, importer or his/her authorized agent must produce a copy of detention notice issued to him of her at the time of detention.
- iii) State warehouse rent (section 16 of the Customs and Excise Duty Act) is to be charged upon release of all detained goods unless waived by the Commissioner General or the Regional Manager or officer in charge. The rent shall be calculated at the rates specified under section 16 of the Customs and Excise Duty Regulations.
- iv) Goods can be disposed of by transferring them to seizure where the importer/exporter has failed to fulfil the conditions of the detention or the time/period specified in the detention had expired whatever the case may be.
- v) When detained goods are released, a report of such release is to be made on all reverse sides of the Detention Notice copies. The owner, exporter, importer or authorized agent must sign for the goods released from detention personally on reverse sides of all copies of Detention Notice stating the conditions of goods released i.e.

“I hereby acknowledge good/ not good receipt of goods which were detained by Customs and Excise as per this Notice. Ref No. date..... Signature of Importer/Owner/Exporter/Agent.....

Note. If there are any discrepancies on the goods, it should be noted. The officer in-charge is required to make a report to the Commissioner General of all detained goods still on hand more than one month after the date of detention.

7.8.2 The Customs officer-in-charge or the accountable officers should note that they will be held personally responsible for any shortages due to pilferage or other similar circumstances unless they can exonerate themselves from such blame.

7.8.3 If the duration of detained goods expires a reminder shall be sent to the owner of the goods who will be given seven days to have responded failing which the detention shall be transferred to seizure without further notice.

7.9 Completion of detention register

7.9.1 A detention register is to be maintained and should be filed out when a detention is made and when the goods are released from detention or when the detention is transferred to seizure. A specimen of the headings to be used is shown as Appendix B.

7.9.2 All detained goods must be recorded in the detention register kept at the station and the Officer-in –charge should monitor the movements of goods in and out of the state warehouse and make sure that the register is updated each time goods are moved.

- 7.9.3 The register should reflect the clearance documents, the date on which the action was taken by whom and how the detention was disposed. The disposal document for a detention must be kept as proof of proper disposal of goods otherwise the Customs officer-in-charge will be held accountable.
- 7.9.4 If the importer, exporter or agent wishes to make a statement in connection with the detention, it should be taken on form Cus/Misc 66, a copy of which be forwarded with the officer's report and detention notice to the Regional Manager.

7.10 Storage of detained goods

- 7.10.1 All detained goods must be stored by the state warehouse keeper under lock and key in a state warehouse or at an identified place of detention. However the accountable officer is the Customs Officer- in-charge at the place of detention as he/she is responsible in all respects for security of the detained goods.
- 7.10.2 A copy of the Detention Notice is to be affixed to the goods and, if possible, the detained goods are to be sealed in a parcel form marked on the outside with the relevant Reference number.
- 7.10.3 Formal or proper handing over of detained goods between the detaining officer and the warehouse keeper must be adhered to in order to eliminate allegations of mishandling and subsequent shortages.
- 7.10.4 Vehicles and other similar goods that cannot be securely stored in the warehouse or at BURS premises should be stored under Customs authority and with the approval of the officer in charge at the Police compound or at a Central Transport Organisation Depot or any secure compound with the knowledge and consent of the officer or person in charge of such a compound.
- 7.10.5 Live animals and perishable goods are not to be detained but should be seized and the owner, importer or exporter given an option to re-export the goods.

7.11 Disposal of detained goods

Detained goods can only be released from detention where the conditions for detaining them had been fully satisfied or fulfilled **for example –**

- i) *Goods detained pending production of an import/export permit or declaration of value, etc, may be released when the owner produces the necessary documentary evidence or pays the duties and taxes due.*

- ii) *The owner or his/her authorized agent must produce a copy of detention notice issued to him/her at the time of detention.*
- iii) *Warehouse rent (Section 16 of the Custom and Excise Duty Act) is to be charged upon release of all detained*

CHAPTER 8 SEIZURE OF GOODS

8.1 Purpose

The purpose of this guidance notes is to guide customs officers on the procedures for handling seizures. These guidelines are not exhaustive, it is only meant as guidance only, Customs officers should acquaint themselves with the relevant legislation and regulations.

8.2 Legal authority

Section 99(1) of the Customs and Excise Duty Act (Cap. 50:01) provides that:”

“Any officer, magistrate or member of the police service may detain any vehicle, plant, material or goods at any place for the purpose of establishing whether that vehicle, plant, material or goods are liable to forfeiture under this Act.”

Section 99 (1) (d), further states that “if such vehicle, plant, material or goods are liable to forfeiture under this Act the Commissioner, may seize that vehicle, material and goods.

8.3 Definition

Seizure:

The forfeiture to Customs of goods and/or their containers that are illegally imported /exported, attempted to have been imported/ exported or dealt with in a manner contrary to the provisions of the Customs Act.

8.4 General overview

8.4.1 Section 14 of the Customs and Excise Duty Act prescribes that any person entering or leaving Botswana has to unreservedly declare all goods upon his/her person or possession at the time they enter or leave Botswana.

8.4.2 Failure to declare goods at the time of importation or exportation or contravention of any other provision of the Customs and Excise Duty Act constitute customs offences which may render goods liable to forfeiture.

8.5 Circumstances under which goods can be seized

8.5.1 As a general rule, seizure should only be made in cases of smuggled goods and goods attempted to be imported or exported in contravention of any Section of the Customs and Excise Duty Act, the Value Added Tax Act or any other law of Botswana which governs importation or exportation of goods.

8.5.2 Any vehicle, container or other transport equipment used in the removal or carriage of any goods liable to forfeiture under this Act shall likewise be liable to forfeiture, unless it is shown that such vehicle was so used without the consent or knowledge of the owner of

such vehicle or other person lawfully in possession or in charge of such a vehicle.

- 8.5.3 In any case of doubt goods should not be seized but instead detained and the facts reported immediately to the Regional Manager.
- 8.5.4 Live Animals, Dangerous or Perishable Goods are not to be seized without the prior authority of the Regional Manager. Where flowers, plants and trees are seized they have to be watered regularly while under seizure.

8.6 Procedures to follow when dealing with seized goods

8.6.1 Issue of seizure notices

- a. When goods are seized the owner/importer/exporter/agent of the goods is to be issued with a Notice of Seizure (Form Cus/Misc 31) duly completed in all respects and signed by officer making the seizure. A specimen of the notice of seizure (Cus/Misc 31) is shown as Appendix A to this Instruction. Where possible, seizure notices are to be delivered by hand, but if this is not possible, e.g., where the seizure is made in the absence of the owner/agent, the notice should be sent to the owner/agent by registered mail.
- b. Owner/importer/exporter/agent should acknowledge being served with seizure notice by signing at the back of the notice, under "Certificate of Return of Service" In the absence of the owner/agent this portion must be endorsed by the officer making the seizure as follows "DISPATCHED BY REGISTERED MAIL". The officer must also endorse the postal reference number on the station copy of the Notice of seizure.
- c. On receipt of the Seizure Notice the Importer or exporter or agent or owner must send a letter to the seizing officer acknowledging receipt. Confirmation by the Postal authorities that the registered letter has been delivered can also serve as sufficient proof of receipt.
- d. All seized goods are to be labeled at the time of making the seizure in such manner as to enable the seizing officer to identify them in the event of legal proceedings.

8.6.2 Completion of seizure notice

- 8.6.2.1 The seizure Notice is to be completed in quintuplicate (5 copies) and given a reference (rotation) number in an annual series prefixed by the station number as per the following example. The first seizure Notice made at Tlokweng Gate Commercial Office in 2007 should be numbered as follows; 06/001/07, where 06 is the station code, 001 is the seizure number and 07, is the year.
- 8.6.2.2 Copies of the Notice of Seizure are to be distributed as

follows:

1. Original - Station -Seizure File
2. 1st copy - Owner of goods
3. 2nd copy - Commissioner General with report
4. 3rd copy - Regional Office
5. 4th copy - To be attached to the seized goods

- (ii) The seized goods must be described fully in the appropriate section of the Notice of Seizure. Details such as types of goods, quantity, serial numbers (where applicable), registration numbers, weight etc must be stated. If any goods are seized in a damaged condition details of such damage must be recorded on the Notice of seizure.
- (iii) The specific section of the Act under which the seizure is made as well as the reasons must also be stated on the appropriate portion of the Notice of seizure.
- (iv) The officer making the seizure must also append his signature on the appropriate section of the Notice of seizure.

8.7 Seizure registers

- 8.7.1 A Seizure Register must be maintained at each station for recording, accounting and monitoring the movement of seized goods into and out of Customs control. Seizure registers are issued by Headquarters and stations must ensure that they have sufficient copies at all times.
- 8.7.2 Details of each seizure must be recorded on the seizure register immediately after the goods are taken into or released from custody by the officer making the seizure and countersigned by the officer in charge.
- 8.7.3 At the time of disposal of the seized goods the register should be endorsed to reflect the date, reference number of the clearance documents, letter authorizing disposal etc. Copies of disposal documents must also be attached to the station copy of the Notice of Seizure for reference purposes.
- 8.7.4 A copy of the Notice of Seizure is to be affixed to the goods and, if possible, the seized goods are to be sealed in a parcel marked on the outside with the relevant reference number

8.8 Reporting of Seizures

- 8.8.1 A comprehensive report on the seizure stating the circumstances which lead to the seizure is to be forwarded to the Commissioner General with a copy of the Notice of Seizure from the seizing officer,

report from witnesses as well as the comments and recommendations from the Officer in charge or Regional Manager.

- 8.8.2 The greatest care must be taken to report all the facts fully and accurately as depicted in the attached Appendix B. The report should also contain details of any observed damage to the goods.
- 8.8.3 If as a result of the seizure the offender wishes to make a statement or a statement is required from any witness, this should be given on form Cus.Misc 66, a copy of which is at Appendix "C". It should be noted that giving of a statement is a voluntary act and officers should not coerce offenders into writing such statements. Where the offender refused to write the statement the officers' report should indicate that.
- 8.8.4 If the offender cannot read or write then it is in order for the Officer to write down the statement for the offender. In these circumstances the officer must certify at the bottom of the statement that the officer recorded the statement and that its contents have been explained and read over to the deponent and that the deponent acknowledged its contents. The statement should be signed by officer, offender and witness.

8.9 Admission of Guilt CE 70

- 8.9.1 In terms of section 102 of the Customs and Excise Duty Act the Commissioner may summarily deal with any offence committed by any person by asking that person to pay an admission of guilt fine.
- 8.9.2 Where the offender admits the offence and agrees to abide with the Commissioner General's decision to deal with the offence in terms of section 102, the officer making the seizure should complete form CE 70 – (Admission of Guilt) and ask the offender to sign it and pay the appropriate fine.
- 8.9.3 In cases involving more than one offender in the same offence each offender should sign a separate admission of guilt and such copies of CE 70s together with the officer's report, copy of notice of seizure be forwarded to Commissioner through Regional Managers' office.

Note: Where offenders contributed differently to the commissioning of an offence each one of them should be charged by a relevant charge or section.

- 8.9.4 The amount, which should be taken as deposit in the first instance, is at the discretion of the proper officer. It should be sufficient to mark the offence in question and therefore each offence must be viewed on its own merits. Such factors as type of goods, quantity, value of goods, duty and VAT liability, method of concealment and intent of offender, should all be taken into account.

There is no minimum figure laid down, as this could prove too rigid, but the deposit must not exceed the maximum fine, which could be imposed upon the offender in a court of law. For example, in a case of non declaration of goods under Section 91 of the Act, the maximum fine would be P8 000 or three times the value of the goods, whichever is the greater. Each admission of guilt is reviewed by the Commissioner General and may be adjusted up or down at a later date.

8.10

Appeals against seizure

8.10.1 Whenever a seizure is made the offender should be advised of his rights to appeal against the seizure in accordance with **Section 100**, of the Customs and Excise Duty Act.

Any person claiming that the goods seized are not liable to forfeiture is required to make a written claim to the Commissioner General or to the person seizing the goods within one month of the date of seizure. The owner is then required within ninety days but not less than one month of the date of the Notice to institute legal proceedings for the recovery of the goods.

8.10.2 If no letter of appeal is received within one month from the date of issue of the Notice of Seizure the Commissioner General is to be informed accordingly with a request for instruction as to disposal of the goods.

8.11 Storage and security of seized goods

8.11.1 Goods seized must be stored by the seizing officer or an appointed State warehouse controller under lock and key in a State Warehouse or at the place of seizure. The officer- in- charge at the place of seizure is responsible in all respects for the security of the seized goods.

8.11.2 Small high value items should be stored in a safe or strong room under the custody of the officer in charge.

8.11.3 Vehicles and other similar high value goods that cannot be securely stored at BURS premises should be stored under Customs Seal in a secure premises as may be determined by the Regional Manager with the prior permission of the person in charge of the premises. However, the Customs officer in charge at the place of seizure remains accountable for the goods.

8.11.4 The Customs officer-in-charge or the accountable officers should note that they will be held responsible for any shortages due to pilferage or other similar circumstances unless they can exonerate themselves from such blame.

8.11.5 Formal or proper handing over of seized goods between the

seizing officer and the warehouse controller must be adhered to in order to enhance accountability *and* to eliminate allegations of mishandling and subsequent shortages.

8.12 Disposal of seizures

- 8.12.1 Seized goods are to be released or disposed of only in accordance with the specific written instructions of the Commissioner General or any delegated officer.
- 8.12.2 Where the goods are released to the owner they or their appointed representative must sign on the appropriate section of the seizure Notice acknowledging receipt of the goods.
- 8.12.3 If the goods are donated the recipients must acknowledge receipt of the goods in writing on donation certificate.
- 8.12.4 In cases where seized goods are released to the owner State Warehouse rent shall be charged in accordance with the Customs and Excise duty regulation 16, unless waived by the Commissioner General or any other delegated parson...

CHAPTER 9 BONDED WAREHOUSES

9.1 Purpose

The purpose of these procedures is to outline registration requirements and control procedures of Customs bonded warehouse registrants.

9.2 Legal Authority

Sections: 17 – 39 and 68 - 72 of the Customs and Excise Duty Act: Chapter 50.01 of the Laws of Botswana.

9.3 Definition

- 9.3.1** Customs bonded warehouses are approved, registered and licensed premises for the storage or manufacture of goods on which customs or excise duties have not been paid/collected.

A bonded warehouse includes any premises, vessel, store, tank, yard, or some other place, provided it complies with all conditions that may be imposed by the Commissioner of Customs and Excise regarding construction, situation, accessibility, security, etc. (Examples; strong wall, burglar bars, lockable, etc).

- 9.3.2** A warehouse, therefore, may be licensed for the storage of dutiable goods (to be known as a Customs and Excise storage warehouse) or for the manufacture of dutiable goods (to be known as a Customs and Excise manufacturing warehouse).

- 9.3.2.1** The Commissioner of Customs and Excise may licence a storage and manufacturing warehouse on the same premises, provided they are separated in a manner approved by him or,

- 9.3.2.2** Different premises, stores, vessels, tanks, yards or other places on a single site or on **more than one site**, approved by him may be licensed as a single Customs and Excise storage, manufacturing or special warehouse in the name of one licensee provided that the warehouses are within a radius of two hundred (200) metres

9.4 Registration requirements

Regional Officers should ensure the following when assessing the eligibility of the applicant to be considered for approval and registered as a Customs and Excise bonded warehouse operator:

- 9.4.1** The prospective applicant must be a Botswana company, registered with the Registrar of Companies and domicile in Botswana.

- 9.4.2** At least one of the Directors must be resident in Botswana.

- 9.4.3** Company Directors, Managers and employees, who will be directly dealing with Customs related matters, must be fully conversant with the provisions of the Customs and Excise Act and procedures. *To prove conversancy, the applicant must have worked for a reputable Customs warehouse operator for at least two (2) years or for the Division of Customs and Excise.*

- 9.4.4** Company Directors, Managers and employees, who will be directly dealing with Customs related matters, must not have committed any Customs related offence during the preceding five (5) years

9.4.5 The applicant must lodge a security or bond guaranteed by a recognised Financial Institution such as a bank or Insurance Company.

9.4.6 The bond amount should be equivalent to any potential duties or taxes on goods that may be stored, produced or sold at any given time in the intended bonded warehouse.

9.5 Relevant Application Forms

The following forms should be filled in by the applicant; the choice of the form to be used will be guided by the intended use of the bonded warehouse. CE 185 is a general application form that should be filled in by all applicants irrespective of the nature business that the bonded warehouse will be used for.

- CE 185 – Registration/licensing of Customs and Excise clients (General application form)
- CE 185B1 – Special Manufacturing Warehouse form
- CE 185B2 – Manufacturing Warehouse form
- CE 185B3 – Storage Warehouse form
- CE 185B4 – Special Storage Warehouse form
- CE 185C – Bond Form
- CE 100A – Description and quantities of raw materials used and finished products manufactured

9.6 Supporting documentary proof

In order to verify the information given by the applicant at **9.4.Registration requirements** above, the officer should ensure that the applicant has attached the following supporting documents:

- Form 2 – It states names and nationalities of Directors
- Form 3 - Certificate of incorporation
- Form 4 – Shareholders Certificate
- Form 5 – Notice of location of registered office
- Form 6 – Certificate of incorporation
- Certified copies of lease agreement (**in case of leased premises**)
- Certified copies of title deed (**in case of owned premises**)
- Company profile
- Copies of ID`s of Directors and Managers
- Names and copies of ID`s of clearing clerks
- Certified copies of educational qualifications for clearing clerks and managers
- Certified copies of references or testimonials from previous employers

9.7 Application submission

9.7.1 The Regional Offices where application forms are submitted should ensure that form CE 185 is completed in full and that it is submitted

together with its relevant annexures and all the supporting documents as outlined in 9.6 above

Officers should note that annexure to be attached will be dependent upon the line of business that the applicant intends to venture in, (e.g. storage bonded warehouse: CE185B3)

9.7.2 In addition to the above, the applicant must submit a sketch plan of the premises clearly showing the location of the intended bonded warehouse, sketch plan of the premises and plant showing the machinery layout and their distinctive marks. The markings must show, among other things; serial numbers, name of machine, usage of machine, etc.

9.7.3 In case of manufacturing warehouses, a brief but comprehensive step by step manufacturing process and the nature of raw materials to be used in the manufacture are to be submitted.

9.8 Approval/Licensing

9.8.1 Once an application has been vetted by the regional office it should be forwarded to Head office with Regional Manager's recommendation attached. Head Office should communicate the outcome of the application to the applicant in writing and send a copy of the same to the regional Office where the application was originally lodged. The Regional Manager will be required to advise the new registrant on the requirements and obligations of operating a bonded warehouse.

9.8.2 Before the registrant can be allowed to commence operations he is required to pay a customs licence fee of P100.00 the fee can be paid to regional offices or to Head Office, should the fee be paid to Regional Offices, this office should forward a copy of the receipt with a covering memorandum to Head quarters to facilitate the issuance of a license.

9.8.3 Once payment has been made, Head office should issue the applicant with a Customs license in the form of a CE 102 bearing a warehouse number allocated by the Customs office. The applicant should be advised to always display this license where it will be visible to Customs Officials when they come to conduct inspections

9.8.4 The Customs licence is valid for one calendar year and officers should ensure that it is renewed on or before 31 December, annually.

9.9 Operational Controls of a Customs and Excise Bonded Warehouse

Officers responsible for the control of registered bonded warehouse operators should ensure that all licensees are monitored closely and that they comply with the laid down procedures and requirements. In doing so the officers should look into the following:

- That the bonded warehouse is secure enough to store or manufacture goods that still carry a duty liability. This is in regard to the construction, location, accessibility and other general security measures that are deemed appropriate.
- That the license is displayed in a visible manner at all times.
- That the licensee of a bonded warehouse keeps and maintains a stock register which shall be kept at the warehouse and made available for inspection by Customs when the need arises.
- That the register show an up to date information of the following Particulars, which should be easily ascertained:
 - *Description of goods,*
 - *Quantity and date received,*
 - *Quantity and date issued,*
 - *Bill of entry number and date,*
 - *Value of goods,*
 - *Nature and quantity of raw materials used,*
 - *Nature and quantity of finished products,*
 - *Quantities of goods disposed and date,*
 - *Duties paid and official receipt numbers,*
 - *Balance in stock*
- That goods are stored in a bonded warehouse for a period not exceeding five (5) years from the date on which they were first entered for warehousing
- That stock of goods in the bonded warehouses is checked regularly to ensure that no goods that have been stored in a bonded warehouse are removed without the Commissioner's approval. Goods can only be removed from a bonded warehouse if they have been cleared under a customs procedure such as but not limited to:
 - 1.** *Entry for home consumption and duties and taxes due have been paid for*
 - 2.** *Removal in bond to another warehouse*
 - 3.** *Goods entered for export from a bonded warehouse*
- That no other business is carried out in a Customs and Excise warehouse, except that for which the warehouse is licensed, without the written permission of the Commissioner

➤ That should the licensee wish to change his legal identity, physical or postal address, plant or machinery, name of business or goods stored or manufactured, he notifies the Commissioner of Customs and Excise, immediately of this intent through submission of the following forms, inter alia, as proof:

- Form 13 – Consent and certificate of Directors or Directors of an existing company
- Form 14 – Notices of change of Directors or Secretaries and their particulars
- Form 15 – Name of change of registered office

The Commissioner may, under very exceptional circumstances grant relief or allow the goods to be retained in a customs warehouse for a further period, after the five years have elapsed, not exceeding one year as he may consider appropriate and on such conditions as he may impose

CHAPTER 10 STATE WAREHOUSES

10.1 Purpose

The purpose of these procedures is to guide BURS officials in the control and upkeep of State warehouses.

10.2 Legal authority

- i. Section 16 of the Customs and Excise Duty Act, Chapter 50.01 of the Laws of Botswana.
- ii. Regulation 16 of the Customs and Excise Regulations

10.3 Definition

A state warehouse is any premises provided, identified or appointed by the State for deposit and storage of goods pending compliance with legal requirements, such as disposal instructions by the Commissioner General.

10.4 Appointment of a place (s) deemed to be a State warehouse

The Regional Manager may appoint in writing, any place other than the State warehouse to be deemed to be a State warehouse. The letter of appointment will indicate any conditions of storage, as may be required by the Regional Manager and specify the responsibilities of the owner of the premises regarding the goods.

Conditions under which the Regional Manager may appoint other places will include, but not limited to hazardous and perishable goods which cannot be taken into the State warehouse or heavy machinery, equipment, etc which cannot be easily moved. This may also include goods that may not be readily taken into the State warehouse due to infrastructure constraints.

10.5 Liability of owner of a place deemed to be a State warehouse

The owner of any place appointed as a place deemed to be a State warehouse shall be responsible for the goods stored therein. This responsibility will extend to liability for duty and VAT thereon.

10.6 Liability for State warehouse rent

Goods deposited into a State warehouse may be released subject to payment of State warehouse rent. The rent will be payable at the prescribed rates based on the number of days the goods are kept in the State warehouse, in accordance with the provisions of the regulations.

10.7 Governance

10.7.1 Responsibility of the State warehouse

State warehouse facilities fall under the direct control of the Regional Manager. Therefore, he/she is responsible for the efficient administration and security of all goods deposited therein.

10.7.2 Appointment of State warehouse keeper

The Regional Manager may appoint an officer to be known as a State warehouse keeper whose duties and functions thereof under his control.

10.7.3 Access to the State warehouse

The entry and exit of persons and vehicles into or out of the State warehouse will be monitored and controlled by the State warehouse keeper. A register, to be known as an admittance register shall be maintained and all visitors and reasons for their visits shall be recorded therein. All visitors shall sign the admittance register on entry as well as exit and shall visibly display a visitor's permit which shall be provided.

10.8 Handling of goods in a State Warehouse

10.8.1 Weighing and measuring

All goods will be weighed and measured upon receipt into the State warehouse as this will impact on the calculation of State warehouse rent.

10.8.2 Examination and verification of the contents of packages

The content of packages placed in the State warehouse will be verified against the details shown on the accompanying documents. Should it not be possible to verify all goods in a consignment, spot checks will be made on the packages of different types of products. Any irregularities will be recorded in the State warehouse register and all packages opened for examination shall be re-sealed with official tape. Damaged packages will be re-sealed in the same manner.

10.9 Removal of goods to the State Warehouse

10.9.1 Responsibility for the removal of goods

The Regional Manager may direct that the owner/transporter remove the goods to the State warehouse or, any identified or appointed place at their own risk and expense. Where such person (s) fail to remove the goods, the Regional Manager has the power to do so at the risk and expense of the mentioned person(s).

10.9.2 Obligation to remove goods

Any person in possession of uncleared goods is obliged to remove such goods to the State warehouse or, alternatively accept that their premises be regarded as a place deemed to be a State warehouse. Such person may not prevent the removal of such goods to the State warehouse or a place deemed to be a State warehouse.

10.9.3 Period within which goods must be removed

In terms of section 40 (1) of the Act, all goods must be cleared within 7 (seven) days of the date on which such goods are deemed to have been imported, in accordance with the provisions of section 10 (ten) or within such other period that the Commissioner General may allow. It is a requirement in terms of section 45 (1) of the Act that goods which have not been cleared within the period mentioned must be removed to the State warehouse or to any place appointed by the Regional Manager, by the person who has fiscal control of such goods.

10.10 Acceptance of goods in the warehouse

10.10.1 Goods which may be accepted in the warehouse:

i) Unentered/uncleared goods

All goods which have not been cleared may be removed and stored in the State warehouse or an appointed place

ii) Detained goods

All goods detained in order to establish whether they are liable to forfeiture pending compliance to any condition in the Act may be removed and stored in the State warehouse or appointed place

iii) Seized goods

Seized goods, whether or not they attract customs duty and VAT may be removed to a State warehouse or appointed place.

iv) Counterfeit goods

Cleared counterfeit or goods suspected to be counterfeit which have been detained for the purposes of the Act may also be stored in the warehouse.

v) Cleared goods

Goods which have been Customs-cleared, but not removed from Customs control within the required period may also be removed to the State warehouse and dealt with according to section 45 (1) of the Act, as uncleared goods.

10.10.2 Goods which may not be accepted into the State warehouse

Dangerous /Hazardous goods

If goods are suspected to be dangerous or hazardous a suitably qualified person may be consulted to assist with the examination of the goods. Thereafter, acting on the advice of the mentioned person, the Regional Manager will decide on the most suitable storage area, which would not be the State warehouse.

10.11 Taking of goods into the warehouse

10.11.1 Register

All goods that are accepted in the warehouse must be correctly entered in the State warehouse register by the warehouse keeper.

10.11.2 Completion of the State warehouse register

The warehouse keeper shall complete the register immediately upon receipt of goods into the State warehouse, showing, but not limited to:

- Date of receipt into the warehouse
- Description; marks and numbers; weight of goods
- Owner/Transporter of goods (Name and Address)
- Place of entry
- Detention/Seizure number and date
- Reason (s) for detention/Seizure
- Value of goods
- Condition/Status of goods upon receipt
- Amount of penalty charged
- Quantity of goods
- Disposal instructions

- Date of disposal

10.12 Maintenance of the register

The State warehouse register shall be updated weekly. Goods which are disposed of or removed from the State warehouse or appointed place shall be removed from the list and any new goods received during the week added thereto

10.13 Release of goods from the warehouse

Goods shall be stored in a State warehouse/appointed place for a period of three months after which they shall be disposed of in a manner which the Commissioner General sees appropriate.

CHAPTER 11 CUSTOMS AUCTION SALES

11.1 Purpose

The purpose of this guideline is to outline the procedure to be followed by Customs officers in the processes of preparing and conducting an auction sale.

11.2 Legal authority

Section 101 (2) of the Customs and Excise Duty Act empowers the Commissioner General to sell any goods deposited in a State Warehouse which are not lawfully removed there from within three months of the date of deposit into the State Warehouse, or

Where removal to the state warehouse has not taken place, from the date of expiry of the period for making due entry for the goods as prescribed by Section 40 of the Act.

Section 101(2) of the Act provides authority for disposal by sale, or such other means as the Commissioner may decide, of seized or detained goods which are deemed to be condemned in law.

11.3 Disposal of various types of goods

11.3.1 General Rule:

i) Seized goods:

To be sold or destroyed, as directed by the Commissioner, after one month from the date of seizure if no claim in respect of the goods is made by the owner in terms of section 100 of the Act.

If a claim is received and the owner does not within 90 days institute proceedings through the Courts for recovery of the goods, they should be sold or destroyed after one month from the end of the 90 days period.

Where a suit for recovery is filed and the goods are finally condemned by the Court, sale or disposal should take place one month after the last date of appeal against condemnation.

11.3.2 The disposal of the various types of goods is to be done as indicated in the following paragraphs.

i) **Unclaimed baggage:** to be sold three months after deposit into state warehouse or expiry of prescribed period.

ii) **Unentered Cargo and Abandoned goods:** to be sold three months after the date of removal to the State Warehouse.

iii) **Perishable goods (goods with short life span):** may be sold immediately without notice, either by public auction or by private treaty, at any time the Commissioner may think fit after deposit in the Warehouse.

These goods may also be donated to a charitable organization, clinic, hospital or school and a donation certificate (Appendix ...) must be completed and signed by the representative of the receiving organization.

If not fit for human consumption the goods may be destroyed and the destruction certificate (Appendix) will have to be duly completed and submitted to the Commissioner of Customs.

11.3.3 **Firearms and ammunition:**

Without prejudice to the terms of sub paragraph 14.3.1 above in relation to seized goods (including firearms and ammunition) firearms and ammunition detained under Customs control pending completion of import formalities are to be disposed of by the Customs Division if not regularly cleared within six months of their importation. It should be noted particularly, however, that firearms may not be sold by auction but will be dealt with as follows:

- (i) Sporting rifles and short guns etc together with their appropriate ammunition (unless Commissioner of Police has previously signified his wish to take the firearms and ammunition on charge for official use) are to be offered for sale by tender to authorized dealers. The ability of an authorized dealer to purchase is conditional upon his being granted an import permit and Police permit for the firearms and ammunition concerned, and no tender is to be accepted until it has first been ascertained from the Central Arms Registry that the requisite permits will be issued to the authorized dealers concerned on application by him. In the event of authorized dealers being unable to obtain the necessary permits, the firearms and ammunition concerned may be offered to the Police Department against formal receipt and without charge.
- (ii) Pistol and revolvers: together with their appropriate ammunition, will not be offered for sale by tender to authorized dealers but must be handed over to the Central arms Registry against formal receipt and without charge.

11.4 Places where auction sales may be held

- 11.4.1 For reasons of convenience and viability, BURS auction sales will be decentralized and held at the State Warehouses in the regional offices of Gaborone, Lobatse, Maun, Francistown and Selebi Phikwe.
- 11.4.2 Goods due for disposal, which may be on hand at border posts, are to be transferred to the State Warehouse of the region under advice of the Regional Manager by the respective Officers-in-charge.
- 11.4.3 A notification of goods for disposal is to be prepared at monthly intervals and forwarded to Regional Managers who will advise Officers In Charge of the date of the next sale in which the goods will be offered. Regional Managers will call for transfer of the

goods to the regional office at the appropriate time and will indicate the means of transportation.

- 11.4.4 A list of goods transferred to the regional office for disposal by sale is to be prepared by the Officer-In-Charge in the form shown as Appendix II to this instruction and sent in duplicate with the goods to the Regional Manager's office. After checking receipt of the goods against the list submitted, the Regional Manager will receipt the duplicate form and return it to the Officer-in-Charge concerned for acquittal.
- 11.4.5 Receipted lists of goods transferred to State Warehouse will be registered as evidence of disposal of the goods concerned and acquittal by the Officer-In-Charge would entail a reference to the list made or entered against the relative item in the station or border post seizure register.

11.5 Advertisement of auction sales

11.5.1 Notice

- 11.5.1.1 The Regional Manager will arrange for the dispatch of a letter to the owners of the goods due for disposal advising them that the goods in question will be sold on the date of the sale unless cleared by the day before the sale.
- 11.5.1.2 A notice of goods to be sold by public auction is to be prepared by the Regional Manager, in consultation with Procurement and Public Relations Offices, for publication in the National papers not less than one month before the date of sale.
- 11.5.1.3 The advertisement should be published at least three (3) times in the national paper(s).

11.6 Sale of Motor Vehicles

- 11.6.1 Auction Sale of seized vehicles should be sold by way of postal ballot at the following places:-
- Francistown
 - Selebi Phikwe
 - Gaborone
 - Lobatse
 - Maun
- 11.6.2 The Regional Manager will, after expiration of the claim period under section 98 of the Act, forward details of the seized vehicles to the Classification, Valuation and Origin Section, who will advise on the value of such vehicle as provided in the latest issue of the Auto Dealers Digest (cars) or Commercial Dealers Digest (vans etc) as appropriate.

- 11.6.3 Having established the value, the responsible Regional Manager will advertise in the national newspapers inviting postal ballots and indicating where the vehicles are situated. The postal ballots should be addressed to the Regional Manager responsible.
- 11.6.4. On the last day of submission of ballots the appointed officer should offer the vehicle to the highest bidder. Only cash or bank guarantee cheque would be accepted.

11.7 Tender Board concurrence

Before publication in the national papers or other advertisement, other than advises to the owners of the goods, the Secretary of the Public Procurement Asset Disposal Board is to be provided with a copy of the sale notice and asked to signify the Tender Board's concurrence to the proposed sale.

11.8 General arrangement for Auction Sale

11.8.1 Auction sales are to be held under the general control of the Regional Manager who will coordinate the necessary staff comprising an Auctioneer, an Assistant Auctioneer, and Auctioneer's Clerk

11.8.2. **The Assistant Auctioneer:** will be held responsible for the general preparatory work of each sale and will assist the Auctioneer to present the various lots at the time of sales. Particularly the Assistant Auctioneer will be responsible for:-

- (i) The careful examination of all goods for sale to ascertain the exact quantity and correct description of the goods.
- (ii) To compare results of his examination results with the details of the goods as recorded on receipt in the State Warehouse register and report immediately any discrepancies to the Regional Manager.
- (iii) The sorting of the goods into lots and the allocation of numbers in an annual series commencing with the first quarter sale in every year and continue numbering for the sales of the second quarter
- (iv) The year is to be shown under the lot number as follows:-

$\frac{1}{06}$ where $\frac{1}{06}$ = Lot number
06 = the year 2006

11.8.3 The Assistant Auctioneer is to arrange for the removal of the goods from the State Warehouse to the place of sales. After arrival he is to re-examine the goods and report any shortages or discrepancies to

the Regional Manager forthwith. Any goods found to be short on arrival at the place of sales are to be withdrawn pending completion of investigations. Labels showing the lot numbers are to be affixed to the goods after arrival.

11.8.4 The Assistant auctioneer is also responsible for the preparation of the Sale List Form and for providing the Auctioneer with a copy at least one week before the date of the sale. The headings of the Sales List should be as follows:-

- Lot numbers, quantity and description, value, duty, reserve price amount realized and successful bidder's name.

The details must be completed as far as possible prior to the sale.

11.8.5 **The Auctioneer's clerk:** is to be provided with a copy of the Sales List but the value, duty and reverse prices are not to be recorded thereon. It is his duty to record on this copy the name of the successful bidder and the price realized, immediately the goods are sold.

11.8.6 The auctioneer's Clerk will collect the amount due from the successful bidder immediately a lot is sold and issue an official receipt. The Auctioneer will conduct the sale so as to enable this officer to complete his duties before proceeding with the next lot

11.8.7 Potential bidders are required to lodge a refundable deposit of amount to be determined by the Commissioner General.

11.8.8 Potential Bidders to be allocated with buying numbers which should be recorded against to lots that they have successfully bided for.

11.8.9 Good to be dispatched to the owner by the goods by the dispatcher.

11.8.10 By the end of the auction day any unpaid for bid will be declared invalid.

11.9 Values of Reserve Prices

11.9.1 The value and reserve prices of goods for sale are to be determined by the Regional Manager. All goods for sale must be thoroughly examined with a view to determining reasonable value and reserve price for each article to be offered for sale, having regard to all the circumstances.

11.9.2 The full f.o.b. invoiced price is normally to be taken as the value for customs and VAT purposes and the liability calculated on this amount in the case of goods liable to ad valorem duty rate. But if the

goods have deteriorated in any way the value may be adjusted accordingly.

11.9.3 A similar calculation of value is to be made in respect of goods liable to a specific rate of duty and the duty will be assessed on the quantity in the normal way.

11.9.4 The Regional Manager will value goods for which no invoices are available by reference to invoices for similar goods previously imported. In the case of goods which subsequently realize a price greater than the estimated value, if the officer is satisfied that this has arisen because the bidding has been at a retail level or similar chance circumstance, then the estimated value and duty should not be disturbed.

11.9.5 If it is clear from the bidding that due to difficulty in identifying the true worth of an article through lack of invoices or inability to identify its true purpose then the value and consequently duty should be adjusted in relation to the final bid. This adjustment will be made on the Auctioneer's copy of the Sale List at the time of sale.

11.9.6 The reserve price is to be fixed at a reasonable level taking into account the value and duty on the goods and the circumstances of sale and should reflect the lowest price for which the Auctioneer considers the goods should be sold. *For example, for goods with f.o.b invoice value of P100-00 and liable to duty at 22% ad valorem the total value and duty is P122-00 but taking into account the type of goods and circumstances of sale, the Auctioneer may consider that they will fetch only P90-00 and that amount will therefore be the reserve price.*

11.9.7 If the reserve price of the goods cannot be realized, then the goods are to be withdrawn from the sale and the reserve price revised and approved by the Regional Manager with a view to offering them again at the next auction. In every case the reserve price must not be less than the duty plus VAT amount calculated.

11.9.8 It should be noted that values and reserve prices are confidential and must not be disclosed to bidders or members of the public, unless in a case of secret ballot.

11.10 Withdrawal of goods prior to sale

11.10.1 Goods which have been advertised for sale may be withdrawn by the Regional Manager provided:-

- (i) Application for withdrawal of the goods is received not later than 24 hours before the time of the sale.

- (ii) The Regional Manager is satisfied that the application is the owner of the goods or his accredited representative; and
- (iii) All rent and charges in respect of the goods are paid before withdrawal from the sale is permitted.

11.10.2 Goods which have been withdrawn from a sale should be cleared for none consumption and removed from the State Warehouse immediately.

11.11 Conditions of sale

The Conditions of Sale for all BURS Auction Sales are set out below:-

- 11.11.1. The Auctioneer may refuse any bid and may withdraw any lot from the sale where there is suspicion of connivance amongst the bidders to fix a price; subject to this the highest bidder shall be the purchaser and no bid made shall be withdrawn
- 11.11.2. The making of a bid will imply acceptance by the bidder if the conditions of sale.
- 11.11.3 The Auctioneer may regulate the minimum amount of bids which will be accepted.
- 11.11.4 In the event of any dispute arising, the Auctioneer may at his discretion resell or withdraw the lot from the sale.
- 11.11.5 Goods will normally be sold duty paid, but in the event of special conditions being applicable to any particular lot, the Auctioneer will announce details of the special conditions when the lot is offered.
- 11.11.6 No warranty is given regarding quality, quantity, packing or any other particular and no claim will be admitted due to any error or appearance or description.
- 11.11.7. the purchase money shall be paid in cash on the acceptance of the bid, if not so paid the lot may be again offered, but the person whose bid was accepted shall be liable to pay any loss sustained by reason of his failure to comply with the condition.
- 11.11.8. Purchasers shall have five (5) working days rent free from the date of the sale in which to remove their goods. Any goods remaining in the State Warehouse after that period shall be declared invalid and the goods will be resold at the next auction. In such circumstances the original purchaser may claim a refund of the purchase price and the difference between the first and second sale price in the event of the latter being lower.
- 11.11.9 All goods remaining in the warehouse after sale shall be at the purchaser's risk and expense.

- 11.11.10 Any damage caused by removal or otherwise will be the sole responsibility of the owner.

Note: A copy of the Conditions of Sale is to be posted up for public information at the place and on the date of the sale. The conditions are also to be read out by the Auctioneer at the beginning of each sale.

The Auctioneer at the beginning of every Customs auction sale must always read out above conditions of sale in English.

11.12 Acceptance of bids

- 11.12.1 Bids for goods offered for sale at a Customs Auction sale may be accepted from any body
- 11.12.2 In no circumstances may any other officer of the BURS personally bid for goods offered at a Customs auction sale. Goods which have been withdrawn from sale in absence of any bid may not be acquired by any BURS officer.

11.13 Disposal of proceeds

- 11.13.1 In accordance with Customs and Excise Duty Act, the proceeds of any goods sold by the Commissioner are to be applied in the order set out below:-
- (i) In payment of any duties and taxes
 - (ii) In payment of any expenses in respect of removal and sale incurred by BURS
 - (iii) In payment of rail or road transport charges due to any transporter
 - (iv) The balance, if any to be paid to the owner of the goods, provided the said goods were not subject of any offence against any Customs laws.
- 11.13.2 No payment of the balance proceeds of the sale is to be made to the owner of the goods unless the application is supported by proof of ownership and is received by the Commissioner within 1 month of the date of sale of the goods concerned.
- 11.13.3 If the goods sold were the subject of an offence against the Customs laws, or any other laws of Botswana in terms of section 118 (1) of the Act, the balance of the proceeds of the sale after payment of the items specified in para 11.13.1 (i) and (iv) above is to be paid into the Division's revenue head for "fines".

11.14 Sales Account

- 11.14.1 Immediately after the conclusion of the sale the Auctioneer's Assistant is to prepare in duplicate a sale account in the form shown as Appendix I (B34). The original sale account is to be passed to the Finance Officer at Headquarters for final allocation of the sale proceeds.
- 11.14.2 The duplicate copy of the sale account is to be filed in the State Warehouse together with:-
- (i) A certificate of destruction in respect of any unsold goods destroyed during examination for auction sale;
 - (ii) Auctioneer clerk's completed Sale List
 - (iii) All other documents connected with the sale

11.15 Accounts Procedure

- 11.15.1 All receipts at Customs auction sales to be credited to revenue head Sundries, Sales of Publications, etc" and should be brought to account on the daily cash book as such/allocation per heads.
- 11.15.2 The Finance Officer at Headquarters will effect the final allocation of the proceeds by means of adjustment vouchers on receipt of the relative Sales account (See para.13.above)

CHAPTER 12 CUSTOMS TARIFF

12.1 Purpose

For purposes of Customs clearance, the declarant is required to complete the customs declaration form SAD 500 by supplying, among other information, the customs tariff of the goods. The purpose of these notes is to assist Customs Officers to effectively handle Customs tariff matters.

In addition to tariff classification of goods for duty purposes, the value and origin of the goods are also important determinants of the amount of duty to be collected. These matters are dealt with in Chapters 13 and 15 of this manual and should be studied carefully.

1.1.17 12.2. Legal Authority

Section 43(1)(b) of the Customs and Excise Duty Act (Chapter 50:01 of the Laws of Botswana.

Section 52(1), 52(3) and 52(11) of the Customs and Excise Duty Act Chapter 50:01 of the Laws of Botswana.

12.3 Definition

Tariff, is a guide that clarifies what one as an importer or exporter needs to know and the rates of duty they should pay. It gives information needed to dispatch and acquire goods for trading throughout the world.

1.1.18 12.4 General overview

12.4.1 The Botswana Customs tariff nomenclature is based on the Harmonized Commodity Description and Coding System (the Harmonized System).in the Customs Tariff Book, the nomenclature has been divided into subheadings to comply with international agreements and to meet fiscal, statistical and other requirements.

12.4.2 Ordinary customs duties are levied on goods imported into Botswana at the rates set out in the Customs Tariff Book.

12.4.3 The rates apply to goods originating in all countries. Lower rates than those shown in the Tariff Book can be applied because of various suspensions and preferential Trade Agreements.

1.1.19 12.5 Classification and Duty Rates

12.5.1 When classifying goods, the Explanatory Notes to the Harmonised Commodity Description and Coding System provide the basis for ascertaining the appropriate H.S Code to be used.

12.5.2 Officers are to ensure that goods are appropriately classified and that the correct duty rate has been applied. Misclassification may result in over/under collections or loss of revenue and may also distort statistics.

- 12.5.3 The rates of duties are specified in the following Schedules:
- SCHEDULE 1 PART 1 [Pages 5 – 894 d] - Ordinary Customs duty (Volume 1)
 - SCHEDULE 1 PART 2 (a) [Pages 895 – 900] - Specific excise duties & specific customs duties. (Volume 2)
 - SCHEDULE 1 PART 2 (b) [Pages 901 – 914] - Ad valorem Customs & Adv Excise duties.
 - SCHEDULE 1 PART 8 [Pages 914A - 914A] - Ordinary Levy
 - SCHEDULE 2 PART 1 [Pages 915 – 944/2] - Anti dumping duties
 - SCHEDULE 2 PART 2 [Pages 945 A – 946] - Counter veiling duties.

1.1.20 12.6 Required Procedure

1.1.21

12.6.1 When verifying declarations, officers must ensure that the principles of the General Interpretative Rules, which are outlined in the Tariff Book are correctly applied.

12.6.2 Where officers are in doubt as to the tariff classification of a commodity, which is not mentioned in the guide to the tariff or any other instruction, the following procedure is to be adopted -

- The goods are to be held or released on deposit, pending classification by the section charged with settling tariff matters in Head Office.
- The Tariff Classification Form (in triplicate) [Appendix...] is to be completed, the original and duplicate being sent to Head Office together with the relevant supporting documents, e.g. invoices, descriptive literature, etc, including samples, where appropriate.
- The goods must be described as accurately as possible, in order to facilitate classification.
- When submitting classification forms, Officers must make recommendations regarding the classification arrived at and give reasons for their recommendations.
- When the classification has been determined in Head Office, particulars are to be endorsed on the classification form, the duplicate being returned to the port of origin where appropriate action for the release of the goods, refund of deposit or amendment to the original bill of entry, is to be taken.

- Details of all tariff classification decisions made by Head Office are to be circulated to all officers to note.

1.1.22

1.1.23 12.7 Advance Tariff Rulings

12.7.1 Advance tariff rulings can only be issued by Head Office. When issuing such tariff rulings, officers must ensure that the application for such a ruling was made in the prescribed form.

12.7.2 Any advance tariff ruling issued in favour of its holder should clearly state the approved validity period of one year from date of issue.

12.7.3 Managers are to ensure that physical inspections are conducted on all goods declared on the basis of an advance tariff ruling in order to confirm that the imported goods correspond in all material fact to the description of goods in the Ruling.

12.7.4 Managers and officers are also urged to ensure that –

- the holder of the Ruling has fulfilled any obligation that may have been imposed by the ruling;
- the ruling is not incompatible with any amendment to the First Schedule to the Act or general administrative rules; and
- the ruling is still within its validity period from date of issuance.
- Where the imported goods are inconsistent with the description of goods in the Ruling, the importer should be advised to classify the goods under the appropriate tariff classification.

12.8 Provision of Reference Material

Senior managers are to ensure that each office is provided with adequate reference materials for classification purposes such as:

- Tariff Books,
- Commodity indices,
- Explanatory Notes
- Compendiums of classification opinions, etc.

Provision of such materials will ensure that officers accept entries with appropriate tariff classifications and that corrections are made timely without referring all cases to Head Office.

12.9 Updating of Tariff Books

Senior officers are to ensure that officers under their charge update their tariff books regularly to accommodate changes in legislation that have to be

effected at any given time and tariff decisions by Head Office are to be noted in an office file for reference by all officers.

12.10 Distribution of amendments to Customs stations

The tariff is regularly updated as and when new rates arrive from SARS. The amendments are then prepared for stakeholders. The amended pages of the tariff book are sent out to clients and stations (by mail for far stations and by hand delivery for nearby stations) for their updating of their books.

The unit keeps a subscription log book for external clients for regular delivery of amendments and a simple check list for stations.

The Tariff Book is sold to the public for P1000 while annual amendments cost P300.

VALUATION OF GOODS FOR CUSTOMS PURPOSES

PART I: GENERAL

13.1 Purpose

The valuation of imported goods for customs purposes is based on the GATT/WTO Valuation Agreement. Under the WTO Valuation Agreement, there are six methods of valuation, which are to be applied in sequence. These methods and their mode of application are covered in detail in the Customs and Excise Act and Regulations, including the Customs Valuation Guide. The purpose of these notes is to provide further guidance on the valuation of goods for Custom purposes.

1.1.24

13.2 Legal Authority

- Sections 75 to 83 of the Customs and Excise Duty Act (Chapter 50:01 of the Laws of Botswana.)
- Sections 53 to 61 of the Customs and Excise Duty regulations.

13.3 Definitions:

“Identical goods” means goods which are the same as in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical.

“Similar goods” means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trade mark are among the factors to be considered in determining whether goods are similar.

1.1.25 13.4 Customs Valuation rules

The customs value of imported goods shall be the transaction value, which is the **price actually paid or payable** for the goods when **sold for export** to the country of importation **adjusted** in accordance with the provisions of section 77 of the Act. This presupposes that-

- i. There are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which are imposed or required by law or by the public authorities in Botswana;
- ii. The sale or price is not subject to some **Condition or consideration** for which a value cannot be determined with respect to the goods being valued;

- iii. No part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of section 77 of the Act.
- iv. The buyer and seller are **not related**, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes so long as the relationship has not affected the price.

1.1.26 13.5 Valuation Methods

13.5.1 Under the WTO Valuation Agreement, there are six methods of valuation, which are to be applied in sequence: These methods and their mode of application are outlined here below.

13.5.2 Transaction value

This is the price actually paid or payable for the goods when sold for export to Botswana. This price should be adjusted as follows:

Adding incidental charges (handling, selling commission, transport, insurance, royalties, packing costs, dock, port etc.) and deducting all costs incurred within Botswana.

13.5.3 Transaction value of identical goods

This is the price actually paid or payable on goods that are the same in all aspects such as physical characteristics, quality and reputation and they should be produced by the same producer and in the same country and exported at or about the same time as the goods to be valued.

The trade level of the identical goods must be the same. Where there is more than one transaction value for identical goods you consider the lowest.

13.5.4 Transaction value of similar goods

This is the price actually paid or payable on goods that closely resemble each other, capable of performing the same functions, commercially interchangeable, produced in the same country and by the same producer and exported at or about the same time.

Under this method, similar goods produced by a different producer in the same country may be considered. Where there is more than one transaction value for similar goods you consider the lowest.

13.5.5 Deductive Value method

Under this method, the value shall be determined on the basis of sales to unrelated buyers in the country of importation for the goods being valued or of identical or similar imported goods. The sales price

must be reduced by specific expenses resulting from the importation and sale of goods.

The goods must be sold in the same condition as imported and the sale must have taken place at or about the same time as the goods being valued. If no sales took place at or about the time of importation, sales up to 90 days after importation can be used.

13.5.6 Computed Value Method

The value is determined on the basis of the cost of production of the goods being valued including profit and general expenses reflected in the sales from the country of exportation to the country of importation.

13.5.7 Fallback (flexible) Method

This method allows for the flexible interpretation of all the five methods above and use of any available relevant valuation information to determine the dutiable value.

13.6 Adjustments

13.6.1 Additions to the price paid or payable

Price paid or payable may be adjusted in accordance with section 77 of the Act. This is necessary in order to arrive at the price of the goods at the time of first introduction in Botswana. The price will be inclusive of any costs, fees, expenses etc such as freight, insurance, selling commission, brokerage, packing costs and charges etc. to get goods to the place of importation into Botswana. These are to be added to the price paid or payable if they have not been included on the invoiced value.

13.6.2 Exclusions from the Customs Value

The following charges will have to be excluded from the price paid or payable when arriving at the Customs Value. If they have been included in the invoice value, they are to be subtracted.

- Any expenditure incurred for the construction, erection, or maintenance charges, or technical assistance in respect of the goods after they are imported.
- Cost of transport and insurance within Botswana.
- Any duties or tax in the country of exportation.

- Duties and taxes paid or payable by reason of the importation or sale of the goods in Botswana.
- Buying Commission
- Interest.
- Charges for the right to reproduce the goods in Botswana.

13.7 Control of Value Declarations

Where an officer has disputed the declared value, the importer or agent will be called upon to submit a written declaration of facts relating to the imported goods. The following will have to be included -

- a) Whether there is any payment made or to be made other than the invoiced price, if the importer is related to the supplier, etc.
- b) Other facts such as the type of the transaction, terms of payment, the currency of settlement, freight and insurance costs, commissions, royalties etc. will have to be provided.

The importer is responsible for calculating and declaring a value for duty purposes; assessing duty and import VAT on customs entry documents and deliver the entry to Customs Office for processing. If the importer engages a Clearing Agent, the importer still remains liable for the correct declaration of the Customs Value and provision of all the documents supporting declared values for customs review when required.

13.8 Customs Value Verification

- 13.8.1 It is the right of Customs Division to satisfy itself as to the truth and accuracy of any statement, document or declaration. Importers are expected to co-operate by providing necessary information and documentation such as correspondence with exporters, brokers etc.
- 13.8.2 Value declarations under any of the six methods of valuation are to be verified in accordance with the provisions of Chapters *two* (2) to *six* (6) of the Customs Valuation Control Handbook.
- 13.8.3 Visiting an importer's premises is important when carrying out value verification. The importer may or may not be informed about the visit. However, before leaving the officers have to -
 - (a) Note any specific points requiring verification;
 - (b) Analyse the risk areas and determine the risk rating of the entry;
 - (c) Study the entries and supporting documents carefully. Note any features which may require enquiry;

- (d) Obtain the following information concerning the importer:
 - The past history of importation;
 - Valuation rulings related to the importer and the commodity;
 - Similar rulings which may be applicable to the case under review;
 - Previous visit reports concerning the importer;
 - Information from other sources, e.g. Domestic Taxes
 - Any other relevant information.
- (e) Liaise with other Customs Sections, ports etc.) to confirm whether there is any involvement under their jurisdiction.

13.8.4 Report of Visit

All visits made by an officer to an importer's premises in trying to verify the declared value will have to be recorded systematically for future reference.

A report of visit may include details such as:

- The dates of visit;
- Name and position of person(s) seen in the company;
- Company status;
- Legal status - for instance incorporated company, partnership, sole ownership, etc;
- Capital, held by whom;
- List of related companies;
- List of buyers who import similar goods; etc.

13.9 Updating of the Import Valuation Database

In order to ensure that the import valuation database is up to date, the following must be done:

- a) Station managers must ensure that officers keep copies of genuine invoices in a neat and tidy manner.
- b) This information must be extracted on a weekly basis and forwarded to the CVO unit.

1.1.27 13.10 Additional Procedures and Quality Assurance Processes

13.10.1 Documentation

It is the responsibility of officers to verify all value declarations submitted by importers or their agents. The importer, exporter and Agent must submit documentation that is necessary in establishing the correct customs value.

These may include;

- Commercial invoices

- Contracts
- Bills of lading
- Airway bills (AWB)
- Correspondence
- Bank Statements and related documents.

If such documents are not immediately available, release may be allowed against payment of a deposit based on a suitably uplifted value and the matter referred to the Assistant Commissioner – International and Policy.

13.10.2 Discounts

Nearly all forms of discounts are acceptable under the outlined methods of Customs Valuation. However, there could be room for Customs fraud as a result of declaring different kinds of price reductions, such as initial payments etc, as acceptable discount to the Customs value. Post-clearance audit are an effective tool to detect such fraudulent practices. Before any declared discount is accepted, it must be established that it is freely available to any buyer at any given level of trading.

The following is a list of commonly encountered and acceptable discounts -

- Quantity
- Settlement/Cash
- Advance payment
- Sample/Promotional
- Contingency/Turnover/loyalty
- Commercial Level
- Relationship

13.10.3 Valuation of goods ex-warehouse

When goods are removed from a bonded warehouse for home use, the value for customs purposes is to be taken as that at the time the goods were entered for warehousing.

13.10.4 Used Goods

The rules of Customs Valuation must still be applied in the case of second-hand goods. Officers must be satisfied that the declared value represents an open market price of the product when date of manufacture/production, condition etc. have been taken into consideration.

13.10.5 Transport and Insurance

The Value for Duty Purposes shall consist of the Cost, Insurance and Freight (CIF). Misrepresenting the apportionment of freight charges can provide an opportunity for under valuation.

Where the importer or agent fails to produce evidence of actual amounts paid or has under-declared on the charges for the transportation of the goods up to the entry point, officers are advised to use 5% of the f.o.b. value.

13.10.6 Contracts of Sale

It is absolutely necessary for officers to understand the Contracts of sale on a given declaration, as these will usually describe all aspects of the transaction, which are necessary for determining the Customs Value. These will usually be indicated on the invoices in form of incoterms such as Cost Insurance and Freight (C.I.F), Free on Board (F.O.B), Cost and Freight (C & F), Free Along Ship (F.A.S), Ex-Works, etc. Officers are to familiarise themselves with such terms for purposes of arriving at correct C.I.F values.

13.11 Upholding internationally accepted valuation principles

In order to adhere to the principle of internationally acceptable Customs Valuation principles, the value for duty purposes shall not be based on any of the following -

- (a) The selling price in the country of importation of goods produced in such country;
- (b) A system that provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) The price of goods on the domestic market of the country of exportation;
- (d) The cost of production, other than computed values which has been determined for identical or similar goods;
- (e) The prices of the goods for export to a country other than the country of importation;
- (f) Minimum customs values; or
- (g) Arbitrary or fictitious values.

1.1.28 13.12 Valuation Appeals

If there is a valuation dispute between Customs and the importer through the Query and amendments office, the importer can make an appeal to the Queries Officer.

If the valuation dispute is not resolved it should be referred to the Station Manager. If the matter is not resolved, the Station Manager should in turn refer it to the CVO office at Head Office for resolution.

The Station Manager may collect monetary security deposit to cover all taxes on the disputed case.

PARTII:
CLEARANCE AND VALUATION OF USED MOTOR VEHICLES

13.13 Purpose

The purpose of this Part is to show officers procedures to follow when clearing used/second hand foreign registered motor vehicles, and also guide them on how such vehicles are valued. Officers should note that new vehicles should be cleared in the normal way using the supplier's invoice.

13.15 Legal Authority

- Sections 78 to 80 of the Customs and Excise Duty Act 1979
- Section 122 of the Customs and Excise Duty Act, CAP. 50:01
- Regulation 46(22) of the Customs and Excise Regulations, 1974 (Statutory Instrument No. 36/1974)

13.15 General Overview

13.15.1 Allowances and Exemptions – The Commissioner, in exercise of his authority, has granted exemption from completion of SAD 500 forms at border posts in respect of all motor vehicles, including private, commercial or agricultural vehicles, whether or not these are imported for personal use or by way of trade or for re-sale.(Except caravans)

13.15.2 All imported motor vehicles will be entered for customs purposes only at the time of first registration in terms of the Road traffic Act but it has been found that residents who import used motor vehicles do not report to Customs for clearance and so put the arrangement at risk. It had been decided, therefore, that such individuals will be required to pay the full duty and taxes at the border post and thereafter proceed to clear the vehicle as stipulated in these guidelines.

Since such imported vehicles had been used there is a need to determine their value in order to assess duty at the time of clearance. The following categories of vehicles are involved:-

- (i) Vehicles purchased second hand ;
- (ii) Vehicles imported by persons changing residence to Botswana;

- (iii) Privileged person such as members of the Diplomatic Mission or technical assistance personnel wishing to dispose off their vehicles originally imported under full duty rebate.

13.15.3 The basis of valuation of such used vehicles will be based on the price actually paid or payable for the vehicle adjusted to take account of depreciation (with reference to age or use) incurred since purchase, that is, purchase price less percentage deduction which may be allowed from the price paid by the owner as follows:-

One month to six months use.....	12.5%
Over six months to one year use.....	25%
Over one year to two years use.....	30%
Over two years to three years use.....	35%
Over three years to four years use.....	40%
Over four years use	75%

It must be understood that the above allowance are to be deducted from the new price of the vehicle and applies to cars in normal conditions and with normal mileage, commensurate with age.

13.15.4 Instances of vehicles in sub-normal condition or with excessively high mileages and which have been declared at very low values should be referred to Valuation Unit for determination of price and full details of the vehicle must be given in writing in each case.

13.15.5 In case of an importer who has owned a car for a number of years and cannot produce evidence as to the price paid, publication of values of motor vehicles from the concerned country should be consulted for the new price of that particular model. If these publications are not available enquiries as to the prices should be made from local vehicle retailers.

13.16 Procedure for the issuance of Form CE 109

13.16.1 Section 10 (b) of the Road Traffic Act (Cap. 69.01) provides that, a motor vehicle licensing officer appointed under Section 3, shall not register a motor vehicle which has been imported into Botswana unless the owner satisfies him that the vehicle has been lawfully imported into Botswana and produces documentary evidence in the form of a Customs Clearance Certificate (CE 109) issued by the Division of Customs and Excise, that the vehicle has been cleared from Customs control.

13.16.2 The Director of National Transport and Communication/Registrar of Motor Vehicles have informed all treasury cashiers – (Motor Vehicle Licensing Officers) that the only acceptable evidence of lawful importation of motor vehicles should be a Customs Clearance Certificate (Form CE 109).

13.16.3 Importers of vehicles who intend to retain, register and license them in Botswana are to be advised that a CE 109 form is required before such imported vehicles can be registered. A CE 109 form may be issued upon production by the importer of a copy of the relevant bill of entry SAD 500. SAD 500 forms are required for vehicles that are:-

- (a) Directly imported into Botswana
- (b) Imported and cleared under rebate 412.11 or 412.12 of scheduled No 4 to the Act.

13.16.4 Form CE 109 is only issued after the following procedures are met:-

a) In order to address the illegal vehicle trafficking of motor vehicles in the Southern African Region, the following countries agreed on the implementation of a unique police clearance certificate with its own security features herein referred to as SARPCCO (Southern African Regional Police Chiefs Cooperation Organisation) Certificate.:-

- | | |
|-----------------|---------------|
| 1. Angola | 7. Malawi |
| 2. Botswana | 8. Mauritius |
| 3. Lesotho | 9. Mozambique |
| 4. Namibia | 10. Tanzania |
| 5. South Africa | 11. Zambia |
| 6. Swaziland | 12. Zimbabwe |

b) In order to clear used motor vehicles for home consumption the vehicle should have been inspected by C.I.D Motor Vehicle Squad, and vehicle coming from SARPCCO member countries should have SARPCCO Certificate as well as a Botswana Police Motor Vehicle Clearance Certificate stamped and presented to Customs with relevant documents for the completion of SAD 500 forms. All vehicles originating from Non-SARPCCO members should have a normal Botswana Police Clearance Certificate.

c) After checking the SAD 500 form the officer should physically examine the vehicle comparing the particulars on the SARPCCO (A specimen of SARPCCO certificate is at Appendix B) and Botswana Police Motor Vehicle Clearance Certificate against what is embossed on the vehicle. After being satisfied from CE 109 can be issued.

d) The importer then has to take the CE 109 clearance certificate to C.I.D Motor Vehicle Squad for stamping and thereafter present two copies to the licensing officer for registration. CE 109 forms are issued at all BURS inland offices.

13.16.5 Headquarters will keep record of the serial number of the CE 109 books issued to each station and send a copy of this record to the

Investigation Unit who will inform the Police and the Director of Roads Transport and Safety of the numbers held by each station.

- 13.8.6 Customs Officers in charge of stations should keep a register of CE 109 books received from Headquarters and issued to individual officers. Stations should check the CE 109 books when they receive them to see whether they are correctly numbered, and any discrepancy found in the book should be noted on the cover of the book, incorrectly numbered books should be cancelled and not issued.

13.17 Disposal of Form CE 109

- 13.17.1
- a). Original and duplicate should be given back to the importer (owner) of the vehicle with an instruction to produce them to the Police and the licensing officer at the Department of Transport.
 - b). The licensing Officer should endorse the Botswana registration number on the duplicate copy and return it immediately to the Customs station of origin shown on the date stamp.
 - c). The stamped duplicate copy should be married to the station copy (triplicate) but if the duplicate copy is suspect, it should be handed to the Investigations Unit for further investigation.
 - d). The station copies should be checked from time to time to see if the duplicates have been returned. Where acquittal has not been received the matter should be reported to the Customs Investigation Unit.
 - e). Care should be taken when issuing form CE 109; the full particulars of the importer should be endorsed on the certificate. The importer should be instructed to license his vehicle as soon as possible at the place indicated on the clearance certificate and if the registration is not going to be immediate he/she should be advised to secure the certificate.
- 13.17.2 CE 109 Forms for exported vehicles - People intending to export their used motor vehicle to the Republic of South Africa (RSA) should be informed that RSA motor vehicle registering authorities require importers to that country to produce CE 109 form in respect of their vehicles. All permanently exported motor vehicles to CCA country should be issued with form CE 109.
- 13.17.3 In addition to completing SAD 500 forms, persons exporting vehicles from Botswana to SARPCCO countries should be advised to obtain a SARPCCO Clearance Certificate from the Police and other customs documentation prior to removal of the vehicle. Vehicles exported to

non-SARPCCO countries require only Botswana Police Clearance Certificate and Customs Officers must ensure that proper procedures are followed at the time of exportation.

13.18 Clearance of Caravans

- 13.18.1 Although caravans are vehicles and require to be registered in Botswana, due to difficulties encountered in tracing them after they had been imported into the country, it has been found necessary to clear them at the time of importation at the border post and duties and taxes paid accordingly.
- 13.18.2 After clearance and payment of taxes, the caravan may be allowed entry in order to obtain a police clearance certificate, and on production of this certificate and SAD 500 form, a CE 109 certificate will be issued in order to enable the caravan to be registered in Botswana. This procedure does not affect caravans belonging to non-residents being imported on a temporary basis e.g. for a holiday in Botswana.

13.19 Vehicle purchased in Botswana, delivered overseas and re-imported

Motor Vehicles purchased in Botswana, delivered overseas to the purchaser and subsequently brought back into Botswana should be dealt with as follows:-

- a) If the vehicle was purchased at Botswana prices, and all charges incurred in the shipment and importation thereof, such as freight, insurance, landing charges and duty are the Botswana dealer's account, then the vehicle is to be regarded as being imported by the dealer and no allowance for period of use is to be made
- b) If the vehicle is purchased in Botswana but all charges, after delivery has taken place overseas, are for the purchaser's account, then the purchaser is to be regarded as the importer and the allowances prescribed above may be applied.

13.20 Vehicles imported by privileged persons

- 13.20.1 Goods for Head of State, diplomatic and other foreign representatives rebate item 406 description 5. Not disposed of within 2 years
- 13.20.2 Where a privileged person e.g. enjoy Diplomatic status, a dealer or person in the trade, who has been able to purchase a vehicle for his own use at a special price, the allowances should only be allowed off the special price as provided for in Article 8 of the WTO agreement.
- 13.20.3 It should be noted that in terms of Section 77 (2) of the Customs & Excise Duty Act no period of use of any motor vehicle outside

Botswana, while in the possession of any person normally resident in Botswana, which is less than six months should be taken into consideration in determining value.

- 13.20.4 In instances where an importer purchased a used car, say a year old and used it for a further period of two years before shipping it to Botswana, the value should be calculated on the basis of the price paid less 10%, i.e. the difference between the allowances for twelve months and thirty-six months
- 13.20.5 Invoices produced for cars purchased overseas by private individuals should be scrutinized with care. If it appears that the invoice is a false document, the seller's receipt should be called for and if it is found that an attempt was made to use the invoice to gain admission of the vehicle at a lesser amount of duty than is in fact the case then the vehicle should be detained and the facts reported to the Regional Manager for further investigation.

13.21 Vehicles imported under cover of Triptyques and Carnets

- 13.21.1 Triptyques and carnets values may be accepted if these are not obviously understated. In the event of duty brought to account at a latter stage on cars which entered Botswana on triptyques or carnets, the value for duty purposes shall be the value accepted at the time of entry into Botswana, i.e. that appearing on the triptyques or carnet. In such cases no allowance must be made for the period in use in Botswana. The reason for general acceptance of values on triptyques and carnets is that motor associations in their own interests are generally careful to accept only fair values in respect of the vehicles for which the triptyques or carnets are issued.
- 13.21.2 When a Motor Association issues a triptyque or carnet that Association is ultimately responsible to BURS for any duty, which may become due. As the Association's valuation was accepted at the time of importation, it would be clear that such value cannot at a later stage be increased or decreased without full knowledge of the Association. It follows therefore, that should an importer wishing to bring duty to account on a vehicle but contends that the value on the triptyque or carnet is too high, he/she should be advised to take up the matter with the Association, which issued the document. If she/he's subsequent representation is supported by an explanation from the Association as to the reason why a high value was originally placed on the documents and the Commissioner finds the explanation acceptable, the latter may accept a value, which he considers to be fair and reasonable.

1.1.29 13.22 Further reference

Further reference may be made to any of the following -

- Customs Valuation Control Handbook, published by the WCO
- Import Valuation Data Base compiled by the Customs Division.
- Customs Valuation Manual
- Customs Valuation Compendium published by the WCO.
- Auto Dealers Guide
- Customs and Excise Duty Act, Chapter 50:01 and Regulations
- Agreement on Implementation of Article 7 of the GATT

CHAPTER 14 VALUE ADDED TAX

14.1 Purpose

The purpose of these notes is to guide Customs officers on the application of VAT legislation to imports and exports.

14.2 Legal authority

- i. Value Added Tax Act Chapter 50:03 of the Laws of Botswana
- ii. Value Added Tax Regulations
- iii. Value Added Tax Practice Notes

14.3 General overview

VAT is a tax on consumption which is charged on most goods and services supplied in Botswana. This tax is also charged on some imported goods and services. However, certain goods do not attract VAT either because they are zero rated or are not subject to VAT at all, that is, they are exempted from VAT.

14.4 Definition

Value added tax is a tax charged on the consumption of goods and services. It applies to locally supplied goods and services as well as imported ones.

14.5 Sections of the VAT Act relevant to Customs operations

Section 10 - Zero Rated supplies
 Section 11 – Exempt supplies
 Sections 12 - Time of Import
 Section 13 – Value of import
 Section 14 – Exempt import
 Section 15 – Import Declaration and payment of tax
 Section 42 – Refund of tax

14.6 Practice Note no.11 – Cost of insurance and freight uplift for imports

For the purpose of Section 13(1) (a) (ii) of the Customs and Excise Duty Act, Chapter 50:01, where amounts for the cost of insurance and freight are not indicated on the documents provided by an importer relating to imported goods, the total cost of insurance and freight shall be deemed to be 5% of the free-on-board value of the goods.

14.7 Refunds on imports (Other)

Refer to Chapter 16 of Procedures Manual

14.8 Duty – free Allowances

Personal allowances on passengers baggage - UA500 (Refer to Chapter 4 of Procedures Manual)

14.9 Schedule I - Zero rated supplies

These are goods and services charged tax at the rate of 0%. For example, goods exported maize meal, sugar, etc.

14.10 Schedule III - Exempt imports

These are goods and services that are not subject to VAT and are listed in the VAT Regulations. For example, Education services, Public Medical Services, Prescription drugs, donations, etc

14.11 Calculation of import VAT

SACU imports:

Import VAT = Cost, insurance and freight value x 10%
i.e. (c.i.f. value x 10%)

Non-SACU imports:

Import VAT = Cost, insurance and freight value plus duties applicable x 10%
i.e. (c.i.f. value + duties applicable) x 10%

CHAPTER 15 ORIGIN AND PREFERENCES

15.1 Purpose

The purpose of this guidance note is to guide customs officers in implementing various trade agreements which offer preferential treatment on goods exported under these agreements. It gives them procedures regarding registration of legible exporters or manufacturers of goods and verifications of their origin status. Verification of origin is done during registration and after importation at the request of the importing country.

15.2 Legal Authority

- Origin of Goods – Section 49 of the Customs and Excise Duty Act of the Laws of Botswana.
- Regulation 41
- Registration of Manufacturers/Exporters - Section 50(II)

15.3 Definitions

For the purpose of these guidelines and for the benefit of Customs Staff:

“Country of Origin of a product” means the territory in which the product was produced or manufactured.

“Product” means the item/product being manufactured, even if it is intended for later use in another manufacturing operation or for final consumption.

“Material” means any ingredient, raw material, component or part etc used in the manufacturing process.

15.4 General Overview

Customs has been mandated to administer and implement Rules of Origin under various Trade Agreements. In doing this, Customs is responsible in ensuring correctness of Origin on behalf of importing countries. Customs Officers verify the origin of goods being exported from the country on behalf of importing countries who are party to any particular Trade Agreement under section 49 of the Customs & Excise Duty Act (Cap 50.01 of the laws of Botswana).

The country of Origin of a product is important because it determines if and how a product might obtain preferential treatment. In essence, all companies wishing to benefit under a particular Trade Agreement should register its products intended for export.

15.5 International Trade Agreements:

- Botswana – Zimbabwe Trade Agreement
- Botswana – Malawi Trade Agreement
- SADC Free Trade Area

- SADC Economic Partnership Agreement
- SACU/ EFTA
- AGOA
- GSP
- SACU

15.6 Registration of companies under Trade agreements: Origin verification Process

15.6.1 Pre-export origin verification

All new applicants and new products should be registered before export under any trade agreement. Registration of exporters involves registration of a company as well as its products. A registered company wishing to export a product which was not on its list at the time of registration must make an application to register that product as additional product to its list of registered products. The word exporter refers to any company which supplies goods to customers in another country. Producers/manufacturers of goods can export their goods or may sell to companies who intend to export such goods. An exporter who is not a manufacturer but intends to export goods produced by some other companies must seek an authorization letter from producers and this should be submitted with the application.

15.6.2 Submission of application by trader

15.6.2.1 Application Letter

The application letter should be submitted to the nearest BURS Regional office and the following information should be included in the letter:-

- name of company (registration and trading names)
- names of Directors and their nationalities
- Physical and postal address of the company
- Names of other related companies and the names , nationalities of their directors, their physical and postal address
- Names of companies who will be carrying other jobs for the company(CMT/Subcontract)
- Name of related companies
- Agreement you intend to export under
- List of products manufactured
- List of products intended for export

- Description and tariff heading of the products for export
- Description and tariff heading of the raw materials used in production
- Source and origin of raw materials used in production.
- If imported quote the declaration number.
- State the daily production
- State the monthly production level.

15.6.2.3 Additional Information

The following additional information should also be submitted

- Detailed step by step description of the manufacturing process
- Machine layout in the factory
- List and number of machinery in production and their functions
- List and number of employees
- Job profiles of each category of employees

15.7 Regional Office

15.7.1 Vet the application

Upon receipt of information from the trader by the Regional office, the following information should be checked

- Check if all the required information has been submitted as at A and B above
- Study the manufacturing process to establish if it is understandable
- Check if the items are properly described and classified.
- If the raw materials are imported, use ASYCUDA system to retrieve the import document .Checked the import documents against the information submitted.

15.7.2 Factory Visit

After vetting of information from the trader by the Regional office, a factory visit should be undertaken by the regional officers to perform the following activities;

1. Interview the applicant/trader (This can be done before or after the factory tour)

- Explain the purpose of the visit to the management.
- Ask follow up questions to clarify issues pertaining to the process of manufacture and the factory as a whole.
- Inquire if there is any imports of finished products and, if yes ask trader to state the country of export , the description and tariff heading of such products

2. Factory Tour

- Check the status of the factory to see if it is in a working condition.
- Check the machinery in use to establish if they are indeed in use.
- Check the name of the company on the building against the letter head.
- Let the production manager carry you through the manufacturing process explaining every step. Ask question where you need clarity.
- Observe the manufacturing process to check if it is in line with the written step-by-step manufacturing process.
- Avoid giving the customer feedback as you may need further information.
- Note products which are on production line and their style numbers to check if they tally or reconcile with the ones submitted in the application

15.7.3 Approval of manufacturing process

Upon receipt of information from the trader by the Regional office, the officer(s) should;

- Check if the process does not fall under processes which are considered as **minor processes** as listed under such processes under that particular Trade Agreement.

- If the process falls under minor process, the application is rejected outright.
- If the process is accepted as manufacture go to (F)

15.8 Origin Criteria

In determining the origin of the product(s) the officer should;

- Check if the product is wholly produced or sufficiently worked.
- If it is wholly originating there will be no need for further verification (normal background information is as at (15.2) and (15.3) is sufficient).
- If the product is manufactured, check the sufficiently worked rule (Refer to the particular trade Agreement) and advise the customer accordingly in writing.
- This is commonly known as the list of working or processing required to be carried out on non-originating materials.
- If the process requires calculations, call for costing.
- If the rule requires change in tariff, check the tariff heading of the imported materials against the final product. The two should not fall under the same 4digits tariff heading)

15.9 Recommendation

After vetting of information from the trader, conducting of a factory visit and determining of the origin criteria by the Regional office, the Regional office should perform the following;

- Write a memorandum to the Classification, Valuation and Origin (CVO) unit making a recommendation on whether the products qualify as originating or not .If product(s) qualify, to state the reasons for qualifying and should in addition ;
- State the origin criteria or rule used in determining origin of goods
- List and attach all copies of the application recommendation letter (via - Regional Manager) and all other relevant attachments/documents and supporting information (as at sub-paragraphs 15.2 – 15.4 above) should be attached to the memorandum.

15.10 Origin Section

15.10.1 Approval

Upon receipt of the recommendation from the Regional office by the CVO unit, the origin officer should;

- Open a new file for the company if it is a new one and allocate the file number as the reference number.
- Vet the application to determine whether the product originates or not.
- Check if the product is wholly produced or manufactured.
- Check the classification/ tariff code of items to be exported
- Check the origin and source of raw materials used and the tariff codes
- Check if the manufacturing process does not fall under minor process as per the agreement.
- Check if all supporting documents are available.(15.2 to 15.4)
- Check if the company has any relationship with other registered manufacturers or exporters and any other companies.
- Check if the company imports any finished products.
- Factory visit may be done for further clarification.
- Write a letter of approval /rejection to the applicant.
- Write a memorandum to the regional office to advise them on whether the company qualifies or not.
- Update the list of exporters and/or products

15.10.2 Develop Manufacturer Profile

15.10.2.1 Regional Office

15.10.2.1.1 Company Profile

Once the company had been registered, the regional office should develop a company profile which should include the following:

- Names of the owners of the company
- Names of the management of the company especially the production manager.
- The location of the company
- List and number of machinery and their functions. (in use and idling)

- Date of establishment
- Products produced there
- Does the company subcontract to or for other companies
- Production capacity
- List and number of employees and their job profiles
- Names of other related companies and the names of owners of the said companies and their management

15.11 Monthly/Quarter Verification Visits/ factory inspections and Reviews/checks

This is done to ensure that the company exports only originating products and that proper record keeping is maintained. The company's profile can be updated at this stage. The regional officer should do the following to monitor the activities of the company:

- Conduct factory monthly/quarterly visits for textile companies and random visits on others. (You must know your industry and the company).
- Audit/check /verify information on copies of certificates of origin as submitted.(In this case relevant export and where possible import declarations for such export should be demanded from the Systems Clearance unit)
- Submit the returns on exports made under each trade Agreement(not only AGOA as is the case today) from all the regions

15.12 Factory Inspection

15.12.1 In conducting the inspection, the regional officer should observe the following in each department and area:

- Storage:
 - Raw materials
 - Finished products
- Production Process
- Observe the process and make comments
- Note the number of production lines and the style on line.

- Note the number of employees in each line.
- Note the number of machines used and their functions.
- Check their records to see how it is done
- What operations are done in each section of production, for example, in a textile manufacturing firm the Sewing department must be inspected as follows:
 - Cutting area (textile)
 - Number of cutting tables, knives
 - Number of employees in the area
 - What style is been cut

15.12.2 Documentation

- Check if goods are traceable from the cutting area to the finishing department.
- Note any variation in the number
- Check the export records against stock records.
- Check the export records against production records
- Verify the shipping documents for raw material
- Verify the payment records against the invoices.
- Establish whether there have been any subcontract
- Check the production capacity against time line (when production of style started and ended).

15.13 Report to the Regional Manager

Content:

After making the visit(s) the controlling officer is expected to write a report to the Regional Manager/Commissioner advising him of the findings and observations from the visit as a follow-up to the company profiles developed on each company and also up-date the profiles on need basis. The findings and observations of the visit should be shared with other units of the Customs Division such as the CVO, Systems Clearance, Post Clearance Audit, Risk Profiling and Intelligence and Investigations. The Origin section (CVO) in this case will be expected to give a report by way of feedback on all possible courses of action/solutions regarding to the regional office report (that is their findings; observations; comments; recommendations and way forward. The following should form part of the report;

- Background information of the company
- Step by step description of the manufacturing process
- Observations and comments on;
 - ◆ The manufacturing process
 - ◆ Origin of raw materials used
 - ◆ List of products in production
 - ◆ Origin criteria used
 - ◆ The current situation

Recommendations on the observation and comments and way forward

15.14 Company Profile

Once the company had been registered, CVO unit should develop a company profile which should include the following;

- Names of the owners of the company
- Names of the management of the company especially the production manager.
- The location of the company
- List and number of machinery and their functions. (in use and idling)
- Date of establishment
- Products produced there
- Does the company subcontract to or for other companies
- Production capacity
- List and number of employees and their job profiles
- Names of other related companies and the names of owners of the said companies and their management

15.15 Post Verification of Certificate of Origin

Whenever the Customs authorities of the importing country have doubt in the correctness of the evidence of the certificate of origin or any other document furnished to them by the importer they may send back the said certificate of origin for verification.

15.15.1 Origin Section

15.15.1.1 Verification Queries

- All verification letters from importing countries are received by the origin section through the registry.
- All letters received should be recorded on the section's mail register.
- Write a memorandum to the issuing regional office to verify the authenticity of the certificate as well the origin of the goods covered by the certificate
- A report of the observations made during the visit should be submitted to the origin unit together with the completed questionnaire through the Regional Manager.

15.15.1.2 Acknowledgement of receipt

On receipt of the verification letter, the section should write an acknowledgement of receipt to the importing country. This letter can inform the importing country on whether the goods were exported from Botswana or not. Proof of export can be done by retrieving the export documents quoted on the certificate of origin. Avoid stating whether the goods originate or not before carrying out post verification audit and state when to expect reply. This would help to build their confidence but avoid giving yourself a short time at the same time considering the stipulated time given by the importing country.

15.15.1.3 Export documents audit.

Verification of the export documents against the certificate of origin would help to find out if the goods were declared as originating in Botswana and to find out if the quantities on the certificate of origin reconcile with the one on the entry. It will also help you to determine the HS description of the goods and whether it is the same as the one for the goods covered by the certificate of origin.

15.15.1.4 Memorandum to the regional office

Origin section should write a memorandum to the Regional manager. The content of the memorandum should have the following information:-

- The exporter of the goods covered by the queried certificate.
- The number of the certificate queried by the importing country.
- The date for expected feedback.

15.15.1.5 Verification questionnaire

This questionnaire should be attached to the memorandum . The purpose of this document is:

- To establish the authenticity of the certificate and its contents.
- To establish the originating status of the goods covered by the certificate.

15.15.2 Regional office

15.15.2.1 Verification process

- The manager must assign a senior officer to act on the received memorandum.
- The verification process should be done by an officer other than the one who issued the certificate of origin queried. This does not prevent the senior Officer to work with that officer.
- The assigned senior officer must visit the factory of the exporter to verify the process.
- He/She should examine the company's records to reconcile the quantity exported with the production records kept by the company.
- The production records should show daily production of the goods covered by the certificate of origin. This can be shown by the style number.
- Reference should be made to the monthly/ quarterly verification visits reports on the company.
- Any change observed during the visit should be noted.

15.15.2.2 Memorandum to Origin Section

The findings of the verification audits should be communicated to the CVO unit through the regional manager's office. This should also include comments on the questionnaire.

The questionnaire should be attached to the memo

15.15.3 Origin Unit

15.13.3.1 Origin verification Ruling/Response to the Importing country

On receipt of feedback from the Regional office, the unit will compile a report based on their findings on the export documents audit and the finding from the regional office. The report will be used to verify whether the queried certificate of origin is authentic and ascertain the origin of goods covered by the certificate of origin.

CHAPTER 16
DRAWBACKS, REBATES AND REFUNDS OF DUTY

PART I:

**PROCEDURES FOR PROCESSING REFUND APPLICATIONS FOR CUSTOMS
DUTIES AND IMPORT VAT**

16.1 Purpose

The following notes are intended to guide Customs officers charged with the responsibility of processing refund applications for customs duties and import Value Added Tax (VAT) submitted by the importers, or persons who paid the duties on entry of the goods for home consumption.

16.2 Legal Authority

Section 85 of the Customs and Excise Duty Act, 1970 CAP 50:01 of the Laws of Botswana.

16.3 Definition

A refund is a re-payment in part or in full of any amount which was previously paid.

A refund may arise because of the following:

- Overpayment of Customs duties resulting from the use of a wrong tariff/value/origin.
- Imported goods having been re-exported
- Where the same consignment was cleared twice
- If the Revenue Service through an Audit inspection detects an error, and advises the importer to lodge a refund claim.

16.4 General Overview

A refund is usually initiated by the importer for reasons specified in paragraph 16.3 above. A refund involves a repayment of customs duties and/ import VAT previously paid to Customs by the importer.

A refund can also be made for provisional payments/temporary deposits previously paid as security when goods are imported temporarily into Botswana pending re-exportation within a stipulated period. Such payments for security are normally equivalent to the amount of money due as customs duties and/or VAT on a particular consignment.

16.5 Procedure for submission of Refund Applications

16.5.1 The application must comply with the following conditions:

The importer should complete and submit the relevant customs refund application form CE 66 to the BURS customs office where the payment was initially made, for processing and recommendation to the Regional Manager. In the case of temporary deposits the officer prepares a payment voucher.

Supporting documents:

- a) A copy of the bill of entry, SAD 500, relating to the importation of such goods.

- b) An official receipt as proof of payment.
- c) Copies of correspondences between the importer and supplier which have direct bearing on the matter in question.
- d) Copies of original invoice from supplier.
- e) Copies of original order/specification.
- f) Transport documents.
- g) Export documents being the bill of entry.
- h) Comprehensive worksheet indicating how the duty amount claimed was calculated.
- i) Credit not if applicable
- j) Examination report/certificate by customs Officer.
- k) A voucher of correction, where there has been a change in tariff heading or a wrong CPC code having been used.
- l) Proof of export or any other evidence relating to the export.
- m) Original destruction certificate (if applicable); (the goods should be destroyed under Customs supervision.
- n) Any other document as the Commissioner may decide.

16.5.2 For those traders registered for VAT, the refund claim documents should be sent to the Internal Revenue Division (VAT Section) for refund or adjustment, as the case may be.

16.5.3 Goods which have already gone to use in Botswana will not qualify for a refund except where it has been established that the goods do not conform to the conditions of the contract or there has been limited use as determined by the Commissioner in cases where such use did not change the condition of the goods or no defects can be detected.

16.5.4 The refund application must be submitted within 6 months from the date of export bill of entry but not later than 2 years from the date of entry for home consumption or such further period as the Commissioner may in exceptional circumstances decide.

16.6 Goods which qualify for a refund of duties paid:

16.6.1 Goods from a single consignment on which duty amounting to UA50 or more has been paid.

- 16.6.2 Goods should not have been imported contrary to the provisions of any law.
- 16.6.3 Goods are found to be not legally saleable in Botswana because they do not conform to a standard prescribed by law.
- 16.6.4 Goods which at the time of importation are in line with the terms of the contract, in respect of their description, quality, quantity, state or condition.
- 16.6.5 Goods should have been landed damaged.
- 16.6.6 Goods are identifiable with the imported goods and within 2 years of the date of their entry for home consumption are returned to the supplier thereof or another person designated by the supplier.
- 16.6.7 Goods are abandoned to the office unconditionally or destroyed with the permission of the Commissioner.

16.7 Procedure for processing Refund Applications:

16.7.1 At station level:

- 16.7.1.1 The claim must be entered into a register by the officer receiving the claim.

The register should have the following information **(see Annexure A)**;

- i. The date the refund claim is received.
 - ii. The claim number from the originating station.
 - iii. The name of the applicant.
 - iv. The name of the receiving officer.
 - v. The amount of the refund claim.
 - vi. The name of the approving officer.
 - vii. The date of approval.
- 16.7.1.2 After entering the claim in the register, the claim should be given to the supervisor for him/her to assign it to one of the officers.
- 16.7.1.3 The officer assigned should check the documents for authenticity, to verify whether the applicant qualifies for a refund.
- 16.7.1.4 After checking the documents, the officer should then pass the application to the supervisor for cross checking.
- 16.7.1.5 After further checking the officer should prepare the payment vouchers, B25.
- 16.7.1.6 The documents, the claim and the payment voucher, are

to be submitted to the Regional Manager for approval of the refund claim and authorization of the payment voucher, being the B25. The claims of **P25 000.00** and below are to be approved by the Regional Manager and those above **P25 000.00** by the Commissioner, Customs and Excise.

- 16.7.1.7 After approval and authorization the documents are submitted to Finance Division for payment.
- 16.7.1.8 All rejected applications should be returned to the applicants immediately, with a covering letter stating reasons for the rejection.

16.7.2 At Regional level:

- 16.7.2.1 The claim must be entered into a register by the officer receiving the claim.
- 16.7.2.2 The documents, the claim and the payment voucher, are to be submitted to the Regional Manager for approval of the refund claim and authorization of the payment voucher, being the B25.
- 16.7.2.3 The claims of **P25 000.00** and below are to be approved by the Regional Manager, and then forwarded to Finance Division for payment.
- 16.7.2.4 For those claims above **P25 000.00**, they should only be checked by the Regional Manager, and then forwarded to BURS headquarters (Rebates and Refunds Unit) for approval by the Commissioner, Customs and Excise.

16.7.3 At headquarters level:

- 16.7.3.1 The documents, the claim and the payment voucher, are to be submitted to the Rebates and Refunds Unit for checking.
- 16.7.3.2 The claim must be entered into a register by the officer receiving the claim.
- 16.7.3.3 Check whether all supporting documents are attached.
- 16.7.3.4 Verify registration number of the company and authenticity of the declaration in the ASYCUDA System MODCBR.
- 16.7.3.5 Verify the claim against BIVATS accounting system to ensure that the deferred account covering the period of the claim has been paid. Also check whether the amount being claimed was not offset in the account against what they have to pay.
- 16.7.2.6 When satisfied, the refund form is authorized and signed by the refund officer at the Rebates and Refunds Unit.

- 16.7.2.7 Then the application, together with the payment vouchers is forwarded to the commissioner for approval.
- 16.7.2.8 Where possible refund claims must not take more than 5 days from the date of submission.

PART II

SUBMISSION OF CUSTOMS REBATE CERTIFICATES

16.8 Purpose

The following notes are intended to guide persons entitled to customs duty and Value Added Tax (VAT) exemption when importing goods into Botswana. It is the policy of the Botswana Unified Revenue Service (BURS) that all Customs Exemption Certificates should be processed within 24 hours and, following these guidelines will ensure that all necessary requirements are met for speedy service delivery for those applying for such exemptions.

16.9 Exemption requirement

In order to expedite the customs declaration process at time of importation, importers should, prior to importation, complete and submit the relevant Customs Exemption Certificate to the BURS Customs and Excise Division for processing and authorisation. No exemption certificate will be issued for the purpose of applying for a refund of duty which has already been paid. (Not supported by law?)

16.10 Certificate CE 112

16.10.1 Use:

Certificate CE 112 is for EXCLUSIVE use by Central Government Ministries and Departments to facilitate exemption from payment of customs duties on imports.

- (a) Certificate CE 112 exempts Government from payment of customs duties only and NOT VAT. VAT should be paid for separately at time of importation.
- (b) Only one Certificate CE 112 should be completed for each Government Purchase Order (GPO) i.e. one CE 112 should cover all the goods in a respective GPO. In a case of part shipments, the information regarding all the consignments should be endorsed at the back of the original GPO and also at the back of the original CE 112.
- (c) The documents giving proof of purchase by Government that should be submitted together with the Certificate CE 112 may be one of the following:

- (i) Government Purchase Order or
- (ii) Letter of Credit or
- (iii) Indent or
- (iv) Tender/Contract Document or
- (v) Project Memorandum.

16.10.2 Completion of the CE 112

- a) The exemption Certificate should be duly completed in full by the Government Department or Ministry requesting for an exemption.
- b) The original supplier of the goods (i.e. foreign supplier) should be indicated in the appropriate space in the CE 112. If the goods are removed from a bonded warehouse, change of liability will have to take place indicating Government as the importer. The buying Government Department or Ministry should also be indicated in the appropriate space on the CE 112.
- c) Where state stores have been procured through Government tenders and supply contracts, the tenders/contracts should clearly indicate that prices quoted for the goods are customs duty inclusive or customs duty exclusive, as the case may be. Where tenders/contracts indicate that prices of goods exclude duties the Government Department or Ministry concerned will then be issued an exemption Certificate CE 112.

Where tenders/contracts are silent about customs duties, it shall be construed that the customs duties are included in the price quoted; therefore no exemption Certificate CE 112 will be issued.

16.10.3 Submission of the CE 112

- a) The Certificate CE 112 should be submitted in triplicate, the following supporting documents should be attached:
 - i. Transport document – Air waybill/Bill of lading
 - ii. Invoice from the original supplier of the goods (i.e. foreign supplier)
- b) The relevant Government Ministry or Department should submit the exemption Certificates, submissions made by third parties will not be accepted.
- c) All the signatories for the CE 112 Certificates should submit specimen signatures to the Rebates and Refunds office before they could authorize such certificates.
- d) The signatures should be renewed every two years. Whenever there is a change of signatory, the new signatory's specimen signature should be submitted immediately.

16.11 Certificate CE 110

16.11.1 Use:

Certificate CE110 is entitled to be used by International Agencies offering Botswana Government some technical assistance. The certificate is used to facilitate exemption from payment of customs duties and/or VAT on goods imported under the technical assistance programme

16.11.2 Completion of the CE 110

- (a) The exemption Certificate should be duly completed in full by the International Organisation entitled for an exemption of duties and VAT on their imports
- (b) The relevant Article of the Technical Assistance Agreement used should be quoted in the relevant space on the Certificate.
- (c) The certificate should be stamped and signed by the authorised project executive whose specimen signature has been lodged with BURS, Customs Division, Rebates and Refunds section.
- (d) Foreign Officials coming to Botswana to work under a Technical Assistance Agreement and wishing to be exempted from payment of customs duties and VAT should as an additional requirement (unless their Technical Assistance Agreement states otherwise) import their personal household effects, including one vehicle per family, within 6 months of their arrival to take up permanent residence in Botswana.
- (e) One of the following documents should be attached to prove change of residence:
 - (i) A residence permit or
 - (ii) A waiver issued by Immigration or
 - (iii) A letter written by Immigration

16.11.3 Submission of the CE 110

The Certificate CE 110 should be submitted in triplicate.

The following supporting documents should be submitted together with the Certificate CE 110.

- (i) Air waybill/Bill of lading
- (ii) Invoice or list of goods
- (iii) Copy of Technical Assistance Agreement indicating Exemption Clause, for the goods which can be imported in terms of that Agreement.
- (iv) Contract of employment

16.12 Certificate CE 101

16.12.1 Use:

Certificate CE 101 is used by persons changing residence to Botswana for a period of six months or more and returning residents. The certificate is used to facilitate exemption from payment of customs duties and/or VAT on imported personal effects.

- a) For returning residents or expatriates changing residence to Botswana on a new contract or on renewal of contract, exemption on their goods/personal and household effects would be granted if they had stayed outside Botswana for a period of at least 6 months after the end of their previous contract
- b) People changing residence to Botswana and wishing to be exempted from payment of customs duties and/VAT on their importation should as an additional requirement import their goods/personal and household effects within 6 months of their arrival to take up residence in Botswana
- c) Only one vehicle per family will be exempted from payment of customs duties and/or VAT for a period of three years. The vehicle should have been owned and used by the owner for at least 12 months prior to relocating to Botswana. Otherwise, customs duties and/VAT becomes payable on a pro rata basis
- d) Documentary evidence proving change of residence may be one of the following:
 - (i) A residence permit or
 - (ii) A waiver issued by Immigration or
 - (iii) A letter written by Immigration
- e) In the case of returning residents documentary evidence should be the following:
 - (i) Foreign VISA
 - (ii) Academic Certificate
 - (iii) Employment termination letter
 - (iv) Court order
- f) In case of a motor vehicle being imported, documentary evidence of ownership and use of the motor vehicle in the form of a Certificate of registration book should be submitted.

16.12.2 Completion of the CE 101

The exemption Certificate should be duly completed in full and signed by the owner of the goods.

16.12.3 Submission of the CE 101

- a) The Certificate CE 101 should be submitted in triplicate

b) Additional supporting documents to be submitted together with the Certificate CE 101 are as follows:

- (i) List of goods/personal and household effects being imported.
- (ii) Transport document - Air waybill/Bill of lading

16.13 Other Considerations

- a) In the case of goods belonging to a student studying abroad who come on vacation and, due to lack of accommodation during vacation, is forced to bring his/her personal belongings with, the student would be required to:-
- i. Remove the goods in bond to Botswana and keep them in a bonded storage or
 - ii. Pay a deposit equivalent to the duties and/or VAT applicable on the goods pending re-exportation or payment of duties and/or VAT
 - iii. Apply for a refund of the deposit after re-exportation of the goods.
- (b) Personal goods exported previously would be rebated as re-imports if evidence of exportation can be produced.

16.14 Certificate A

16.14.1 Use:

Certificate A is used to exempt direct imports by Diplomatic Missions in Botswana and persons registered as Diplomats from payment of customs duties and/or VAT.

16.14.2 Completion of the Certificate A

- a) The exemption Certificate should be completed in full.
- b) It should bear the signature of both the importer, Head of Mission and Ministry of Foreign Affairs and International Cooperation in the spaces provided

16.14.3 Submission of the Certificate A

- (a) The certificate should be submitted by the diplomatic mission's officials or the diplomats.
- (b) The Certificate should be submitted in quadruplicate.
- (c) The following supporting documents should be submitted together with the Certificate A.
 - (i) List of goods or invoice
 - (ii) C Misc. 42 in case of postal items
 - (iii) Air waybill/Bill of lading in case of those imports coming other than by road

- (iv) In case of diplomats, a copy of a valid Immigration Exemption Certificate allowing the Diplomat to remain in Botswana without obtaining a resident permit.
- (v) A copy of a valid Diplomatic Identity Card.

16.15 Schedule 4 & 6 Certificate

16.15.1 Use:

Schedule 4 & 6 Certificate is used by persons qualifying for exemption from payment of customs duties and/or VAT under such conditions that may be enumerated under Schedule 4 & 6 of the Customs & Excise Duty Act as read with Schedule 2 of the Value Added Tax Act.

16.15.2 Completion of the Schedule 4 & 6 Certificate

The Certificate should be completed in full, stamped and signed by the beneficiary Organisation or individual as the case may be.

16.15.3 Submission of the Schedule 4 & 6 Certificate

- a) The Schedule 4 & 6 Certificate should be submitted in triplicate.
- b) The following supporting documents should be submitted together with the Certificate Schedule 4 & 6:
 - (i) Letter of donation and permit from the Ministry of Trade & Industry in case of donations.
 - (ii) Transport document - Air waybill/Bill of lading
 - (iii) Documentary evidence of inheritance in case of goods bequeathed to a resident in the form of:
 - Letter from the Chief
 - Court Order
 - Affidavit
 - (iv) Documentary evidence proving that the importer qualifies for any other rebate under Schedule 4.

CHAPTER 17

EXCISE DUTY PAYMENT PROCEDURES

17.1 Purpose

The main purpose of these guidelines is to ensure uniformity and consistency in the application of Customs procedures among Customs Officers charged with the responsibility of collecting Excise Duty payments from registered manufacturers as provided for under section 38 of the Customs and Excise Duty Act.

17.2 Legal Authority

Sections 20-41 of the Customs and Excise Duty Act

Regulations 22-25 of the Customs and Excise Duty Regulations

17.3 Definition

Excise duty is a duty primarily charged on certain locally manufactured goods. The duty is also charged on some imported goods if they are of a kind of the locally produced ones. On imports, the duty is charged in addition to the Ordinary Customs Duty (Duty under schedule 1 Part1) that might be applicable.

17.4 Goods subject to excise duty

- Beer made from malt
- Cosmetics and jewellery
- Petroleum products
- Spirits
- Traditional beer
- Tobacco products

17.5 Requirements

17.5.1 Manufacturers of goods liable to Excise duty should prior to operation, apply to be registered and be licensed by the Commissioner of Customs and Excise for such a purpose.

17.5.2 Excise duty rates are found in Schedule 1 Part 2 of the Customs Tariff Book, that is, Part 2A (Specific Excise Duty) and Part 2B (Ad valorem Excise Duty) and can be rebated or refunded under schedule 6 thereof.

17.6 Excise Accounts Accounting Periods

Accounting periods (payment dates) for excise accounts vary, depending on the type of manufactured products. Currently accounting periods are as follows:

❖ **Monthly submissions:**

Traditional beer and beer made from malt: Excise accounts must be submitted to the proper officer for payment on or before the 25th day of the month following the one in which production was made.

❖ **Quarterly submissions:**

Cosmetics and Jewellery: The account must be submitted to the proper officer for payment on or before the 25th day of the month of every quarter in a year during which sales were made.

❖ **Every two months submissions**

Cigarettes: The account must be submitted to the proper officer after sixty (60) days from the date of sale.

17.6 Excise Accounts Rebates and Refunds

17.6.1 REBATES: Excise duty may be rebated or exempted under the following conditions:

- If or when goods have been exported to countries outside the Common Customs Area, in this instance a processed export declaration form (SAD 500- EX1) must be produced to support this claim.
- When goods are for the consumption of persons entitled to special privileges, e.g. Foreign Diplomatic Mission, these should be supported by a dully processed relevant rebate Certificate.
- In a case where goods are destroyed under Customs supervision. This normally occurs as a result of goods being contaminated, spoiled or lost etc, during production or after production. To this effect responsible officer should ensure that a dully processed destruction certificate reflecting quantity destroyed, the date of destruction and bearing the signature of the Customs officer who supervised the destruction is produced to support the claim.

17.6.2 REFUNDS: Circumstances under which Excise duty may be refunded may include the following:

Cases where by a manufacturer has been over charged due to, among other things, incorrect assessment of the duty, etc. This claim should be

supported by the original declaration form, the voucher of correction and the corrected processed declaration.

17.7 Forms Used for Excise Duty Payments

- **SAD 500**- Customs declaration form
- **CE 260** – Excise Account for Excisable Products
- **CE 32** –Receipts from a Customs and Excise warehouse (used to record the total goods removed from a manufacturing/ production warehouse)

Annexure:

- **CE 260.01**- Production :Excisable Products (used to record total production of excisable products)
- **CE 260.02** – Schedule in i.r.o Excisable goods received (used to record a schedule of excisable goods removed from the manufacturing or production warehouse)
- **CE 260.04 and 260.04A** - Non-duty paid removals: Excisable goods (used to record a schedule of excisable goods that are removed from the bonded warehouse on which excise duty may not be paid as reflected under rebates and refunds above)

17.8 Processing of Excise Account

17.8.1 Monthly Excise Accounts – Beer

17.8.1.1 Submission:

Excise account must be submitted for payment on a duly completed SAD 500 form reflecting a Customs Procedure Code (EXC 9), Form CE 32 and Form CE 260 together with its Annexure namely CE 260.01, CE 260.02 and CE 260.04. All necessary supporting documents such as invoices, delivery notes etc must also be submitted.

The registrants should submit each account in **four** sets.

17.8.1.2 Checking:

Upon receipt of the documents, the proper officer must check them in order to ascertain their correctness. The officer should check and verify the following:

- i. Ensure that the quantity declared on CE 260.01 as total production, corresponds with particulars on the copies of the brewing and production books or extracts thereof.
- ii. Ensure that the quantity declared on CE 260.02 as receipts from the Customs and Excise warehouse tallies with the total sum of quantities entered on the CE 32 certificates from the production warehouse.
- iii. Check and ensure that the quantity declared as non-duty paid removals on CE 260.04 is supported by appropriate documentary proof.

17.8.1.3 Approval:

When the proper officer is satisfied that every detail is fully accounted for and the duty payable is properly assessed, he will issue an assessment notice to the registrant to make payment.

17.8.1.4 Disposal of documents:

After payment has been effected, the proper officer should dispose of the documents as follows:

- Send a duly signed and stamped original and first copy of the excise account to BURS Headquarters, Customer Support Unit for further vetting and onwards transmission of one set to Pretoria, Republic of South Africa.
- The second copy is retained at the originating office for record purposes.
- Return the third and last copy to the registrant

17.9 Quarterly Excise Account – Cosmetics and Jewellery

17.9.1 In terms of the Act, manufacturers of the above products and similar goods must pay for the Excise Duty on the 25th day of the month of every quarter of the year. The account, usually referred to as the Return is made against form CE 75 in quadruplicate.

17.9.2 Submission:

The account should be submitted together with two copies of the invoices, in their invoice books, showing quantities sold and addresses of the purchasers.

17.9.3 Checking:

Upon receipt of the account, the proper officer must check and ensure the following:

- That the value declared for Excise duty purposes tallies with the total sum of invoices
- That the Excise duty has been properly assessed

17.9.4 Non-Duty Paid Removals:

In case of Non-Duty Paid Removals, paragraph III as outlined under monthly excise account above, will apply.

17.9.5 Approval:

When the proper officer is satisfied that the account is correct, the officer should call for payment from the registrant and then sign and stamp all the forms.

17.9.6 Disposal of documents:

Upon receipt of proof of payment, the proper officer will dispose the documents as follows:

- Original and first copy of CE 75 with copies of invoices must be sent to BURS Headquarters, Customer Support for further checking and transmission to Pretoria, South Africa.
- Second Copy of CE 75 and copies of invoices must be retained at the originating station for record purposes.
- Third and last copy of CE 75 together with invoice books must be returned to the registrant.

17.10 Excise Account submitted Every Two Months – Cigarettes

17.10.1 Submission:

The account must be submitted monthly accounting for the last sixty (60) days from the date of sale of cigarettes.

It must be made against forms SAD 500 (EXC 9), CE 260 and its Annexure CE 260.01, CE 260.02, CE 260.03, 260.04 together with supporting documents such as sales invoices, packing lists, etc.

17.10.1 Checking:

- After receipt of the account, the proper officer must check the quantities declared on the SAD 500 form tally with that declared on form CE 260 and its annexure and supporting documents

- Check and ensure that Non-Duty Paid Removals declared on CE 260.04 are supported by appropriate documentary proof
- Check and ensure that returns of Duty Paid stock shown on CE 260.03 are supported by appropriate documentary proof
- Check and ensure that proper excise duty has been assessed

17.10.2 Approval:

When the proper officer is satisfied that the account is correct, he/she will issue an assessment notice to the registrant for payment of duty.

17.10.3 Disposal of documents:

Upon receipt of proof of payment, the proper officer will dispose the documents as follows:

- Original and first copy must be forwarded to BURS Headquarters for onward transmission to Pretoria, South Africa
- Second copy must be retained at the originating office for record purposes
- Third and last copy must be returned to the registrant

17.11 Calculation of excise duty

17.11.1 Important keys:

- Rate of Exchange (RE)– weekly rate of exchange used to convert any currency into Pula currency
- VAA – Volume of Absolute Alcohol
- AA – Absolute Alcohol
- Annual Rate(AR) – Annual rate of exchange provided annually for SACU member states

17.11.2 BEER MADE FROM MALT

Duty is calculated based on litres produced in terms of absolute alcohol volume for different brands i.e. st Louis 3.5%, Castle lager 5%, etc. First you determine the standard rate by multiplying the annual rate by the weekly exchange rate, this will be used to calculate duties payable for all various brands. Secondly you determine the strength of AA by multiplying QTY produced by volume of AA.

Example: Exchange rate (weekly) - 0.9016

Annual rate - R46.41/L
Liters produced – 10 000L
STD rate – R46.41 x 0.9016 = 41.843256 converts to 41.84
VAA – 10000 x 3.5% = 350

Therefore 350 x 41.84 = P14 644.00 Duty payable.

17.11.3 TRADITIONAL BEER (CHIBUKU)

With this type of beer we use total quantity produced without extracting absolute alcohol content since this one does not have any. Convert annual rate from Cents to Rands by dividing it by 100 and then multiply by exchange rate to convert into our local currency, this also becomes standard rate

Example: 500000L produced
Annual rate: 7.82c/L Exchange rate: 0.9016
Standard rate: (7.82 / 100) x 0.9016 = 0.070

Therefore 500 000 x 0.070 = P35 000.00 duty payable.

17.11.4 CIGARETTES

This product is calculated based on number of sticks produced in any given production period in this case 1 month. As above we use the standard rate and rate of exchange.

Example: 1000 000 sticks of cigarettes
Annual rate: R3 85/10 cigarettes
R3.85 x 0.9016 = 3.47 being the standard rate

Therefore 1000 000 x 3.47 = P3 470 000.00

17.11.5 WINE SPIRITS & SPIRITS (Pharmaceutical)

Annual rate: R77.67/L
Quantity: 5000L
VAA: 90%
AA: 5000 x 90% = 4500
STD rate R77.67 x .9016 = P70.027272 converts to P70.03

Therefore 4500 x 70.03 = P315 135.00 duty payable

CHAPTER 18 PROHIBITED AND RESTRICTED GOODS

PART A: GENERAL

1.1.30

1.1.31 18.1 Purpose

The Customs and Excise Division of the Botswana Unified Revenue Service implements and enforces laws, which restrict or prohibit importation or exportation of certain goods. This means that, no restricted or prohibited goods, shall be imported into or proceed beyond the borders of Botswana without written permission from the relevant authorities in the form of permits or licenses. The purpose of these guidelines is to outline procedures for the control of imports and exports.

1.1.32 18.2 Legal Authority

Section 124 of the Customs and Excise Duty Act and several other Laws provide for the prohibition and restriction of imports and Exports.

1.1.33 18.3 Goods Subject to Controls

Any one wishing to import or export into or out of Botswana goods subject to control should obtain written permission to do so from the controlling authority.(e.g. Ministry of Agriculture, etc)

The Customs and Excise Division must demand for written proof of authority to import or export before the goods are cleared. This authority is normally in the form of Permits. Officers must note that the **original** of the permit should be produced before any goods are cleared.

On no account should goods subject to import or export control be released (for consumption or export, as the case may be) under a deposit pending production of a licence or permit.

PART B: CONTROLLED GOODS

PART B I: AGRICULTURAL PRODUCTS AND LIVESTOCK (INCLUDING DOMESTIC ANIMALS

PART I – GENERAL

18.4 Legal Authority

18.4.1 Section 124 (1) of the Customs and Excise duty Act, Chapter 50:01 of the Revised Laws, which refers to prohibited imports.

18.4.2 Section 124 of the Customs and Excise duty Act, Chapter 50:01 of the Revised Laws, which refers to prohibited exports.

18.4.3 Section 99 of the Customs and Excise Duty Act, chapter

50:01 of the Revised Laws, which provides for seizure of goods imported or exported in contravention of Sections 124(1) of the Customs and Excise Duty Act.

18.5 Scope of the Prohibition and Restrictions

18.5.1 Section 124(1) and 124 of the Customs and Excise Duty Act prohibits the importation into or the exportation from Botswana of any goods the importation or exportation of which is, in the terms of the Customs and Excise duty Act, required to be authorised by permit or certificate unless the goods concerned are imported or exported against such permit or certificate, and such permit or certificate is produced to the Customs and Excise Division at the time of importation or before exportation of the goods concerned, as the case may be.

18.5.2 Section 99 of the Customs and Excise duty Act provides authority for the seizure by the Customs and Excise Division of any goods, which are imported or exported in contravention of Section 124(1) of the Act.

18.6 Customs and Excise Division's Responsibilities

Officers of the Customs and Excise Division, and other law enforcement officials delegated by the Commissioner to perform the duties of a Customs Officer, are required to exercise vigilance to ensure that no prohibited or restricted goods are imported save in accordance with the provisions of the law or any other law of Botswana. Details of such prohibitions or restrictions are given in the following parts of these instructions.

PART II – IMPORT RESTRICTIONS

18.7 Bees and Honey

18.7.1 Legal authority: The Importation of Bees Act, Chapter 49.03 of the Revised Laws.

18.7.2 Section 2 of the Act prohibits the importation –

- (i) Of any bees from any place, without the written permission of the President.
- (ii) Of honey in combs, extracted bees wax (foundation comb, used beehives, used beehive accessories of appliances, of anything that has been used to contain or manipulate bees or bee wax) from any place other than South Africa, Lesotho, Swaziland or Namibia.

18.8 Exemption from Import Restriction:

The restriction on the importation of honey does not apply to honey supplied in jars and made up for retail sale through normal commercial channels.

18.9 Action at time of importation:

The Customs Officers will ensure that the goods are in accordance with written permission of the President and that such written permission is filed with the original copy of the import documents.

18.10 Failure to produce written permission at time of importation:

Provided that the goods are correctly declared importers may be allowed to return them to the place from where they were consigned or to leave the goods in detention at the Customs office pending the production of the written permission within 14 days of date of importation. If the permit is not forthcoming, importers may again be given the option to re-export the goods failing which the goods are to be seized under Section 99 of the Customs and Excise Duty Act, Cap 50:01, as prohibited goods in terms of Section 120(1) of the Act, as read with the Importation of Bees Act Chapter 49:03.

18.11 Failure to declare goods covered by the above restrictions:

Such goods are to be seized and appropriate offence action taken.

18.12 Disposal of seized goods:

The authority of the controlling regional manager, Customs and Excise should be sought as a matter of urgency in the case of bees or the products specified in 18.7.2 above being seized.

18.13 Maize, Sorghum, Pulses and Wheat

18.13.1 Legal Authorities:

- (i) Section 3 of the Control of Goods Act, Chapter 43.07 of the Revised Laws, as read with Statutory Instrument No. 154 of 1985 in respect of all items other than wheat flour.
- (ii) Statutory Instrument No.40 of 1985

18.13.2 Scope of the Restriction:

Regulation 2 of the Control of Goods (Import and Export of Certain Agriculture Products) Regulations, 1985 (Statutory Instrument

number 154 of 1985) provides that no person shall import any of the following products save in accordance with an import permit issued under Regulation 3(1) thereof-

(a) First Schedule

- Maize and maize products
- Pulses (e.g. beans, peas, lentils, etc)
- Sorghum and sorghum products
- Wheat, cabbage, *fresh milk, onions, oranges
- Potatoes, tomatoes, choumollier, rape and spinach

(b) Second Schedule

<u>Products</u>	<u>Quantity</u>
Maize	25kg per person
Maize products	25kg per person
Pulses	25kg per person
Sorghum	25kg per person
Sorghum products	25kg per person
Wheat	25kg per person
Cabbage	30kg per person
*Fresh milk	2 litres per person
Onions	15kg per person
Oranges	15kg per person
Potatoes	20kg per person
Tomatoes	10kg per person
Choumollier	2kg per person
Rape spinach	2kg per person

*Milk from Zimbabwe is prohibited.

18.13.3 Permit for the importation of agricultural products may be obtained from the Authorised Officer, Ministry of Agriculture, Private Bag 003, Gaborone.

A specimen of the Import Permit is attached as Appendix A to this Instruction.

18.13.4 Exemption from Import Restriction:

The restriction does not apply to the following:-

- (i) Seed intended for planting, being a consignment or part of consignment clearly marked as seed; or
- (ii) Any agricultural products specified in the Second Schedule in (b) above where such goods are imported by any person for the purpose of that person's own consumption or use and in the quantities specified in the said Schedule.

18.13.5 Action at time of Importation:

The Customs Officers at the place of entry will verify the type of produce and the quantity imported in the space provided on the permit which should be returned to the importer.

18.13.6 Failure to Produce Permit at time of Importation:

Provided that the goods are correctly declared importers may be allowed to either return them to the place from whence they were consigned or to leave the goods at the Customs Office pending the production of the permit within 14 days of date of importation. If the permit is not forthcoming, importers may once again be given the option to re-export the goods failing which the goods are to be seized under Section 99 of the Customs and Excise duty Act, Cap. 50:01, as prohibited goods in terms of Section 120(1) of the Act, as read with S.I. No.154 of 1985.

18.13.7 Failure to Declare Restricted Produce at time of Importation:

Such goods in excess of permitted quantities (see 18.13.2) should be seized and appropriate offense action taken.

18.13.8 Disposal of seized Goods:

The advise of the controlling regional manger, Customs and Excise regarding the disposal of seized perishable goods is to sought as a matter of urgency.

18.14 Livestock and Meat (Except Imports from Zimbabwe)

18.14.1 Legal Authority:

The Diseases of Animals Act, 1977 (Act No. 9 of 1977), as read with Regulation 4 of the Stock Diseases Regulations, Cap. 37:01.

18.14.2 Scope of Restrictions:

Section 6(1) of the Diseases of Animal Act Provides that no person shall, without the consent of the Director of Veterinary Services import any animal, carcass, cooked or processed meats, hide, skin, hoof hair, wool, semen or any other produce of animal origin, litter, dung, fodder which covers all forms of animal feedstuffs comprising sunflower or soya bean meal and cake, live virus or other pathogenic agent capable of setting up disease in animals, serum, vaccine, or other biological or chemical product intended to be used for the treatment of animals.

- 18.14.3 The consent of the Director of Veterinary Services for the importation of any of the articles described in paragraph 18.15.2 above will be in the form of an import permit issued by or under the direction of the Director of Veterinary Services. Application for permission to import such goods should be made to the DVS at the Ministry of Agriculture, private Bag 0032, Gaborone (Telephone 350500). Specimen permit currently in use by DVS are attached as appendices B, C and D.
- 18.14.4 It has been the usual practice of Director of Veterinary Services to issue permits in the form of letter to cover articles described in paragraph 18.15.2 above and this will now be substituted by the attached specimen permit, which is Appendix J.
- 18.14.5 The permits are invariably issued upon certain conditions being met. Details of the conditions appear on the reverse of the permit. Officers should ensure to that the permit is countersigned on the reverse (condition 7). Without this countersignature the permit is not valid and should not be accepted.
- 18.14.6 Staff should also note that with the exception of documents covering the movement of dogs and cats (see paragraph 18.16) a movement Permit issued by the South African Administration is not an authority for livestock or their products to enter Botswana.
- 18.14.7 Section 5 provides that no “stock” (see definition in paragraph 7.02 above) shall be imported into Botswana except under the authority for all import permit issued by, or under the direction of, the Director of Veterinary Services. Applications for import permits should be made to the DVS at the Ministry of Agriculture, Private Bag 0032, Gaborone.

18.15 Dogs and Cats:

18.15.1 No dog or cat may be imported or exported without the production of the combined Veterinary Certificate or Identity Rabies Vaccination and Movement Permit.

18.15.2 The acceptance of this document has been agreed by the following countries:

Botswana,
Lesotho,
Malawi,
Republic of South Africa,
Namibia,
Swaziland and
Zimbabwe.

A specimen of the Botswana certificate which will be used appears at Appendix H to this Instruction. The form is pink in colour and basically provides the same information as shown on the forms used by the appropriate authorities in the other countries party to the Agreement. [Copies of the previous form will continue to circulate for several months as they are valid for 60 days in the first instance and can be revalidated by a Veterinary officer's signature.]

18.15.3 Exceptions:

In recognition of the difficulties caused by the regulations to persons who purchase small quantities of fresh meat or poultry in South Africa for their own consumption in Botswana, the Director of Veterinary Services has issued a Master Import permit, which permits people travelling from South Africa to Botswana to import fresh meat and meat products (except pork) up to a maximum of 25kilogrammes per vehicle without production of a specific import permit. Twenty-five kg of meat is equivalent to one carton of BMC meat or 1 sheep/goat carcass. A similar permit has been issued in respect of persons travelling from Namibia to Botswana covering 10kg per person. These master import permits are liable to be withdrawn without advance notice by the Director of Veterinary Services in the case of a disease outbreak in either R.S.A. or Namibia. All stations will be notified if and when these master import permits are shown.

18.15.4 Although a Master Permit is also available covering poultry meat it should be noted that this product is subject to the provisions of paragraph 7.02.

18.15.5 Fish:

- 18.15.6 There is no restriction on the importation of worms in reasonable quantities, for fishing. The importation and exportation of fish and fish products is no longer restricted, i.e. these are now exempted from the requirement of a Veterinary Certificate from the Veterinary Department for export from or into Botswana.
- 18.15.7 Hotels and other trading organizations wishing to import quantities of meat in excess of 25 kilograms will require separate import permits issued by or on behalf of the Director of Veterinary Services.
- 18.15.8 Attempted import of live animals without permits
- Any live animal, including live poultry (chickens), attempted to be imported through border posts or rail points of entry without the prior production of the requisite permit is to be detained and an immediate report made by telephone or radio call to the controlling Regional Manager, who will at once seek the advice of the Director of Veterinary Services as regards prior disposal of the animal.
- 18.15.9 Action at time of Importation:
- The Customs officer at the place of entry should ensure that no meat, that is to say beef, mutton, goat meat, bacon, sausage meat and other uncooked meat, in excess of 25 kgs if from R.S.A, or 10 kgs from Namibia, is imported into Botswana without a permit issued by the Director of Veterinary Services.
- 18.15.10 Failure to produce Permit at time of Importation:
- If the goods are from South Africa and provided that they are correctly declared importers may be allowed to either return them to the place from whence they were consigned or to leave the goods and the refrigerated transport in which, if fresh, chilled or frozen, they will be imported at Customs Office pending the production of the permit within 14 days of date of importation.
- 18.15.11 If the permit is not forthcoming, importers may once again be given the option to re-export the goods failing which the goods are to be seized under Section 94 of the Customs and Excise duty Act, Cap.50:01 as prohibited goods in terms of Section 124(1)(f) of the Act, as read with the Stock Diseases Regulations, Cap.37.01.

18.15.12 Failure to declare red meat at time of importation:

Such goods in excess of the permitted quantities (see 8.06) should be seized and appropriate offence action taken.

18.15.13 Disposal of seized goods:

The advice of the controlling Regional Manager, Customs and Excise regarding the disposal of seized perishable goods is to be sought as a matter of urgency.

18.16 Eggs and Poultry Meat

18.16.1 Legal Authority:

Section 3 of the Control of Goods Act, chapter 43.07 of the Revised Laws, as read with Statutory Instrument No. 120 of 1979 and Statutory Instrument No. 29 of 1984.

18.16.2 Scope of the restriction:

Statutory Instrument No.29 of 1984 provides that no person shall import in one consignment more than 36 eggs and 5kg of poultry meat except under and in accordance with a written permit issued under the said regulations by the Minister responsible for Agriculture or by a person authorised by him on his behalf.

18.16.3 Definitions:

For the purpose of this restriction “Eggs” means the egg of any domestic fowl and “poultry Meat” means that meat, including the blood, bones fat and flesh, of any domestic fowl, whether fresh or dried, frozen, tinned or otherwise preserved.

18.16.4 Permits:

Permits for the importation of eggs and poultry meat may be obtained from the government Poultry Officer, Ministry of Agriculture, Private Bag 003, Gaborone. A specimen permit is attached as Appendix E.

18.16.5 Action at time of importation:

The Customs Officer at the place of entry will verify the quantity, grade and value of the imported eggs or poultry meat and endorse his findings in the space provided on the permit which should be returned to the importer.

18.16.6 Failure to produce permit at time of importation:

Provided that the goods are declared, importers may be allowed to either return them to the place from whence they were consigned or to leave the goods and the refrigerated transport in which, if fresh, they will be imported at the Customs Office pending the production of the permit. If the permit is not forthcoming, importers may once again be given the option to re-export the goods failing which the goods are to be seized under Section 99 of the Customs and Excise Duty Act, Cap. 50:01, as prohibited goods in terms of Section 120(1).

18.16.7 Failure to declare eggs and poultry meat at time of importation:

Such goods in excess of permitted quantities (see 8.02 above) should be seized and appropriate offence action taken.

18.16.8 Disposal of seized goods:

The advice of the controlling Collector of Customs and Excise regarding the disposal of seized perishable goods is to be sought as a matter of urgency.

18.16.9 Tinned poultry meat:

It should be noted that tinned poultry meat is also covered by the restriction. If the net quantity of such meat in the consignment exceeds 20kg then the provisions of 8.06 and 8.07 above apply.

18.17 Hides and Skins

18.17.1 Legal authority:

The Diseases of Animals Act, (Act No. 9 of 1977), as read with Regulation 4 of the Stock Diseases Regulations, Cap. 37.01.

18.17.2 Scope of the restriction:

Regulation 4 provides that no person may import into Botswana any hide or skin without the written permission of the Director of veterinary services in Botswana. The regulation also provides that any person who fails to comply with any condition in regard to the importation of hides and skins which the Director of Veterinary Services may impose shall be guilty of offence.

18.17.3 Action at the time of importation:

The Customs Officer at the place of entry must ensure that no hides or skins are imported without the prior production of an import permit issued in Botswana by or on behalf of the DVS.

18.17.4 Failure to produce permit at the time of importation:

Provided that the hides or skins are correctly declared importers may be allowed to either return them or to leave the to the goods at the Customs Office pending the production of the permit within 14 days of the date of detention. If the permit is not forthcoming, importers may once again be given the option to re-export the goods failing which the goods are to be seized under Section 99 of the Customs and Excise Duty Act Cap. 50:01 as prohibited goods in terms of Section 124(1) of the Act.

18.17.5 Failure to declare hides and skins at time of importation:

Such goods are to be seized and appropriate offence action taken.

18.17.6 Any seizure of hides or skins is at once to be reported by telephone or radio call to the controlling Regional Manager, Customs and Excise, or Director of Veterinary Services (telephone 350500), who will advice on the storage of the hides pending disposal.

18.17.7 Hides and skins in transit through Botswana must also be covered by a permit issued by the Director of Veterinary Services.

18.18 External representative license

18.18.1 Legal Authority:

Section 6 as read with Item 5 of First Schedule, Trading Act, Chapter 43:02.

18.18.2 Item 5 of First Schedule provides that persons carrying on the business of soliciting or receiving order for the delivery of goods not of Botswana origin shall be in possession of an External Representative License issued by the Ministry of Trade and Industry.

18.18.3 Although possession of a license is a general requirement in the circumstances mentioned it is particularly important in the case of external horticultural and agricultural producers and their selling agents if equivalent local Botswana production is to be encouraged.

18.18.4 Officers at border posts should ensure that non-nationals importing fresh produce are in possession of External Representative license at the time when they declare their goods.

- 18.18.5 In the absence of such a license admission of goods concerned should be refused. The importer may be informed that no new External Representative license for horticultural products will be issued by the Ministry of Trade and Industry.

PART III – EXPORT RESTRICTIONS

18.19 Farm products

- 18.19.1 Legal authority:

Section 3 of the Control of Goods Act, Chapter 43:97 of the Revised Laws, as read with the Control of Goods (Import and Export of Agricultural products) Regulations, 1977 (Statutory Instrument No. 154 of 1985).

- 18.19.2 Scope of the restrictions:

Statutory Instrument No. 154 of 1985 provides that no person shall export from Botswana without a written permit any of the following agricultural products:-

Caster beans	Pulses (e.g. peas, beans, lentils, etc)
Maize	Sorghum
Maize meal	Sorghum products
Maize products	Sunflower seed
Millet	Wheat
Millet products	Sugar without paying of duty

- 18.19.3 Permits for the exportation of any of the above products may be obtained from the Authorised Officer at the Ministry of Agriculture, Private Bag 003, Gaborone (Telephone: 350500). A specimen of the permit is attached as Appendix F.

- 18.19.4 Action at time of exportation:

The Officer at the place of exportation is to ensure that no farm products listed in paragraph 11.02 above are exported except under and in accordance with the terms of the permit referred to in 11.03 above. The officer should verify the type of produce and the quality exported in the space provided on the permit, which should be returned to the importer.

- 18.19.5 Failure to produce permit at time of exportation:

If the goods are correctly declared then exporters may be allowed to either return them to the place from whence they were consigned or to leave them, in detention, at the Customs Office pending the production of the permit within 14 days of the date of detention.

If the permit is not forthcoming, exporters may once again be given the option to return the goods to the place from whence the option to return the goods to the place from whence they were consigned failing which the goods are to be seized under Section 99 of the Customs and Excise Duty Act, Cap. 50:01 as prohibited goods in terms of Section 124 of the Act, as read with Statutory Instrument No. 154 of 1985.

18.19.6 Disposal of seized goods:

The advice of the controlling Regional Manager, Customs and Excise regarding the disposal of seized perishable goods is to be sought as a matter of urgency.

18.20 Hide and Skins

18.20.1 Legal authority:

The Hides and Skins Export Act, Chapter 49:02 of the Revised laws.

18.20.2 Definitions:

“Calf skins” means the skins, or part thereof of a calf; “hides” means hides, or part thereof, of a bull, cow, ox or heifer; “skin”, of a sheep or goat.

18.20.3 Scope of the restrictions:

Section 3 of the Hides and Skins Export Act provides that no person shall export from Botswana any calf skin, hide or skin except under and in accordance with the permit issued by a District Commissioner, Government Veterinary Officer or Stock Inspector.

Note: This restriction does not apply to tanned hides or skins, manufactured leather or leather goods.

18.20.4 Section 4 of the Hides and Skins Export Act prescribes that there shall be payable on all calf skins, hides and skins exported from Botswana an export tax at the rates specified in the Schedule to the Act. The tax is paid to the official to whom application for an export permit is made before the permit is issued.

18.20.5 Action at time of exportation:

The Customs Officer at the place of exportation must ensure that no hides and skins are exported without the prior production of an export permit issued in Botswana by or on behalf of the DVS. The export permit in respect of any consignment of hides and skins entered for exportation from Botswana is to be surrendered to the

Customs Officer and filed with the original of the relevant Customs export document.

18.20.6 Failure to produce permit at the time of exportation:

Provided that the goods are correctly declared exporter may be allowed to either return the goods to the place from whence there were consigned or to leave them at the Customs Office pending the production of the permit within 14 days of the date of detention.

If the permit is not forthcoming, exporters may once again be given the option to return the goods failing which the goods are to be seized under Section 99 of the Customs and Excise duty Act, Cap. 50:01 as directed by the controlling of Customs and Excise.

18.20.7 Disposal of seized hides and skins:

Any seizure of hides or skins is at once to be reported by telephone or radio call to the controlling Regional Manager, Customs and Excise, or the Director of Veterinary Services (Telephone 350500), who will advise on the storage of the hides pending disposal as directed by the controlling Regional Manager, Customs and Excise.

18.21 Livestock and meat

18.21.1 Legal Authority:

The disease of Animals Act, 1977 (Act No. 9 of 1977) of the Revised laws and Regulations made under Section 19 thereof.

18.21.2 Scope of the restriction:

Section 6(1) of the Disease of Animals Act provides that no person shall, without the consent of the Director of Veterinary Services, export from Botswana any animal, carcass, hide, skin, hoof, hair wool, semen or any other produce of animal origin, litter, dung, fodder, live virus or other pathogenic agent capable of setting up disease in animals, serum vaccine, or other biological or chemical product intended to be used for the treatment of animals.

18.21.3 Section 21 of the Botswana Meat Commission Act, Chapter 74:04 of Revised Laws, provides that no person other than the BMC shall export cattle from Botswana unless he is in possession of permit in writing to do so issued by or on behalf of the Minister of Agriculture. Permits may be obtained from Ministry of Agriculture, Private Bag 003, Gaborone.

18.21.4 Any live animal attempted to be exported through border posts or rail ports of entry without the prior production of the requisite permits is to be detained, and an immediate report made by telephone or radio

call to the controlling Regional Manager, Customs and Excise, who will at once seek the advice of the Director of Veterinary Services as regards disposal of the animal.

18.21.5 Farmers in the Southern part of the country who do their shopping in RSA utilizing donkey carts are allowed to cross the border with their donkeys without the need for a veterinary permit as long as the males are castrated and these donkeys have to comeback same day.

18.21.6 Exceptions:

DVS agreed with the South African Veterinary Authorities to allow up to 25 kg fresh meat/beef, sheep, goat but not pork) per vehicle to be exported to RSA without the requirement of a veterinary permit.

18.21.7 Action at the time of exportation:

The Customs Officer at the place of exit should ensure that no item mentioned in paragraph 12.02 above, including red meat, that is to say beef, mutton, pork, goat meat, bacon, sausages, sausage meat and other uncooked meat in excess of 25 kg if to RSA is exported from Botswana without a permit issued by the Director of Veterinary Services.

18.21.8 Failure to produce permit at time of exportation:

Provided that the goods are correctly declared exporters may be allowed to either return the goods to the place from whence they were consigned or to leave the goods and the refrigerated transport in which, if chilled or frozen, they will be exported at the Customs Office, in detention, pending the production of the permit within 14 days of the date of detention. If the permit is no forthcoming, exporters may once again be given the option to return the goods to the place from whence they were consigned failing which the goods are to be seized under Section 99 of the Customs and Excise Act as prohibited goods in terms of Section 124 of the Act as read with the Diseases of animal Act.

18.21.9 Disposal of seized goods:

The advice of the controlling Regional Manager, Customs and Excise regarding the disposal of seized perishable goods is to be sought as a matter of urgency.

18.22 Grapple

18.22.1 Legal Authority:

Section 3 of the Control of goods Act (Cap. 43:07) as read with the Control of Goods (Export of Grapple Plant) Regulations, 1978 (Statutory Instrument No.49 of 1978).

18.22.2 Scope of restriction:

Statutory Instrument No. 49 of 1978 provides that no person shall export from Botswana without a permit any grapple plant or part thereof. Grapple Plant is also known as:-

- Harpagophytum Procumbens or Devil Claw being the root of the plant.
- The plant grows naturally in the Botswana Kgalagadi Desert and is protected to avoid excessive harvesting using mechanical extraction equipment. The root is the basic ingredient in the manufacture of an African Health tea.

18.22.3 Permits for the exportation of grapple plant or part thereof may be obtained from the Secretary, Agricultural Resources Board, Private Bag 003, Gaborone, or from the secretaries to the District Conversation Committees.

18.22.4 Permits issued under the above Regulations are required in addition to any permits which may be needed under Plant Health Regulations.

18.22.5 Officers In-charge at export stations are to ensure that original permits are returned to the issuing officer as soon as they have been exhausted.

18.23 Export of Zimbabwe goods to RSA

18.23.1 Scope of restriction:

Control of goods (Sugar Exportation) Regulations,1979, Statutory Instrument No. 90 of 1979 provides that no person shall export per month, to the Republic of South Africa sugar in quantities exceeding 25 kg except under and in accordance with an export permit issued by the Ministry of Commerce and Industry.

18.23.2 A permit issued in accordance with this regulation shall not allow any person to export per month sugar in quantities exceeding 100 kg.

18.23.3 Any sugar exported from Botswana into RSA is liable to Fiscal duty, officers at export stations are to ensure that Fiscal duty is paid before approval for export can be made.

PART B II:

PROHIBITED AND RESTRICTED IMPORTATION OF PLANTS

18.24 Purpose

- 18.24.1 The purpose of this guideline is to sensitise the officers as well as the public in general about the dangers of pests and diseases that can come into our country through the importation of plants and plants products, and to minimise such risk, all imports of plants and plant products must be accompanied by a plant import permit.
- 18.24.2 Customs Officers do implement not only the Customs and Excise Duty Act only but are also appointed to implement other laws of Botswana which by virtue of the nature of their work require officers at ports of entry into the country.
- 18.24.3 Customs officers have therefore been appointed to do agency work for the Ministry of Agriculture, Department of Plant Production, where they are not to allow any plant or plant products into the country without first producing a plant import permit.

18.25 Legal Authority

- 18.25.1 The Plant Diseases and Pests Act Cap. 35:02 of the Revised Laws of Botswana.
- 18.25.2 International obligation to the World Trade Organisation (WTO) Sanitary and Phytosanitary (SPS) Agreement.

18.26 Definitions

“Plant” means any tree, shrub, vegetation, fruit, leaves cuttings or barks and includes any living portion of a plant, whether severed or attached, and any dead portion or product thereof and any seed named or mentioned in the Proclamation or any schedule thereof;

“Soil” includes manure and compost derived from natural resources, but does not include chemical fertilizers or artificial media used for the rooting of plant cuttings - e.g. “Vermiculite” or “perlite”.

“Nursery” means any premises where trees, shrubs, vines, ornamental and fruit bearing plants are grown for sale or disposal in their living state and “State Registered Nursery” is a nursery registered in Botswana.

18.27 General Overview

- 18.27.1 All plants, plants products and growing media imported into Botswana must be accompanied by a Plant Import Permit obtained from and signed by or on behalf of the Chief Plant Protection Officer, Private Bag 0091, Gaborone. The Chief Plant Protection Officer issues the permits on behalf of the Director of the Department of

Crop Production. A specimen plant importation permit is attached as Appendix A.

- 18.27.2 Container-Grown Plants in Soil: Plant import permits are required for all container grown plants - that is to say plants which are growing in any soil or compost in tins, drums, bags or boxes - no matter what they are or where they originated, whether from nursery or plants removed from the open ground, such as roses, fruit trees, vines and herbaceous plants, etc., whose roots of necessity must carry soil.
- 18.27.3 Plant produce, including fresh fruits and vegetables imported for immediate consumption, are exempted from the restriction and may be imported without production of a Plant Import Permit but are subject to inspections and should be detained if suspected to be harbouring pests or diseases.
- 18.27.4 All processed foods are exempted from the restriction except maize, cassava and yam.
- 18.27.5 Thatching grass is exempted from Plant Import Permit requirement, as it is considered low risk material.

18.28 Procedure

- 18.28.1 Persons entering Botswana should be asked specifically to declare what plants, if any, are in their possessions. In the event of any plant being declared, or found upon examination of a vehicle, the officer should ascertain whether the plants are accompanied by a plant import permit.
- 18.28.2 Where a plant import permit is required and is produced by the importer, the officer should study the permit and see whether any conditions have been set out in the permit. The most usual condition is that a Phytosanitary Certificate should accompany the consignment stating that the Plant Protection Service in the country of origin has inspected the plants and that they are free from pests or diseases. If such condition exists and no Phytosanitary Certificate is produced, the plants should be detained and the facts reported to the Chief Plant Protection Officer, Gaborone. A model Phytosanitary Certificate is attached as Appendix B.
- 18.28.3 Once clearance of the goods has been given the Plant Import Permit and the Phytosanitary Certificate is to be endorsed with a reference to the relevant customs bill of entry number, and both should be endorsed the number of the permit and/or certificate. Thereafter, the plant import certificate should be forwarded to the Chief Plant Protection Officer Private Bag 0091, Gaborone.
- 18.28.4 In any case where a plant import permit is required and is not produced at the time and place of importation, provided that the

goods are correctly declared then the importer may be allowed to either, return them to the place of origin or to leave them in detention pending further investigation. Depending on the outcome of the investigation, the goods may be allowed entry, or returned to the country of origin or destroyed at the expense of the importer. .

- 18.28.5 In any case where a plant import permit is required and is not produced at the time and place of importation or the importer failed to declare the plants, such plants should be seized and appropriate offence action taken.

18.29 Goods in Transit

For plants in transit, the officer at the port of entry must inspect the documents from the exporting country which are accompanying the consignments and ensure that they satisfy the conditions set by the importing country. Thereafter, the consignment must be sealed and the seal must also be inspected at the port of exit.

18.30 Other permits that may be required

- 18.30.1 Apart from the plant import permit required for the importation of plants and plants products as stated above, there are other permits, which are issued by the various departments and units within the Ministry of Agriculture, Crop Production department. These permits are required for the importation of the following: -
1. Animal Feed – Department of Animal Health and Production
 2. Fresh produce – Department of Crop Production (Marketing Unit)
 3. Grains – Permanent Secretary, Ministry of Agriculture
 4. Veld Products – Department of Forestry and Range Resources, Ministry of Environment, Wildlife and Tourism
- 18.30.2 All these permits have to be accompanied by a Plant Health Permit issued by the Chief Plant Protection Officer except for fresh produce at case 2 above.

PART B III:

IMPORT AND EXPORT RESTRICTIONS: GAME ANIMALS AND TROPHIES

18.31 Legal Authority

The fauna Conservation Act Cap. 38:01.

18.32 Definitions

“Animals” means any kind of vertebrate animal, including Birds and the eggs and the young thereof and fish. It does not mean any domestic animal such as cattle, sheep, goats, dogs, horses, cats etc.

“Meat” means the meat of any animal, bird or fish described in paragraph 18.33.1 above, and includes the fat, blood and flesh of any such animal, whether fresh, dried, tinned or otherwise preserved.

“Meat” includes biltong.

“Trophy” means any horn ivory tooth, tusk, bone claw, hoof, hide, skin, hair, feather, egg or other durable portion whatsoever of any animal described in paragraph 18.33.1 above whether processed or not which is recognizable as a durable portion of each animal.

“Licensing officer” means any person appointed as such by the Minister under section 8 of the Act.

18.33 Licensing Officer appointed

The Director of Wildlife has advised that under mentioned officials have been appointed licensing officers authorized to issue import or export permits for animals, trophies and meat.

(a) The Director of Wildlife and National Parks, P.O. Box 131,
Gaborone

Telephone – Gaborone (371405)

Fax (312354)

(b) The game wardens stationed at

Francistown Gaborone Ghanzi

Kasane Machaneng Maun

Molepolole Tsabong Serowe

18.34 Scope of Restriction

The importation or exportation of any animal, trophy or meat is prohibited except under the authority of an import or export permit issued by one or other of the Licensing Officers mentioned in paragraph 18.34 above.

18.35 Exemption from restriction

18.35.1 Game trophies which by a process of bona fide manufacture have lost their original identity or character are exempted from the restriction and may be imported or exported without a permit.

- 18.35.2 The question of whether or not an article in the manufacture of which trophies have been used may be exempt from permit requirements depends upon the extent of manufacture. In general, officers may assume that such articles as ostrich-foot, lamp stands, buffalo-foot, ashtrays or zebra-skin key rings are exempt, while the importation or exportation of complete animal skins mounted on felt cloth, a wastepaper basket made out of an elephant's foot, handbags manufactured from wildlife skins or all products manufactured from ivory require the prior production of a valid permit.
- 18.35.3 In any case of doubt, the advice of the nearest Game warden, or Customs Headquarters, should be sought before importation or exportation of goods manufactured from game trophies is allowed.

18.36 Action by Customs Officers

- 18.36.1 Officers at border posts and railway stations are to be vigilant to ensure that no animal, trophies or meat are either imported or exported without the prior production by the owner of a permit properly signed by one of the officials mentioned in paragraph 18.34 above.
- 18.36.2 In any instance where a consignment of animals, trophies or meat is produced at a border post, railways station or airport, the officer is to:-
- (a) check details of the goods against the import/export/re-export permit;
 - (b) ensure that only the goods specified in the permit are imported or exported as the case may be;
 - (c) endorse details of quantity and type of goods imported or exported, as the case may be, upon the reverse of the import/export/re-export permit; and
 - (d) return any unexhausted permit to the owner for presentation when the balance of the permitted quantity is imported/exported/re-exported.

18.37 Failure to produce permit at time of Importation/Exportation

- 18.37.1 In the case where a permit is required but is not produced at the time and place of importation or exportation, provided that the goods are correctly declared Importers/Exporters may be allowed to, either, return them to the place from where they were consigned, or to leave the goods in detention at the Customs office pending the production of the requisite permit from the nearest Game warden within 14 days of the date of detention. The owner should be advised that failure to produce the permit within the stipulated time would render the goods liable to forfeiture. If the permit is not forthcoming,

importers/exporters may once be given the option to return the goods to the place from where they were consigned failing which the goods are to be seized:

- (a) In the case of imports under section 92 of the Customs and Excise Duty Act Cap. 50:01 as prohibited goods in terms of section 118 (1) (k) of the Act.
- (b) In the case of exports seized under section 92 of the Customs and Excise Duty Act Cap. 50:01 as prohibited goods in terms of section 118 of the Act.

18.37.2 Failure to declare animal, trophies and meat at time of importation/exportation: such goods should be seized and appropriate offence action should be taken.

18.37.3 Animals, trophies and meat which have been forfeited and condemned in the terms of section 91 of the Customs and Excise Act Cap 50:01, will be disposed of to the benefit of the Government of Botswana in accordance with instructions issued by the Commissioner of Customs and Excise in consultation with the Director of Wildlife and National Parks.

18.38 Smuggling

Officers should realize that smuggling of game animals and trophies is a highly lucrative business and offenders will go to considerable lengths to avoid control or detection. Officers must, therefore, be on their guard whenever consignments of hides or skins of domestic animals are produced for exportation to ensure that illicit game trophies are not hidden in the consignments. Great care must also be exercised in checking goods against export permits to ensure that only items specified in the permits are in fact exported. The Director of Wildlife and National Parks has made an appeal that all outgoing vehicles be thoroughly searched, including the underneath and engine compartment of the vehicles, for illicit game trophies.

18.39 Care of animals detained

It is recognized that the detention of live animals present a problem for officers at border posts nevertheless officers should not be deferred from detaining live animals which are dealt with contrary to the law. Whenever possible the advice and assistance of the nearest game warden should be sought if necessary by telephone. Pending the arrival of such advice or assistance officers should do their best to ensure that the animals are kept together in the shade and are provided with water and, if possible, grazing or food. Petty cash should be used for this purpose. However, any out of pocket expenses in this respect will be reimbursed to the officers by Customs Headquarters by arrangement with the owner of the animals.

PART B IV:

IMPORTATION CONTROL – BOATS AND ACQUATIC APPARATUS

PART 1 – GENERAL INFORMATION

18.40 Legal Authority

- 18.40.1 The Aquatic Weeds (Control) Act, 1971 (Act No. 46 of 1971)
- 18.40.2 The Aquatic Weeds (Control) Regulations, 1974 (Statutory Instrument No. 93 of 1986).

18.40 General

- 18.40.1 The Aquatic Weeds Control legislation has been introduced for the purposes of preventing the further introduction and spread of objectionable aquatic weeds, with a view to their ultimate eradication.
- 18.40.2 Small particles of certain aquatic weeds carried on boats or other portable aquatic apparatus can quickly multiply to cover vast stretches of water thereby choking waterways and destroying aquatic life. The legislation provides, therefore, that with effect from 1st November, 1986 no boat, mokoro or aquatic apparatus may be imported into Botswana unless the owner thereof is in possession of an import permit as prescribed under the regulation.
- 18.40.3 An owner wishing to import a boat, mokoro or aquatic apparatus into Botswana shall submit to the Director of Minerals and Water Affairs an application for Boat Registration and Import Permit, which shall be completed by the owner to the satisfaction of the Director of Water Affairs, (A specimen is attached as Appendix B). Such permit covering the boat in question shall be produced on arrival of the boat to the Customs Office at the port of entry so designated for this purpose in terms of the Aquatic Weeds Control Regulations, 1986.

18.41 Exemption

Any boat or aquatic apparatus that is brought into this country by air or rail in transit to a foreign destination shall be exempted from the application of these regulations. Provided that the boat is not anytime removed from the airport or railway premises whilst in transit.

18.42 Definitions

“Aquatic” apparatus” include boat trailers, outboard motors, inboard motors (if detached), fishing nets, gill nets, keep nets, fishing bags, oars, sails, masts and rigging but does not include fishing rods and lines.

“Boat” includes any vessel or craft as defined in the Aquatic Weeds (Control) Act, but excludes “mokoro” as defined in these regulations and flying boats, helicopters, microlight, ultralight and any other aircraft fitted with water skis or otherwise adapted to float on water surfaces.

“Inspecting Officer” means a public officer or an employee of the Water Utilities Corporation of a District or Town Council to whom the Minister has, in writing either generally, assigned duties these regulations.

“Interzonal Movement Permit” means a permit in the form set out in the seventh schedule to the regulations.

“Mokoro” means a canoe built from the trunk of any tree.

“Operate” in relation to a boat or aquatic means to use or drive, or cause or permit to be driven, or permit to be in or on any surface waters whether the person operating is present in person or not.

“Owner” in relation to boat or aquatic apparatus, includes the owner or part owner of a boat or aquatic apparatus, and any person who has lawful use of such boat or aquatic apparatus.

“Registering Officer” means a public officer to whom the Minister has in writing either generally or specifically, assigned duties under these regulations.

“Treat” in relation to a boat or aquatic apparatus, means to disinfect of aquatic weeds either mechanically, manually or chemically by spraying with the herbicide until all parts of such plants are rendered lifeless.

“Zone” means either an area prescribed as such under these regulations or described in the fourth schedule thereto, and the boundaries of which are shown on Survey Plan No.....deposited with the Director of Lands and Housing.

“Surface Waters” means all water flowing over the surface of the ground or contained in or flowing from any river, spring, stream or water course or any lake, dam, pan, pond or swamp.

18.43 Ports of entry

Only those ports of entry, places of inspection and treatment which are listed in the fourth schedule hereto may be used for importation of any boat or aquatic apparatus.

- (a) By road – Through the border posts at:-
 - Kazungula (Ferry and Road)
 - Mamuno
 - Martins Drift
 - Ngoma Border Post
 - Pioneer Gate

Ramatlabama
Ramokgwebana
Tlokweng Gate

(b) By rail – Unloaded from rail trucks at:

Francistown
Gaborone
Lobatse
Palapye

(c) By air - Through the airports at:-

Francistown
Sir Seretse Khama
Kasane
Maun

18.45 Boats and Apparatus Arriving for Entry Elsewhere

18.45.1 Boats and aquatic apparatus imported at places or means other than those mentioned above are imported contrary to the Aquatic Weeds (Control) Act 1971 and must consequently be regarded as prohibited imports in the terms of Section 124 of the Customs and Excise Duty Act, 1970, and liable, therefore, to forfeiture under Section 99 of the Act.

18.45.2 Notwithstanding the previous paragraph, importers of boats and aquatic apparatus arriving by road at places other than those mentioned in paragraph 18.44(a) will be allowed to return the boat or apparatus immediately to the country from which they were imported should they so wish.

18.45.3 Boats and aquatic apparatus imported by rail or air at places other than those mentioned in paragraph 18.44(b) and (c), and those imported by road at places other than those mentioned in paragraph 18.44 (a) and which the importers do not wish to return immediately to the country from whence they came, are liable to seizure and are to be dealt with according to Departmental Instruction No. 17.

18.46 Boat Inspection Stations

Boat inspection Stations for the examination and treatment of boats and aquatic apparatus have been established at the following places and under the control of Inspection Officer shown:-

Francistown	-	Department of Water Affairs
Gaborone	-	Department of Water Affairs
Kasane	-	Department of Water Affairs
Lobatse	-	Department of Water Affairs
Maun	-	Department of Water Affairs
Palapye	-	Department of Water Affairs

PART II – ACTION AT PLACES OF ENTRY

18.47 Procedure

18.47.1 Presentation of Boat or Apparatus

The importer of any boat or aquatic apparatus brought into Botswana is required to produce an import permit issued by Department of Water Affairs in respect of the boat to Customs at the port of entry. Officers at border posts and airports will nevertheless take steps to ascertain by question and/or examination whether persons entering Botswana have any boat in their possession.

18.47.2 Personal Line Fishing Tackle

The Department of Water Affairs may at this discretion issue an import permit and may make such conditions as to route to be followed by the boat importer including the port of entry to be used. In the case where an importer attempts to use a port of entry which is not reflected on the permit, entry should be refused and the importer advised to return the boat to country of export or use the port of entry so shown on the permit. If neither of the two is acceptable to the importer, the boat should be detained and the matter reported to the responsible Regional Manager by telephone or radio and to the Commissioner in writing.

18.47.3 Although an export permit is not required for boats going for repair and return such returning boat will require an import permit on arrival. Officers should therefore timeously advice people who will be temporarily exporting boats that an import permit will be required on return so that exporters can make the necessary arrangements with their local Water Affairs Offices in time.

18.47.4 The effect of S.I. 93 is that Customs Officers at ports of entry will no longer issue Movement Certificates and that boat import permit will be produced at port of entry.

CHAPTER 19 BOBS CERTIFICATION

19.1 Purpose

The purpose of this guideline is to assist the implementing officers especially at the Ports of Entry on how to go about the whole process of controlling quality of the prescribed imports as listed in the regulations , what documents to look for, when to call BOBS Inspectors etc. These guidelines shall be used only in relation to the prescribed products listed below; any product that is not on the list shall not be affected by these guidelines.

19.2 Legal Authority:

Section 124 subsection (10) as read with Section 99 of the Customs and Excise Duty Act of 1974

19.3 Overview:

The SIIR states that no one shall import any commodity prescribed in the SIIR unless that person has applied for and has been issued with a compliance certificate in respect of that commodity. No person shall off load any sub-standard prescribed product into the Botswana market.

19.4 Documents that should be produced

When a prescribed product/s consignment/s arrives at the Port of Entry the following documents shall be produced:

- a) A Certificate of Compliance (CoC) from BOBS or
- b) A Note of recognition from BOBS or
- c) A Conditional Release Certificate (CRC) from BOBS or
- d) An Import permit with both BOBS and Government Logos (In case of Agricultural imports), and
- e) In addition to any of the above, the importer shall produce an invoice for the consignment

In the event that any of these documents cannot be produced, the consignment/s shall not be allowed into Botswana until such document/s is produced. A Trader who cannot produce such document can decide to call BOBS Inspectors for purposes of Inspection and Sampling at the Port of entry and shall pay such applicable Inspection fee as provided for in the SIIR (Regulation 3) or can decide to take the goods back.

NOTE: No prescribed imports shall be allowed into Botswana without submission of any of the above documents.

The following table lists all the prescribed Products and their respective Standards as listed in the SIIR:

PRODUCT	REFERENCE STANDARD
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Cattle Feeds	BOS 25: 2000 Animal Feeding Stuff – Cattle Feeds – Specification
Chicken Feeds	BOS 8-1: 1999 Poultry Feeds – Part 1 – Chicken Feeds – Specification
Raw Cow's Milk	BOS 64: 2003 Raw Cow's Milk (Intended for further processing) – Specification
Pasteurized Cow's Milk	BOS 72: 2003 Pasteurised Cow's Milk – Specification
Yoghurt from Cow's Milk	BOS 92: 2004 Fermented Cow's Milk Products – Yoghurt, Sour Milk (Madila) and Buttermilk – Specification
Sour Cow's Milk	BOS 92: 2004 Fermented Cow's Milk Products – Yoghurt, Sour Milk (Madila) and Buttermilk – Specification
Buttermilk from Cow's Milk	BOS 92: 2004 Fermented Cow's Milk Products – Yoghurt, Sour Milk (Madila) and Buttermilk – Specification
Sorghum	BOS 26: 2000 Cereals – Sorghum Grains for human consumption – Specification
Pulses (Beans)	BOS 201: 2006 Cereal and Pulses – Certain Pulses – Specification
Peanut Butter	CKS 339: 1997 – Specification for Peanut Butter
Canned Fish, Canned Marine Molluscs and Canned Crustaceans	SANS 587: 52005 Canned Fish, Canned Marine Molluscs and Canned Crustaceans and Products derived there from
13A Fused Plugs	BOS 41-1: 2001 13A Plugs, Socket-Outlets, Adaptors and Connection Units-Part 1: Rewirable and Non-Rewirable 13A Fused Plugs – Specification
13A Switched and Un-Switched Socket Outlets	BOS 41-2: 2001 13A Plugs, Socket-Outlets, Adaptors and Connection Units-Part 2: Switched and Unswitched Socket Outlets – Specification
13A Adaptors	BOS 41-3: 2001 13A Plugs, Socket-Outlets, Adaptors and Connection Units-Part 3: Adaptors – Specification
Electric Iron	BOS IEC 60335-2-3 ED5.0: 2..2 household and Similar Electrical Appliances-Safety-Part 2-3: Particular Requirements for Electric Irons

LPG Regulator	SANS 1237: 2007 Single-Stage Regulators for liquefied Petroleum Gas (LPG)
Plastic Bags	BOS 186: 2006 Plastic Carrier Bags and Flat Bags – Specification
Cement	BOS ENV 197: 1992 Cement: Composition, Specification and Conformity Criteria – Part 1: Common Cements
Pre-Packages	BOS 9: 2000 Prepackaged Goods for the Ultimate Consumer: Labelling, Presentation and Advertising – General Requirements

BOBS Regulatory Compliance may be contacted at the following address:
The Managing Director
Botswana Bureau of Standards
Plot No. 55745
Block 8
Private Bag BO 48
Gaborone
Tel: 390 3200
Fax: 390 3120

CHAPTER 20 AUDIT

PART I:

INTERNAL AND EXTERNAL AUDIT

20.1 Purpose

Audit is a control tool through which management is kept informed of how ports and border posts are performing. Both internal and external audits are carried out to ensure, among others, that all accounts are properly kept, that returns are correctly rendered, that all imports and export bills of entry are in order, and that correct collections have been made. These notes are therefore intended to guide Customs officers, in particular Regional Managers, Heads of Customs Ports and Officers-in-charge on internal and external audit procedures.

20.2 General overview

- 20.2.1 Regional Managers, Heads of Customs Ports and Officers-in-Charge should ensure that standing instructions, procedures and all aspects of work are being done properly. Regular instructions of the operations in various sections should be carried out by the Head of the port or a senior officer appointed by him. Heads of ports should use the inspection reports to check on operations at their ports.

The following are the main instructions that the internal audit section seeks to enforce:-

- (i) Treasury Instructions
- (ii) Accounting Procedures; and
- (iii) Customs Division Instructions.

Each port must have master copies of these instructions and these should always be kept up to date.

- 20.2.2 All Heads of Ports/Officers-in-Charge will have their stations inspected at least once every year and are called upon to give due assistance as may be required.
- 20.2.3 The Internal Auditors shall use the red/purple pen in their operations and officers are not to use this colour for day-to-day operations particularly when endorsing books and accounts subject to audit.

20.3 External Audit

From time to time ports are visited by auditors from the office of the Comptroller and Auditor-General. These auditors are required to inspect all books of account and other records. These should be made available to them and Heads of Ports and Officers-in-Charge should assist them in any way they can.

Heads of Ports and Officers-in-Charge are required to reply to the Ministerial Audit reports in triplicate within 30 days of their receipt, and replies should always be forwarded through Head Office.

PART II:

POST-CLEARANCE AUDIT

20.4 Purpose

The Post Clearance Audit unit of the Customs and Excise Division is responsible for carrying out post-importation audits. The audits shall be done professionally, fairly and with courtesy and shall be carried out within the limits of the law giving due regard to the rights of the persons being audited. These notes are intended to guide Customs officers on post-importation audit procedures.

1.1.34 20.5 Legal Authority

The Post Clearance Audit unit draws its authority from the general powers of an officer as provided for under Sections 6,and of the Customs and Excise Duty Act (Chater 50:01) of the Laws of Botswana.

1.1.35	
1.1.36	20.6 General overview
1.1.37	
1.1.38	20.6.1 Functions

The functions of the Post-clearance Audit unit of the Customs and Excise Division are to conduct:

- Post-clearance audits
- Bonded warehouse audits
- Audits of manufacturers in bond
- Audits of refunds

20.6.2 The Audit unit shall have access to premises of traders and manufacturers who conduct business with the Customs and Excise Division and there is reasonable suspicion that there is non-compliance on the part of such traders and manufacturers.

The auditors shall ensure confidentiality of information obtained in the course of the audit and shall not disclose to third parties such information without prior approval of the Commissioner – Customs and Excise.

1.1.39	20.7 Audit Procedures
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20.7.1 Auditing procedures involve checking the information on all supporting documents against that shown on the bills of entries. The supporting documents, which must be attached to the bill of entry among others, are:

- (i) Commercial invoices
- (ii) Packing lists
- (iii) Bill of lading/road manifest/delivery note/airway bill
whichever is applicable depending on the mode of transport

20.7.2 Ports are required to submit to Head Office, audit copies of all bills of entry together with the supporting documents. These documents should be accessed by officers from Internal Audit and Investigations sections.

Upon receipt of the above mentioned documents the following process is to be carried out: -

- (i) Bill of Entry

The audit officer should verify that –

- Correct rates of duty were applied and that the right amount of revenue was collected;
- Correct tariff items were applied and goods on bills of entry are described in accordance with the tariff nomenclature;
- Current procedures and instructions were applied when clearing persons and goods; and
- Laws and regulations governing clearance of goods were correctly applied.

(ii) General refunds

Refunds of duty require quality assurance checks from time to time. The post payment audits are therefore to be undertaken consistently by the Post-clearance Audit unit.

1.1.40 (iii) Auditing of large traders

A large trader is one who contributes significantly to revenue and has clearly defined systems and procedure in place.

Routine audit cycles will depend on the risk rating and should not exceed three (3) years. The purpose of such audits will be to ascertain the extent to which customs shall rely on the large trader's own internal controls.

Examples of large traders include, among others –

xxxxxxxxxxxxxxxx

1.1.41 20.7.3 Reporting

Upon completion of the audit, two reports should be written. One report will be called 'INTERNAL AUDIT REPORT' and the other will be called 'EXTERNAL AUDIT REPORT. The external audit report will be given to the auditee and will contain, among other matters, the findings of the audit and recommendations thereof. The internal audit report will be for internal use and will be circulated to all operational ports and lodged on the intranet.

1.1.42 20.7.4 Management Controls

20.7.4.1 All audits shall be approved by the Manager - Investigations
The approved cases will be assigned to Audit teams. There shall be a team leader who will assign cases to officers. All assigned cases shall be done by at least two officers. The Auditors must open a file in which all relevant audit documents should be maintained and a reference number shall be given to each file so opened.

20.7.4.2 Any documentary evidence of fraud will be photocopied and a copy placed on file. Another copy shall be kept in a documentary exhibit file. The details of such exhibits shall be entered in a register.

Documentary evidence shall be kept in a secure place. All findings of an audit must be submitted to the Manager - Investigations for further action.

- 20.7.4.3 The auditor should ensure that all basic documents are available and correspond to the consignments and must look out for any discrepancies in the weight, quantity, value and nature of goods between the supporting documents and the bill of entry.
- 20.7.4.4 The auditors are to keep diaries. The diaries must have a list of clients to be visited in a week. These must be shown to the team leader and a copy given to the Manager - Investigations.
- 20.7.4.5 The diary shall indicate the day, time, client's name and contact telephone number. A copy of the diary shall be kept at the auditor's desk.

CHAPTER 21 INVESTIGATIONS

21.1 Purpose

The purpose of this manual is to assist Investigation officers engaged in the investigation of Customs and other tax related offences. The manual will be invaluable as a ready reference and should help Investigation Officers in developing their overall investigation techniques, which will facilitate the performance of their duties, and in establishing the degree of self-confidence vital to this work.

21.2 Legal authority,

Refer to Customs & Excise Duty Act (CAP 50:01) of the laws of Botswana.

21.3 Definitions

“Investigation” means a systematic process of collecting, compiling and processing evidence in order to prove or disprove an allegation on contravention of Customs and Excise Laws and any related laws..

“Case file” means a compilation of information sufficient to successfully prove or disprove an allegation.

21.4 General overview

21.4.1 The performance of a good investigator requires a high degree of skill, competence and diverse professions, which are applied during investigations. In order to have a good investigative flair, the investigation officer must keep abreast of changes in the legislation, the general knowledge about Government policies, socio-economic trends in the country, etc.

21.4.2 The investigation process brings with it a high degree of anxiety both on the taxpayer as well as the officer. Hence, the need to expeditiously deal with investigation cases cannot be overemphasized. The taxpayers would want speedy settlements so that they know what the decision of BURS would be. This allows for settlement arrangements to be made and enable the taxpayers to carry on with their business. On the other hand timely finalisation of cases portrays a positive image of efficiency and professionalism. *This professional conduct should be borne in mind and maintained at all times.*

1.1.43 21.5 General standards and conduct of investigation officers

21.5.1 BURS’s credibility and image are always in the eye of the public hence every action taken by an officer project a certain image on the clients. The investigations officer should at all times comply with the Botswana Unified Revenue Service’ General Conditions of Service.

21.5.1 It is essential to have an arm’s-length business-like relationship between the client and the Investigation Officer at all times. With experience one should be able to cultivate an impression of calm efficiency. The people with whom an investigating officer has contact with should feel that the officer is competent. Always extend courtesy to members of the public and exercise discretion and tact in all manner of dealings with them where it would not compromise the work and the interest of the organization as a whole.

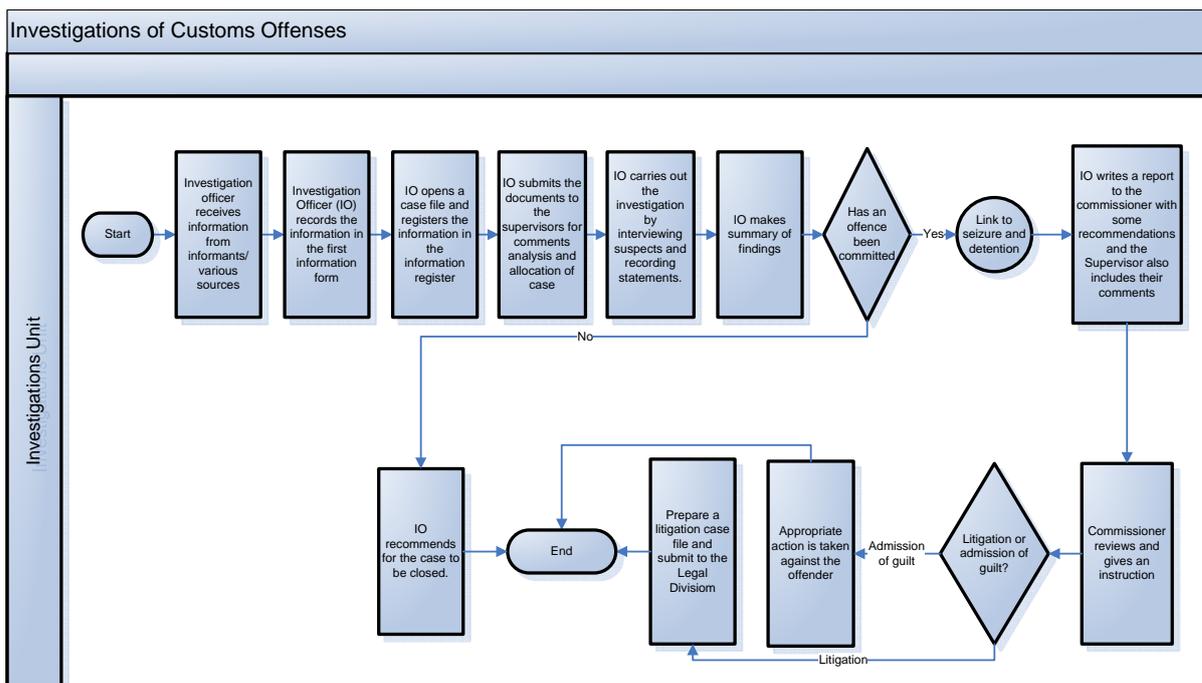
21.5.2 It is a basic requirement that no investigation should be done by one person for purposes of corroboration of evidence. The investigation team should comprise of at least two officers.

21.5.3 An investigation officer is strongly urged to continue guarding against:-

- ❑ Extortion
- ❑ Receiving bribes
- ❑ Embezzlement
- ❑ Failure to report offences/attempted offences
- ❑ Breaching secrecy provisions
- ❑ General inefficiency, dishonesty and any action, which may result in tarnishing the good image of the organization e.t.c.

21.6 Conducting an investigation

21.6.1 Investigation process map



21.6.1 Authority to investigate

The Commissioner or Manager must authorise all investigations or any person designated by the Commissioner or Manager.

21.6.2 Preliminary investigations

1.1.44

1.1.45 Preliminary investigations are done to analyse files, obtain supporting information and identifying areas requiring close examination. Activities may include the following;

- i. Obtain file and associated files

- ii. Peruse returns and correspondence
- iii. Carry out searches
- iv. Prepare query sheet
- v. Prepare Initial Interview Questionnaire

21.7 Case file development and maintenance

The specific contents of a case file differ from Administration to Administration, but the concept is the same. Generally the file should be chronological in nature and should contain all pertinent documents, record of conversations, record of meetings and/or interviews, rulings and evidence.

21.8 Standard documents and investigator's working papers

21.8.1 The following are standard documents and working papers which should be included in a case file;

a. The statement

A voluntary statement should be recorded and filed in the investigation file as a record of what the assertion of the suspect is or his/her side of the story is. It could be about a total denial or part acceptance of blame or just neutral, but whatever the suspect chooses to write in his/her statement it should be answering or relevant to the accusations leveled against him/her. The Statement should be written in English and where Setswana has been used; a translation in English should be made and attached to the statement.

ALL STATEMENTS SHOULD BE SWORN TO, BEFORE A COMMISSIONER OF AOTHS AND A DATE STAMP LEGIBLY PLACED ON THE STATEMENT FORM.

b. Note for file

The note for file is the internal correspondences between the Investigator, the Supervisor, the Manager, the Commissioner, and the Commissioner General. This could be some update on the investigation, seeking authorization for an official trip, advice etc. ALL NOTES FOR FILES, MUST NOT BE HANDWRITTEN, BUT THEY MUST BE TYPED.

c. Investigation report

There could be many ways of writing a very good report, but some of the key points to cover in the investigation report are:

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- i. **Title (aligned to the allegation or offence detected)**
- ii. **Give a background/ Synopsis/ Summary of your case at the Introduction Phase of your report.**

- iii. **Discuss the tasks you undertook (what you achieved and your shortcomings- Have a balanced report)**
- iv. **Findings-Discuss the offences committed, the penal provisions applicable and the evidence.**
- v. **Conclusion**
- vi. **Recommendation**

d. Case disposal/ Closure instructions

Upon the recommendations of the Investigator, the Manager will make a decision as to whether the file should be closed or not. The Manager may consult with high Authority on that. Some reasons for closure maybe that:

- i. **There is no likelihood of further information to go on**
- ii. **The investigations have been satisfactorily concluded**
- iii. **The client does not/ no longer exist or he/she has skipped the country (out of jurisdiction)**

It is only with the authority of the Manager that the case file can be closed.

e. **Index**

It is suggested the easiest and best time to index material is when a particular topic has been subjected to the initial in-depth reviews and checks. The indexing at this stage is relatively simple, as you will be dealing with more or less one topic. ***Therefore, indexing is a must for a serious and professional investigator.***

f. Investigators' working papers

Investigator's own Working Papers includes record or details of his checks, computations, copies of reference materials etc.

21.9 Managing an investigation

21.9.1 The Manager shall have the overall authority to oversee and monitor all tasks or action carried out by the Investigator. It is expected at the beginning of an investigation, immediately after the authorization to investigate has been given, for the manager or supervisor to have a pre-evaluation and analysis of the case and further consider what documentary evidence will be essential to prove the key elements of the allegation. It is also the responsibility of the manager or supervisor to determine, what if any, law has been breached and further determine the following:

- **Leads to follow**
- **Witnesses to interview**
- **Documents to collect**
- **Sequence to follow**

29.9.2 The Manager may advice on the methods to be used for the speedy collection of the information and the time frames required to obtain such information. This shall be given simultaneously with the authority to investigate.

29.9.3 As a general rule, it is advisable to obtain documents as soon as possible as many types of records are only kept for a brief period of time. Some records take time to obtain because they are either time consuming for the custodian to retrieve or they have been stored at a distant location far from immediate reach.

29.9.4 There are some fundamental areas that should be considered in management of an investigation, and they are as follows:

a. Investigations of Large Companies

This usually involves at least a team of Investigators. The checks and reviews undertaken can be allocated either individually or jointly. The standard approach provides a ready index of topics to be covered. The inexperienced team members can be allocated fairly basic areas and with the written guidelines attached, they can often become relatively independent. This leaves the experienced Investigators relatively free from interruptions to carry out reviews on more complex areas.

b. Continuity of Investigation

There can never be an end to staff turnover. Should circumstances dictate, the file may have to be turned down to another Investigator due to:

- a) Illness
- b) Conflict of interest
- c) Promotion
- d) Sensitivity
- e) Field of expertise/complexity

This often results in partly completed jobs or jobs under objection/ dispute being taken over by new officers. The standard approach means the Investigator who assumes responsibility for those partly completed jobs can readily and quickly ascertain the relevant details and carry out any required action.

c. Interview requirements

An interview should be well-planned, and the investigating officer should have quick and ready access to the reference materials /information filed in the working papers. The officer should have control of the interview.

d. Location of Evidence

Extracts from working papers are often required as briefing material and evidence. A final decision maker or judge is more

convinced of one's competency and reliability as a witness when evidence is quickly located upon request.

21.10 DETECTION OF AND DEALING WITH OFFENCES AND IRREGULARITIES

- 21.10.1 When an Investigation Officer detects an offence or circumstances that suggest an irregularity, she/he should deal with it in accordance with the laid down procedures. Where BURS prefers a criminal charge(s) against the offender(s), the Investigator will consult the manager and prepare a docket for prosecution of offender(s) in consultation with the Legal Services Division.
- 21.10.2 Upon the discovery, the Investigator should immediately make a verbal report or brief his/her Manager/ Supervisor. Under normal circumstances, the Investigator and the Manager would have consulted and pre-determined whether to seize or detain the illicit goods and how much fine to impose in the case of an offence action being preferred.
- 21.10.3 *Consultation in an Investigation process is indispensable not only as a quality assurance tool, but it is an important medium by which knowledge and skill can be imparted.*

21.11 Appeals

All appeals against the seizures, detentions and fines should be routed through the Manager/ Supervisor. (refer to appeals procedure)

An Investigator has no authority to review, revise, reverse or finalise any seizure, detention or fine. Only his/her Manager or General Manager can do so, or unless with specific written authority from the Manager or General Manager.

CHAPTER 22 MANAGEMENT OF INFORMANTS

22.1 Purpose

This Chapter is intended to guide those officers whose duties entail gathering information from different sources ,evaluating such information for substance and relevance for Customs purposes with a view to increase compliance, facilitate trade and at the same time protecting the society from illegal trade by professionally / systematically following up allegations of suspected risks in Customs perspective.

22.2 Definition of Informant:

For the purposes of Customs & Excise Division's mandate, an informant refers to any individual person or legal entity who gives information of substance and relevance in respect of Customs Fraud or Non-compliance and agency work performed by Customs.

22.3 Categories of Informants:

- Those who provide information once off (concerned resident)
- Those who provide information on regular basis/registered informants
- BURS officers
- Competitors
- Aggrieved party/ ies/arrested suspect offenders
- Government Agencies
- Media

22.4 Motives for giving information:

- Fear
- Monetary gain
- Revenge
- Repentance
- Intolerance to non-compliance
- To gain enforcement 's internal intelligence
- To identify undercover officers

22.5 Registration of informant:

Contents of an informant's file-

Full details:

- Personal history
- Written agreement outlining the nature, scope, validity and channel of communication
- Customs offence (criminal) history
- Current photograph
- Finger print card
- Handwriting example
- Payment record
- Original statements
- Case initiation report
- Administrative correspondences with informant
- Deregistration letter/report

22.6 Factors to consider for reliability of informant:

- Motive for giving information
- The non-spoken language style

22.7 Reasons for using informants:

- To obtain first hand, timely intelligence
- To gather information from sources that are not readily available to Customs
- To make observation on officer's behalf where strangers/Customs presence would be suspect

22.8 The elements of sound informant handling:

- Protection of informant's identity
- Clarity of objective/clear direction

- Avoidance of public meetings with informant
- Officer's control of informant
- Periodic verification of informant's details
- Honesty of officers
- Fairness
- Respect for informant-no purchasing of goods ,borrowing or business dealings with the informant
 - -no socializing with informant's family members
 - -no intimate relationship

NB Inadherence to the above elements can lead to serious negative consequences and should therefore be observed at all times

22.9 Disadvantages of using informants:

- Misinformation
- inaccurate information,
- delayed feed backs.

22.10 Definition of reward:

Reward is any benefit that the informant receives in recognition of his/her fruitful information.

22.11 Eligibility for Reward:

Any informant is eligible for a reward if positive results have been achieved as a result of his/ her information.

- Positive results include-
- Seizure of illicit goods
- Apprehension of offenders
- Recovery of duties/taxes

22.12 Exception to reward:

All Government Bodies are not entitled to monetary reward; E.g. Police, DCEC

22.12.3 What influences the extent of reward:

- Extra-vigilance of officer
- Modus operandi
- Size of seizure
- Complexity of case
- Amount of duty/ tax recovered

22.12.4 Sources of Information:

- Competitors
- Concerned citizen
- Expelled employees
- Fellow employees
- The media
- Internal reports; e.g. PCA, Investigation, Appeals, Valuation, etc
- Private Organization
- Parastatals
- Social gatherings

22.13 Kinds of rewards:

- i) Cash not exceeding 1/3 of recovered revenue as per section 103 of the Customs and Excise Duty Act.
- ii) Tangible items such as Certificate
- iii) Commendation letter
- iv) Any other item that CG may deem appropriate

Note: To protect the identity of the informant, a register is maintained for paying informants. The cheque is paid to the informant through the Case officer.

22.14 At what stage can reward be released?

A reward can only be paid at the end of case i.e. closure.

22.15 Who recommends reward?

The officer who received the information, the case officer, the O/I/C.

22.16 Who approves the recommendation for reward?

The manager for the station. Where cases are referred to head office (cases exceeding P10 000.00) the General Manager would make a decision.

22.17 Sources of paying rewards:

The reward would be deducted from recovered amounts of fines and, there should be a vote from which rewards are paid in case where a monetary amount is not recovered from the successfully completed case.

22.18 Security of Informants:

All information given by the informant shall be in the custody of the officer who received it. It shall not be divulged to any outsider and should only be shared on 'the need to know basis'.

22.19 Enabling environment:

- **Communication**-It is necessary to have closed office
- interview rooms
- Telephones; both land line and mobile phones and airtime.
- Transport
- Petty cash /entertainment allowances

22.20 Deregistration of informant:

- Factors that would necessitate deregistration include the following:-
- Continuous misinformation/dishonesty
- Loss of control of informant/ culcitrant informant
- Inactive informant
- Ransom demands

CHAPTER 23 DEBT MANAGEMENT

23.1 Purpose

The policy of the Customs and Excise Division is to ensure that all established debts to the Division are consolidated and effectively managed in order to enhance and sustain revenue collection. These notes are intended to guide Customs officers on how to effectively manage debts arising in transacting Customs business.

1.1.46 23.2 Legal Authority

- Section 86 of the Customs and Excise Duty Act (Chapter50:01)
- Section 105 of the Customs and Excise Duty Act (Chapter50:01)
- Section 110 of the Customs and Excise Duty Act (Chapter50:01)

- Section 116 of the Customs and Excise Duty Act (Chapter50:01)
- Section 125 of the Customs and Excise Duty Act (Chapter50:01)

1.1.47 23.3 Definition

In this Manual, unless the context otherwise requires;

“Debt” means any amount of duty, tax, levy, fine or interest that remains unpaid after the day on which it became due for payment under the Customs and Excise Act.

1.1.48 23.4 Debt Management Units

The Customs and Excise Division has a lot of potential revenue in form of unsettled debts scattered throughout its Ports and border stations throughout the country. These debts may arise from Post Audits, investigations, failure to honour debts by importers and their sureties or from inconsistent follow-ups by officers.

Due to the significance of the amount of revenue lost under such circumstances, Heads of Ports and Officers-in-charge must ensure that dedicated Debt Management Units whose responsibilities should include pursuing any outstanding debt are established.

1.1.49 23.5 Functions of Debt Management Unit at H/Q

- To receive established Divisional Debts and draw up a recovery program.
- Maintain a debtor’s database.
- Reconcile the debtors’ accounts with ports against payments.
- Administer the “Time to Pay” arrangements as may be approved by the Commissioner, Customs and Excise
- Execute enforcement measures under the Act aimed at recovering monies owed to the Customs and Excise Division.

23.6 Debt Recovery Procedure

23.6.1 Station Manager must, maintain a register of all outstanding payments due. Such debts are to be pursued as follows:

(a) Immediate Demand Letters

The Debt Management unit will issue and serve the first Demand Letter and give the debtor ten (10) working days in which to settle the unpaid amount.

(b) Final Demand Letter

When ten (10) working days lapse after presentation of the first Demand Letter a Final Demand Letter will be served giving the debtor an extra ten (10) working days in which to settle the unpaid amount.

Both the Immediate Demand Letter (IDL) and the Final Demand Letter (FDL) must be served physically on the debtor and receipt must be acknowledged in writing.

23.6.2 If the debtor still fails to settle the unpaid amounts, the case must be referred to Head Office for further action.

1.1.50 23.7 Management Controls

23.7.1 Record Keeping

23.7.1.1 Stations engaged in debt management will keep accurate and up to date records of various forms of debt.

23.7.1.2 Head Office is also expected to maintain accurate records in form of registers and files of all cases sent from stations to provide for ease of reference.

23.7.2 Removals in bond/transit

Station managers at inland stations must ensure that a monthly return pertaining to outstanding in-bond Removals is sent to Head Office.

23.7.3 ASYCUDA Assessments

ASYCUDA generated assessments, which remain outstanding beyond the period allowed for pursuit of debts should be communicated to Head Office without fail. Note that the first Demand Letter must be issued immediately upon the expiry of the five-day grace period.

23.7.4 Seizures

Seizure cases whose final decision requires any form of payment within a stipulated period of time should be transferred to the HQ Debt Management Unit provided that the seizure decision is not under dispute or appeal proceeding.

23.7.5 Audit Assessments

Audit Observations (AOs) and Audit Assessments involving collection of additional revenue must be copied to the HQ Debt Management Unit for possible follow ups in the event that the station concerned does not respond to the query within the time frame the case is

expected to have been concluded.

23.7.6 Investigations

Subject to the procedures as may be adopted by the Corporate Investigation Directorate, files of all investigated cases whose final decision requires payment of taxes and/or a fine should be transferred to the HQ Debt Management Unit if the debt is not settled within such specified period provided that there is no dispute or appeal proceedings.

23.7.7 Inspections

Where an Inspectors Adjustment Entry has been raised out of any revenue enhancement activity, long or short term, by Task Forces or such other teams that management may constitute from time to time, the debt should be transferred to the Debt Management Unit if not settled within the given period or at the time such team is dissolved.

23.7.8 Dishonoured Cheques

Chief cashiers responsible for cash office matters must ensure dishonoured cheques are communicated to the Debt Management Unit as soon as notification is received.

23.7.9 Time to Pay Agreements (TPAs)

Where a debtor is committed to settling the debt but does not have the means to pay at once, Station Managers may recommend to Head Office Debt Management Unit that the debt be settled in instalments.

Upon careful analysis of the case, Head Office may authorize that the debt be paid in installments and advise the port to enter into a time-to-pay agreement with the debtor.

Note that debt management officers at ports may not enter into time to pay agreements with debtors without authority from Head Office.

1.1.51 23.8 Action taken by Head Office Debt Management Unit

23.8.1 Liens and Preferences

The Division may opt to recover a debt in a court of competent jurisdiction by instituting proceedings in the name of the Commissioner General, and -

(a) Any goods in a bonded warehouse or in licensed premises or imported but not yet entered or cleared through Customs, or -

(b) Any goods imported afterwards, manufactured or entered for export by the person from whom duty is due, will, while under the

control of the Customs and Excise Division, be subject to a lien for such debt and may be detained until such debt is paid.

The claim of the government shall have priority over the claims of any other persons upon such detained goods.

23.8.2 Embargo on Defaulting Agents

Where it is believed that a licensed agent has acted outside the professional ethics, thereby making it impossible to locate the debtor, an embargo can be recommended.

23.8.3 Attachments of Debts (Garnishee Order)

The Customs and Excise Division may, in so far as the recovery of the debt is concerned issue a garnishee order in order to recover the debt.

23.8.4 Court action

23.8.4.1 Once all possible options to recover the debt have been exhausted, legal proceedings may be instituted with a view to liquidating the debts through the courts.

23.8.4.2 It is absolutely necessary that proper legal advice be obtained from the Divisions' legal officer before invoking any of the enforcement powers provided for in debt collection to avoid any unnecessary costs that may arise as a result of not following procedures as laid out in the relevant books of reference.

CHAPTER 24

REGISTRATION AND CONTROL OF CUSTOMS CLEARING AGENTS

24.1 Purpose

The purpose of these procedures is to assist BURS employees under the Customs and Excise Division on the registration and control of Customs clearing agents

24.2 Legal Authority

Section 68, 74 of the Customs and Excise Duty Act: Chapter 50.01 of the Laws of Botswana as read with regulations 48,77,78,79 and 80

24.3 Definition

A Customs Clearing Agent is anyone who clears goods with Customs on behalf of another for reward or gain. In terms of the Customs Act, such a person must register and obtain a license from the Commissioner of Customs and Excise before he commences business.

24.4 Registration requirements

- The prospective applicant must be a Botswana company, registered with the Registrar of Companies and domicile in Botswana.
- At least one of the Directors must be resident in Botswana.
- Company Directors, Managers and employees, who will be directly dealing with Customs related matters, must be fully conversant with the provisions of the Customs and Excise Act and procedures. To prove conversancy, the applicant must have worked for a reputable Customs Clearing Company for at least two (2) years or for the Division of Customs and Excise.
- The Company Directors, Managers and employees, who will be directly dealing with Customs related matters, should not have committed any Customs related offences during the preceding five (5) years
- The applicant must lodge a security bond of a nominal fee of P20 000.00 with the Commissioner of Customs and Excise, through a recognized financial Institution (bank or insurance company) accredited to the Central Bank of Botswana.

24.5 Application forms

- FORM CE 185 - Registration/licensing of Customs and Excise Clients (General application form)
Annexure
- CE 185B -client type (used to identify the purpose of the application)

- CE 185C - bond form

24.6 Application/Submission

- The applicant must submit a duly completed form CE 185,185B and 185C in triplicate to the BURS Regional office nearer to their business.
- Upon receipt of the application forms, the proper officer must check them for correctness and qualification, verify the existence of the office of intended operations and if satisfied the officer should forward them to the Commissioner, Customs and Excise Division for approval.

24.7 Documentary Evidence

The following documents must be attached to the application to verify conformity with the requirements for registration:

- Form 2 – Register of directors and secretaries
- Form 3 – Certificate of Incorporation
- Form 4- Shareholders Certificate
- Form 5- Notice of situation of registered office
- Certified copies of title deed (**in case of owned premises**)
- Certified copies of lease agreement (**in case of leased premises**)
- Copies of IDs for Directors, Managers and clearing clerks
- Certified copies of educational qualifications
- Copies of reference(s)/testimonial(s) from previous employers to prove conversancy of Customs procedures and requirements.

24.8 Approval/Licensing

- 24.8.1 Upon approval or otherwise of the application, the Commissioner will inform the applicant in writing about the outcome of the application. A copy of the letter will be forwarded to the Regional Manager of the originating office or where the application was originally lodged.
- 24.8.2 The Regional Manager will be required to advise the new registrant on the requirements and obligations of operating a Customs Clearing Agency.
- 24.8.3 Responsible offices should ensure that the registrant pays a license fee of P100.00 before commencement of operations; once the fee has been paid the registrant should be issued with a license in the form CE 102 form.
- 24.8.4 The license is valid for one calendar year and therefore responsible officers must ensure that it is renewed on or before 31 December annually.

24.9 Control of Customs and Excise Clearing Agents

The proper officer should ensure that all registered and licensed Customs clearing agents are monitored closely to ensure that they operate in accordance with the provisions of the Customs and Excise Duty Act and its Regulations. Officers should ensure the following:

- a) That all Customs clearing agents are registered with BURS and have valid licenses, these licenses should be clearly displayed at the premises of the registrant.
- b) That the required security bond has been furnished before registration
- c) That the security bond is not used for the fulfillment of any other obligation, but for the purpose of customs clearing agent
- d) That the security bond is reviewed from time to time to determine adequacy, taking into account the level of trade volumes and exposure to risk.
- e) That Clearing licenses are renewed before expiry date, and that licenses that are outstanding payment are cancelled after the registrant has been sent two reminders of the liability. Since licenses should be renewed by 31 December of every year, all those outstanding by end of February of the following year should be cancelled.
- f) That the registrant is informed of such cancellation in writing.
- g) That those clearing clerks that conduct clearance of goods are the ones that were listed as company employees at the time of registration or as updated in the registration documents. No declaration form should be accepted from any person who has not been approved by the Commissioner of Customs and Excise as an employee of a registered Customs Agent.
- h) That registrants do not transfer, leases or lends out their license to third parties
- i) That the registrant keeps proper records relating to all transactions carried out with BURS such as relevant bills of entry and that these documents are produced on demand.
- j) Those Registrants do not change the nature of business that they are registered for, directors of the company or employees without informing the Commissioner of Customs and Excise. Any change of any nature should be verified by the submission of the following documents:
 - Form 13 –Consent and certificate of Directors or directors of an existing Company in a case where there is change of the same after incorporation.

- Form 14 – Notices of change of directors or secretaries and particulars of directors or secretaries- also required when there is change after incorporation.
- Form 15- Notice of change of registered office – same as above
- Form 6-Certificate of incorporation recording a change of name

The Commissioner of Customs and Excise reserves the right to refuse to register and license any applicant (Section 68 (2))

CHAPTER 25

PROCEDURES FOR INTERNAL CUSTOMS APPEALS

25.1 Purpose

- 25.1.1 The main purpose of these procedures is to guide BURS Customs officers on the out of court procedure for the review and appeal of Customs decision made by the Botswana Unified Revenue Service (Customs and Excise Division). The procedure applies only to decisions issued in writing (including electronic form).
- 25.1.2 This Guide does not cover:-
- Matters that are before a Judicial Court; or
 - Complaints about the conduct of a Botswana Unified Revenue Service officer.

25.2 The object of the Customs review and appeal system:

To provide an independent and impartial review and appeal procedure for the administrative settlement of Customs Disputes that is consistent with the principle of transparency. It is also intended that the review and appeals process should be uniform, fast and straightforward.

25.3 Definition of appellant for purposes of this Chapter:

Any person who is aggrieved by a written decision made by an officer of the Botswana Unified Revenue Service, in relation to a Customs and Excise matter covered by the Botswana Customs and Excise Duty Act, its Regulations or any Legislation administered by BURS, and wishes to appeal such a decision.

25.4 Decisions that may be subject to appeal

The following are the 3 categories of decision that can be appealed against:

- 25.4.1 Technical Customs and Excise matters that may affect amount of Customs duty payable due such as:

- misclassification,
- exemptions/rebates and refunds of duty
- Valuation of goods
- verification of origin of goods

25.4.2 Decisions involving Operational Matters such as:

- Detentions/seizures.
- Withholding certain Customs certificates or approvals.
- Suspension or refusal to grant or renewal of license to operate bonded warehouses.
- Suspension or refusal to grant license to operate as a clearing agent.

25.4.3 Decisions regarding penalties:

- Penalties charged on committed offences may be appealed against, mitigating factors and other factors such as nature of offence, the frequency at which offences are committed should be taken into consideration.

25.5 Decisions that may not be subject to appeal are as follows:

- Administrative decisions – whether or not to close an office e.g. designation of ports of entries or operational hours.
- Officers conduct/behavior
- Powers Delegated to Officers e.g. irreversible Acts – such as a search of person, vehicle, a container, baggage etc.
- Security amounts – Any monetary deposit, surety or guarantee required.
- Imposition of any Customs fees e.g. state warehouse rent, special attendance fee etc.
- Verbal advice

Complaints regarding the above may be directed to Management through the complaint mechanism in place. (See Draft Charter)

25.6 Appeals requirements

All appeals should be in writing within thirty (30) days from the date action was first taken against the appellant.

25.7 Appeals emanating from the Regional Offices

25.7.1 Appeals on a deposit fine of up to **P50 000** should be resolved at Regional office by Regional Managers. Where the customer appeals the Regional Managers decision, the appeal should be referred to Appeals Unit at Head Quarters. All the documentation pertaining to the case and the recommendation by the Regional Manager should be forwarded to Head Quarters for final consideration.

25.7.2 Appeals on a deposit fine of above P50 000 that are, by their nature, handled at Head Office, should be forwarded to Appeals Unit with Regional Manager's recommendations.

25.7.3 Officers should ensure that the following documents, duly completed, are attached to the letter of appeal before submission to Appeals section at head office:

- A fully completed copy of seizure/detention notice
- A fully completed Admission of guilt form CE 70 and copy of receipt
- Offender's statement, officers should ensure that the statement written reflects a step by step account of events and that the true identification of the offender are reflected and that the statement is dully signed.
- Officers' reports
- Customs declaration forms and supporting documents where subject of appeal emanates from declarations
- Manager's recommendations

25.8 Direct appeal to Head Office by appellant

Where an appellant has appealed directly to Appeals Unit, such an appeal will be considered at Appeals Unit regardless of deposit fine limit. The appeal shall be accepted and resolved by calling for a report and supporting documents from the Regional office where an offence took place. A response from the Regional Manager should be sent to Appeals Unit within 2 weeks of receipt of the enquiry.

The letter of appeal from the appellant should be accompanied by the following attachments duly completed:

- Seizure/detention notice
- Copy of form CE 70
- Certified or countersigned receipt issued on payment of deposit fine

Any additional information that may assist in resolving the case may be requested from the appellant through an interview.

25.9 Processing of an Appeal

25.9.1 On receipt of an appeal by an officer, it should be registered and filed in the relevant appeal's file.

The officer responsible or appointed to deal with appealed cases should assess the appeal with a view to:

- Establish the correctness of the applicable charge
- Assess appeal in line with the law and mitigating factors

- Validity of tendered evidence in terms of written statement or any other evidence that can be submitted to prove the commission of the offence.

- 25.9.2 Once an officer is satisfied that all the required documents are in place, the case should be carefully assessed and a recommendation made to the Customs Manager responsible for Appeals to resolve the matter.
- 25.9.3 The appellant should be advised in writing of the outcome of his/her appeal within 30 days from the date of lodgment of the appeal.
- 25.9.4 If the appellant does not accept the decision made by the Customs Manager responsible for Appeals he/she has the right to appeal to the Customs Appeals Committee.

(Insertions in red are suggestions that may be considered at senior staff meeting)

26.10 Appeals Committee

There shall be a Customs Appeals Committee. The appellant must give a written notice of appeal to Customs and Excise Appeals Committee (CEAC) within 30 days from the date of letter verdict on his/her appeals.

All the decision of the Appeals Committee will be deemed to be the decision of the Commissioner General and if the appellant does not accept the decision, he will be free to exercise his/her right to appeal against decision to judicial Court of Law.

25.11 Composition of the Committee

The Customs and Excise Appeal's committee (CEAC) shall be composed of:-

- General Manager – Regions and Compliance
- Director – Legal Services
- Manager – Compliance & Enforcement
- Chief Internal Auditor – Audit
- Any other Manager, as appropriate

CHAPTER 26 ACCOUNTING

PART I – REVENUE

26.1 Purpose

- 26.1.1 This instruction supersedes Departmental Instruction No. 11 of 27th April, 1982.
- 26.1.2 This instruction is to be read in conjunction with Financial Instructions and Procedures (1993). The relevant instruction is shown where applicable.

26.2 General

26.2.1 Letters of Appointment

Revenue Collectors must be in possession of a letter of Appointment issued by Headquarters.

26.2.2 Public Notices Regarding Issues of Receipts

A notice in both Setswana and English must be prominently displayed stating that a printed official must be obtained at the time of payment.

Copies of the notice may be obtained from Treasury Cashiers, or from Headquarters (515).

26.3 Duties of Revenue Collector

All Revenue Collectors must be fully aware of the duties and responsibilities of the position they hold (504).

26.4 Cash Book

- 26.4.1 The Cash Book - Form B.69 (CUS) – will be used for the recording of all revenue collected in this Department.
- 26.4.2 Suppliers of the Cash Book are obtained from Headquarters.
- 26.4.3 Only the authorized Revenue Collector of a Station will make entries in the Cash Book for that station. He will write so that all copies of the Cash Book are legible, and he will be held responsible for the accuracy of all entries in the Cash Book.
- 26.4.4 Pages of the Cash Book will be used consecutively.
- 26.4.5 Cash Books will not be removed from the office.

26.5 Collection and recording of revenue

- 26.5.1 Bill of entry and other revenue collection documents will normally be checked and, if correct, signed by Officers of the rank of Customs and Excise Officer and above.
- 26.5.2 After an entry has been accepted as correct and signed as in paragraph 5.1 above, only the authorized Revenue Collector will receive the duty and other charges due, number the entry and issue a Government general receipt (REV. 1) for the amount received (506).
- 26.5.3 When the entry has been accepted, and a receipt issued, details will immediately be entered in the Cash Book (507).
- 26.5.4 All collections of revenue and all bills of entry, EXCEPT export entries, will be individually entered in the Cash Book in strict numerical order.
- 26.5.5 Particulars of amounts collected will be appropriately entered on the left hand side of the double vertical line in the Cash Book. On the right hand side, the amount collected will be analysed to its proper head and item. Care is to be taken to ensure that revenue is allocated to the correct head and item as shown in Departmental Instruction No. 24 (510).

- 26.5.6 Where no duties or other charges are collected to a particular entry, the column in the Cash Book for the receipt number will be left blank and the word “*FREE*” will be shown in the column headed “*TOTAL RECEIVED*”. All columns to the right of the “*TOTAL RECEIVED*” column will remain blank.
- 26.5.7 Should a Cash Book page be “spoilt”, it will be crossed with 2 parallel lines and the word “*CANCELLED*” written in bold letters between the lines, followed by the Revenue Collector’s signature and date. The original and duplicate spoilt pages will be forwarded to Headquarters.

26.6 Paying in revenue

26.6.1 Frequency

Except where special authorization has been obtained, revenue will be paid into the Treasury Cashier at intervals not exceeding one week and, in addition, on the last working day of March each year (505).

26.6.2 Action at Station

- (i) Rule off and then total Cash Book
- (ii) Balance foreign currency on hand with total on C.Misc.60
- (iii) Balance Cash Book total with cash on hand (including Pula equivalent column on C.Misc.60) less amount of imprest
- (iv) Prepare paying-in voucher (Form B.24 and B.24 (Continuation) if required in triplicate.
- (v) Customs station number should be written under sub-w-code of each allocation.

26.6.3 Action when Paying In

- (i) Take foreign currency on hand, and all copies of relevant C.Misc.60 to the bank, and obtain Pula in exchange.
- (ii) Depending on the amount of Pula received in exchange, prepare three copies of Form B.24 (for surplus) or Form B.25 (for shortage)
- (iii) Present to Treasury Cashier:-
 - Original and duplicate of Cash Book
 - Duplicates of all receipts (REV 1) entered on Cash Book, and the receipt book.
 - All 3 copies of B.24 (and B.24 continuation if applicable)

- Original C.Misc.60 and all 3 copies of B.24 or B.25
- Cash equal to total shown on Cash Book Sheet *PLUS*
- Surplus OR Less shortage on exchange of foreign currency.
- B25 balancing cash book and B24 (where credit card terminal exist)

(iv) If satisfied, the Treasury cashier will return:-

- Duplicate and triplicate of B.24 (and B.24 (Continuation) if applicable), stamped and endorsed with general receipt Number.
- A general receipt for the total cash received.
- Duplicate and triplicate copies of B.24 or B.25 for foreign currency surplus/shortage and for Call Accounts (where Credit card terminals exist). Receipt book – date stamped on reverse of last receipt used.

26.6.4 **Action on return to station**

- (i) Paste receipt for revenue, and triplicate B.24 to reverse of relevant sheet in Cash Book.
- (ii) File triplicate C.Misc.60 and triplicate B.24/B.25 in Cus. 2/61A, or special file kept for these documents.
- (iii) Forward to Headquarters (Securely fastened together):-
 - Duplicate Cash Book Sheet
 - Duplicate B.24 (and B.24 (Continuation) is applicable).
 - Duplicate C.Misc.60 and relevant duplicate B.24/B.25 and bank slip or show all the exchange rate used by the bank on B24/B25 Copies of each deposit document CE 70 or C.Misc.40 entered on Cash Book Sheet.
 - M.V.A. Insurance documents (Kazungula and Ramokgwebana only)

PART II - DOCUMENTATION

26.7 Distribution of documents

Correct distribution of import/export entries is important, and local instructions entitled “*Distribution of Documents*” should be prepared by the Officer in Charge of each station. The purpose of these instructions is to aid staff in the convenient and speedy filling and tracing of documents. The following notes are given for guidance:-

Supporting documents to any entry should always be attached to the original of the entry in the case of Bill of Entry and the Duplicate in the case of single administrative document.

The original of entries requiring routine verification (e.g.) – those for bonded warehouses, breweries etc.) Should normally be filed in the appropriate trader’s file.

26.8 Station Copies

The original of all other entries should be filed in a monthly series. Where the original has already been filed under 26.10 above, an extra copy of the entry should be used to complete the file. The duplicate copies of single administrative document with supporting documents should also be filed in a monthly series.

26.9 Statistical Copies

The original copy of all single administrative documents must be forwarded **WEEKLY** to Headquarters under cover of an advice on form C.Misc.51. The duplicate copy of all Bills of Entry must be forwarded **MONTHLY** to Headquarters under cover of an advice on form C.Misc.50A (Import) or C.Misc.50B (Export).

26.10 Pretoria Copies

The triplicate copy of all Bills of Entry must be forwarded **MONTHLY** to Headquarters under cover of an advice on form C.Misc.49A (Imports) or C.Misc.49B (Exports). These copies are forwarded by Headquarters to the Custodians of the Common Revenue Pool in Pretoria.

26.11 Audit Copies

The quadruplicate copy of all Bills of Entry must be forwarded **MONTHLY** to Headquarters under cover of an advice on form C.Misc.48A (Imports) or C.Misc.48B (Exports). (In the absence of an Audit Unit these are to be forwarded to the office of the Controlling Collector).

PART III – TEMPORARY DEPOSITS

26.12 Acceptance of Deposits

26.12.1 Under Section 97 (1)(c) of the Customs and Excise Duty Act, the Commissioner of Customs and Excise has power to release goods prior to completion of all the provisions of the Act, under certain conditions imposed by him. These usually include the payment of a cash deposit, and application for release must be made on form CE 70. It should be noted that release of goods under this system is a concession and not a right.

26.12.2 When accepting deposits on form CE 70 –

(a) An original plus three copies of the form are to be prepared:

- (b) The original and duplicate should be kept on the station in an “Outstanding Deposits” file;
- (c) The triplicate should be dispatched to Headquarters attached to the weekly cash book sheet;
- (d) The quadruplicate and receipt are to be handed to the importer.

26.13 Accounting for Deposits

26.13.1 At the end of each week, when the cash book has been balanced, form B 24 and, if necessary, form B 24 (Customs Continuation) are to be prepared. Each deposit must be entered on a separate line on the B 24 showing the following details:-

Head, S/Head, Item - 36/605/101 (See D.I.24)

Departmental:-

- (a) Sub-W Code - Customs Station number (See D.I.1.5)
- (b) Voucher No. - Station deposit reference in an annual series
- (c) Amount - Individual deposit amount

26.13.2 The total of the deposits listed should be checked against the cash book total.

26.13.3 If there is insufficient space to record all revenue and deposits on one form B 24 (Customs Continuation) should be used when space has been exhausted on the B 24. It should be noted:-

- (a) All other revenue should be entered on the B 24 first – then the deposits;
- (b) The continuation sheet is for DEPOSITS only;
- (c) All spaces on the B 24 should be filled before using the continuation sheet;
- (d) Distribution of the continuation sheet is the same as for the B 24.

26.13.4 It is particularly important that details of deposits entered on forms B 24 and B 24 (Customs Continuation) are checked by the Officer in Charge. The computer list of deposits produced by the Accountant General from the B 24's is used as the Headquarters Deposit Register.

26.14 Refund of Deposit

- 26.14.1 When the conditions of the deposit have been fulfilled (e.g. re-exportation, production of invoices, etc.) Within the time allowed, the deposit may be refunded.
- 26.14.2 A report is to be made on the reverse of the forms CE 70, and a payment voucher prepared with the following documents:-
- TOP COPY** - payment voucher B 25
 - SECOND COPY** - Payment advice form B 111
 - THIRD COPY** - Payment voucher form B 25
 - FOURTH COPY** - Payment voucher form B 25
 - FIFTH COPY** - Payment voucher form B 25
- 26.14.3 In case of foreign currency refund, any amount exceeding an equivalence of P5 000.00 (Five thousands Pula) only four B 25s i.e. Original Plus three copies of B 25 should be completed and importer's Bank Account number should be written on top for telegraphic money transfer.
- 26.14.4 The voucher together with the original and duplicate copies of the CE 70 with fully completed disposal instructions – plus other relevant documents, is to be forwarded to Headquarters via the Collector's office.
- 26.14.5 When a number of deposits are due for refund to the same importer, refund may be made on one voucher. However, it is essential that EACH DEPOSIT is listed separately in the allocation section of the voucher. The Customs station number must be entered in the "Departmental Sub-W Code" column, and the station deposit number in the "voucher No." column.
- 26.14.6 After processing and approval, a copy of the Payment Voucher form B 25 plus the original and triplicate copies of the CE 70, and the supporting documents will be returned to the station. They should be filed acquitting the "outstanding deposits" and deposit register be up dated.

26.15 Treatment of "Overtime" Deposits

- 26.15.1 It must be emphasized that there is a strict time limit in which the importer must fulfil the conditions of the deposit. When the time allowed has expired and the importer has not complied with the conditions of the deposit, the following action must be IMMEDIATELY taken:-

(a) An advice on form C.Misc.57 is to be sent to the importer requesting him to fulfil the obligations under the deposit or undertaking within TEN DAYS.

(b) Should action be taken by the importer within TWO WEEKS of the date of issue of the C.MISC.57 the deposit may be dealt with the normal manner.

(c) Should no action be taken by the importer within TWO WEEKS of the date of issue of the C.MISC.57 the deposit is to be brought to account IMMEDIATELY as the revenue (duty, fines etc.).

(d) For B 34 (four copies), the original and duplicate of form CE 70, and a copy of the C.Misc.57 must be forwarded to Headquarters via the Collector's office.

(e) After processing and approval, a copy of the T 3 plus the original and triplicate of the CE 70 and the copy C.Misc.57 will be returned to the station, and should be filed in the outstanding deposits files as acquittals.

26.15.2 No extension of the time limit stated on the CE 70 is to be allowed without reference to the Collector.

26.15.3 Officers in charge must continually review the outstanding deposits to ensure that extra time is not allowed before deposits are brought to account.

PART D- GROSS PAYMENT ACCOUNT

26.16 Accounting for Gross Payment Account

At the end of each week, when the cash book has balanced, Form B 24 is to be prepared. Each Gross payment Account item must be entered on a separate line on the B 24 showing the amounting and the following details:-

Head, S/Head, Item – 35/608/* (as given by Customs Head Office)

26.17 Maintenance of Gross Payment Account Register

26.17.1 Each account holder must have a separate Gross payment Account register kept by Customs office where the account operates.

26.17.2 Each time the account holder imports his goods or increases deposit in his account, the transaction should be entered in the register and the following details must be shown in the register:-

DATE:	Receipts	Amount	Value for Duty Purposes:	Sales Balance
Name and CCA	Nos.:	Deposited:	Sales/Customs	Amount Due

Signature of Recording Officer:

26.18 Adjustment /Transfer of Gross Payment Account to proper duties

- 26.18.1 At the end of every month adjustment vouchers (B34) should be prepared, transferring amount collected from G.P.A to the relevant duty due. Thus debiting 36/608/* crediting duty due Heads with the same amount collected.
- 26.18.2 Account Holders must be given a statement showing the transactions as they appear in the register monthly and should be reminded to increase the gross amount when necessary.
- 26.18.3 The Officer In charge must check all documents before submission to collector for acceptance.
- 26.18.4 A copy of each gross payment register must be send to Head Office (Accounts Unit) for reconciliation purposes at least every three months.

26.19 Treatment of un-listed G.P.A.

- 26.19.1 If the account holder does not utilize the account for more than six months he must be reminded to utilize it.
- 26.19.2 If she does not respond within 30 days a second reminder must be refunded sent to him.
- 26.19.3 If he still does not respond within six months then the balance must be refunded to him.
- 26.19.4 If the refund amount is not claimed by the account holder, that amount must be transferred to sundries (32/605/1).

CHAPTER 27

CORRESPONDENCE AND REGISTRY

27.1 Purpose

The efficiency of an organisation is often judged by the standard of its correspondence and the following notes are intended to guide officers on how to deal with both internal and external correspondence to enhance the efficiency of the Customs and Excise Division.

27.2 General overview

- 27.2.1 The correct type of communication and the correct form of address be used in all correspondence originating in the offices of this Division. It is also important that correspondence should be clear, concise, grammatically correct and neatly typed.
- 27.2.2 Correspondence received from members of the public should be dealt with promptly. If a full reply cannot be given immediately, a formal acknowledgement should be sent saying that the matter is receiving attention.
- 27.2.3 Where any request for a ruling or instruction in any matter of procedure is made to Head Office by telephone and a reply is given by the same means, a written request for confirmation must be made as soon as possible by the port concerned.
- 27.2.4 Heads of Stations in large offices may delegate authority to sign outgoing correspondence to responsible members of their staff.
- 27.2.5 Heads of Ports and Officers-in-Charge of stations should not engage in direct correspondence with the head offices of other Departments of Ministries or with Government Departments or Ministries of other countries, except in connection with purely routine matters. The correct procedure is to refer other than routine correspondence to Head Office.

27.3 Memoranda, minutes and letters

- 27.3.1 Internal correspondence within the Authority is conducted in the form of memoranda.
The following notes should be noted –
- (a) Full addresses need not be given.
 - (b) Dates should be shown
 - (c) Subject heading and file references should be used.
 - (d) In memoranda of reply, the first line shall merely refer to the memorandum under reply.

(e) All paragraphs other than the reference in (d) above, should be numbered.

27.3.2 Communications between the different Government departments and ministries take the form of official minutes. They are more formal than the memoranda used for internal correspondence within the organisation .

27.3.3 The following points should be noted-

(a)Addresses and dates should be shown in full.

(b)Subject headings and file references should be used.

(c)The conventional openings and endings used in letters, i.e. “Dear Sir” “Yours Faithfully” are not be used.

(d) All paragraphs to be numbered.

27.3.4 Various forms of official letters are used in correspondence with members of the public, firms, associations and representatives of other governments.

The following points should be noted –

i) File reference numbers should be used

ii) Subject headings should be used, but they maybe omitted in less formal letters.

iii) Paragraphs are not usually numbered, although this may be done for ease of reference in very long letters.

iv) Letters should be normally be signed over the title of Head of Office. However, Heads of Office might find it convenient to allow subordinates to sign letters dealing with purely routine matters over their own title.

v) When a letter is to be signed over the title of the Head of Office, e.g. (For Regional Manager), it should be worded as if the Controller were writing it. The writer should not refer to the Controller in the letter because it will, in fact, be a letter from the Regional Manager.

27.3.5 When drafting correspondence, officers should also bear the following points in mind –

(a) The contents of any communication should be clear to the recipient and clarity can usually be achieved by simplicity; wherever possible, long and involved sentences or paragraphs should be avoided.

- (b) When drafting replies to correspondence, every care must be taken to ensure that the reply contains all the information which has been asked for.
- (c) When seeking a ruling on any matter, care must be taken to ensure that no information which might influence the addressee in reaching his decision has been omitted.

Extra copies of memoranda, minutes and letters should be sent to addressees if it is felt that they will be likely to require them.

27.4 Reports

- 27.4.1 Reports are statements of fact in connection with particular cases or investigations. They are usually called for by Heads of office from individual officers, but they in turn may also be required to submit reports to Head Office.
- 27.4.2 As the information contained in a report may where necessary be used in a court of law, it is important to ensure that reports are strictly factual and accurate. All relevant details should be given, but a report should be a clear, unadorned description of what has taken place. Any comments, conclusions or recommendations should be given separately at the end of the report once all the facts have been set out and considered.
- 27.4.3 The following general instructions should be observed in connection with the writing of reports :-
 - (a) Reports must be legibly written or typed and signatures must be easily decipherable.
 - (b) They should be headed according to the subject matter and should be signed and dated by the reporting officer.
 - (c) All paragraphs should be numbered.
 - (d) All essential details must be given, e.g., full names and addresses and dates.
 - (e) The sequence of events should be set out clearly in the order in which they took place.
 - (f) If the report deals with goods which are the subject matter of an offence, full details of the goods should be given, i.e. description, value, origin, duty, in order that the seriousness of the offence may be assessed.
 - (g) Any explanation given by an offender should be reported

- (h) Sections of the Act and Regulations must be cited, and if an offence is alleged to have been committed, it must be set out clearly, showing the precise manner in which the Act or Regulation has been contravened.
- (i) Where supporting documents are involved, the information contained in these documents should be fully dealt with in the report.
- (j) Vague references, such as “in a similar case”, should be avoided. Where reference is made to previous decisions, the reference number and date of the relative correspondence should be quoted.

27.5 Subject headings and filing of correspondence

- 27.5.1 All correspondence originating in offices of the Authority should be headed according to subject and since correspondence is filed according to subject, it has been necessary to adopt standardised headings.
- 27.5.2 Correspondence is to be filed according to subject and registries must open files labelled and numbered according to the subject headings.
- 27.5.3 To enable records work and filing to be carried out as speedily and efficiently as possible : -
 - (a) As a general rule no one letter, memorandum, etc., should cover more than one subject.
 - (b) Where, unavoidably, a letter, memorandum, etc., does involve more than one subject extra copies must be prepared for filing accordingly. In the case of internal memoranda the addressee also should be provided with extra copies.
- 27.5.4 Details of cash/cheques received with letters must be entered in a “Remittance Received” book before being sent out of registry. The officer to whom the remittance is passed must sign the remittance book as evidence that he has received the letter and the remittance, and must record in the book the manner in which the remittance has been brought to account.
- 27.5.5 Heads of offices and Officers-in-Charge must make themselves personally responsible for seeing that security documents are handled in accordance with these instructions.

27.6 Circulars and circular minutes

Instructions from within the Authority are issued in the form of internal circulars and circular minutes. These are numbered in an annual series. Instructions relating to staff matters only are issued in a separate series of staff circulars.

Separate files of all circulars, circular minutes and staff circulars should be maintained at each port and, in addition, a copy of every circular instruction should be filed on the appropriate subject file.

27.7 Registry

Heads of office and Officers in Charge should ensure that the following points of general application are observed by all registry clerks :-

- (a) No letter may be posted in an official envelope unless it is being sent on public service.
- (b) Letters for dispatch should be examined to ensure that they are in order and that any enclosures mentioned are attached.
- (c) Particulars of letters to be sent by registered post must be entered in a registered letter book and the post office receipts for the letters should be passed in the book.
- (d) Wire paper clips are not to be used for assembling correspondence or documents, as use of this type of clip frequently results in correspondence being mislaid through accidental attachment of unrelated files.

27.8 Maintenance and Handling of Files

It is the duty of the registry office to maintain tracing cards to enable follow up and control of files.

APPENDICES

APPENDIX A
(Chapter 18, Part IV)

C.240
No.
AVC2

Form

SECOND SCHEDULE
(Regulation 5)

CERTIFICATE OF REGISTRATION

This is to certify that a boat described by the owner as follows:-

Type:

.....

Method of propulsion

.....

..

Dimensions: Length (from stem to stern)
.....meters

Width (greatest, beam)
.....meters

Height (greatest, depth of hull)
.....meters

With a hull shaped:

.....made of

andcoloured

.....

Manufactured

by

.....

..

on

.....

Described commercially as

.....

has been allocated the following reference marks:

.....

For use inzone, and has been entered in the

Register of Boat Registration showing the name of the owner as

.....
.....
.

(print owners name in full)

Residing at the following address

.....
.....
.....

Date:

.....

(Registering Officer's signature)

(contd)

NOTE: This certificate is not transferrable and is only valid for the zone as shown above.

This certificate must be retained on the boat and produced on demand by an Inspecting Officer or Police Officer.

This certificate must be surrendered to the appropriate registering Officer when the boat is subjected to a change of ownership or is transferred from the zone shown above or is exported from Botswana or is broken up, destroyed, irretrievably lost or becomes permanently useless as a boat.

A P P E N D I X B

Form AVC3

**FIFTH SCHEDULE
(Regulation 15)**

APPLICATION FOR BOAT REGISTRATION AND IMPORT PERMIT

To: The Director of Water Affairs
Private Bag 0029
Gaborone
Botswana

I

.....

....(print name in full)

of

(address)

.....

.....

....

do hereby declare that I am the owner of the following boat and aquatic apparatus which I wish to register and import permanent/temporarily* into Botswana.

Boat:

Type:*

Yatch/Dinghy/Rowing/Sailing/House/Canoe/Kayak/Raft/Barge/Inflatable/Sail board/
Catamaran/Punt/Amphibious/Air/Pontoon/Ferry/Other (specify)

.....
....

Dimensions: Length (form stem to stern)
.....meters

Width (greatest, beam)

.....meters

Height (greatest, depth of hull).....

Meters

Shape of hull: Conventional, double (Catamaran), other: (specify)

.....
....

Materials from which hull constructed:

*Steel/Fibreglass/Alumimium/wooden/

Other (specify)

.....
....colour of hull exterior:

.....
....(if painted, state colour of various coats. If more than one colour top coat, specify)

(contd)

-2-

Country of Origin: Manufacturer's name and address. (If home-built, state maker's name and address)

.....
...

Date of Manufacture:

.....
....

Commercial description: Model, code or type:

.....

Aquatic apparatus:

Specify

.....
....Specify

.....
..
(in the case of engines, give manufacturer's name, model engine number hip, rating, etc. In the case of nets, specify dimensions, mesh size. In the case of a trailer, specify registration number of the trailer).

C.2 5

if a temporary import permit is required, state number of days..... from (date) to (date) when the boat or aquatic apparatus will be required in Botswana.*

If a temporary import permit is required, state purpose for which the boat of aquatic apparatus is to be operated in Botswana.*

Recreation/sport or commercial fishing/private or commercial transport of personnel or goods/scientific/tourism/commercial demonstration/in transit to another country (specify)
.....
.....

Other (specify)

.....
State whether the boat or aquatic apparatus are in new or used

Condition:

.....
..

Months

.....
... to be best of your knowledge and belief, has the boat or aquatic apparatus been operated in or on any waters which are infested with any aquatic weeds prescribed in the schedule to the Aquatic Weeds (Control) Act, 1971? Yes/No

If yes, give particulars

.....
.....

After consulting the list of zones and places of inspection and treatment in the map appended, specify means of transport and route by which it is proposed to import the boat and aquatic apparatus, the zones in which and when it is proposed to create them and the places where and when they can be submitted for inspection and treatment bearing in mind that inspection/treatment can only be carried out during normal office hours:

.....
.....

.....
I hereby declare that the particulars set forth above are, to the best of my knowledge and belief, true and correct in all respects.

.....
...

(Signature)

Date at.....this.....day
of.....19.....

*Delegate whichever inapplicable.

NOTE: Fees will be requested if the application is approved. No money should be enclosed at this stage.

For use by director of Water Affairs only:

Import permit approved/not approved.

Registration fee received on:

.....
...

Amount received:Receipt
No.....

Boat Reference mark

.....
....

Interzonal Movement Permit/s issued:

.....
...

A P P E N D I X C

C.246

Form AVC 4

**SIXTH SCHEDULE
(Regulation 14)**

IMPORT PERMIT

Permission is hereby granted to

.....
(owners name in full)

Of (address)

.....
.....
.....

to import into Botswana a boat/and aquatic apparatus described as follow:-

Boat:

Type:.....

Method of Propulsion

.....

Dimensions: Length

.....

Width

.....

Height

.....

With a hull: made of

.....

and coloured

.....

...
Manufactured by

.....

...
on

.....

...
Described commercially at

.....

...

Aquatic Apparatus:

.....
.....
.....

Mode of transport: Road/air/Rail

.....

Port of entry to be used:

.....
.....
.....

Places where inspection and treatment, if necessary, to be carried out:

1.
2.
3.

Boat Reference Marks:

.....
...

Validity of this permit expires on

.....
...
.....
...

(Date)

(Director of Water Affairs)

APPENDIX(Referred to in paragraphof Chapter 12)

**BOTSWANA UNIFIED REVENUE SERVICE
Customs Division**

REQUEST FOR TARIFF CLASSIFICATION

Station.....Reference No.....

The following product is submitted for Tariff Classification:

1. Product description
2. Trade Name, (if any).....
3. Use.....
4. Name and Address of Importer.....
5. Name and Address of Manufacturer or Supplier.....

- 6. Email/ Website of Supplier.....
- 7. Number and Date of Bill of Entry.....
- 8. Tariff Item No. under which entered.....

10. Remarks by submitting officer (which MUST include a recommendation, with reasons, as to the Tariff Item to be applied, except in the case of items requiring analysis).....

The following are attached:

Invoice []

Sample []

Descriptive []
Literature

Others: []

(Tick where applicable)

Date..... Submitting Officer:.....

FOR HEAD OFFICE USE ONLY

Recommended Classification:.....

Remarks:.....

Date:

for/Commissioner of Customs and Excise

Decision circulated	Interpretation List No	Basis of Decision	File Ref. No.