

REPUBLIC OF MOZAMBIQUE

Ministry of Plan and Finance

THE MINISTER'S OFFICE

Ministerial Diploma no. 262/2004

of 22 December

The Decree no. 30/2002 of 2 December approved the General Rules for Customs Clearance and established general norms which require regulation for their correct and complete implementation.

In these terms, and under the competences awarded to me by article 2 of the Decree no. 30/2002 of 2 December, I **determinate**

Article 1

The Customs Clearance Regulation and respective annexes are approved, and constitute integrating part of this diploma.

Article 2

The General Director of the Customs shall issue the necessary instructions for the implementation of this diploma, which shall include the actualization of the amounts and the approval of the necessary forms for the implementation of this document.

Article 3

It is revoked the Ministerial Diploma no. 206/98 of 25 November and other legislation which contravene the provisions of this diploma.

Article 4

This diploma becomes effective on January 01, 2005

The Plan and Finance Minister

Luísa Dias Diogo

CUSTOMS CLEARANCE REGULATION

TITLE I

GENERAL

SECTION I

Definitions and application scope

Article 1

Definitions

For the purposes of this regulation are established the following definitions:

Authorized areas – defined in the terms of article 8 of the Presidential Decree no. 4/2000 of 17 March.

Goods – all articles entering or leaving customs territory.

Countermark – relative administrative procedure which is given to each conveying means by the attribution of a sequential number corresponding to its entry in the customs clearing station when loaded with merchandise intended for customs clearance or when the transportation means itself is subject to customs clearance.

Customs Control – the set of measures adopted by the customs authorities to ensure the compliance with the laws and regulations, and which application is under the Customs responsibility.

Correspondence – letters, faxes, electronic messages, telegrams, telexes, and other written communications.

Goods declaration – act through which a specific person indicates the goods and their respective applicable customs regime and, supplies the information required for its submission.

Declarant – any person declaring the goods, merchandise or transportation means on his behalf or, on behalf of the person in whose behalf the declaration is made.

Customs clearance – set of formalities necessary to clear goods, merchandise and the respective transportation means which may be of importation or exportation.

Forwarding agent – natural person licensed by the Customs in the terms of the legislation in force, habilitated to practice all necessary acts for goods and merchandise customs clearance.

Pre-importation clearance – set of formalities necessary for clearing goods, merchandise or the respective transportation means carried out before the goods or merchandise arrives to the Country.

Customs destination – it is the customs regime attributed to goods or merchandise regardless of their nature, quantity, origin, precedence or finality.

Customs clearance – the compliance with the necessary customs formalities to allow the importation or exportation of merchandise, or its duly approved placement in a different customs regime.

Simplified Clearance (DS) – constitutes the customs clearance formula to be used exclusively in the importation of goods not intended for commercial purposes, belonging to travelers in excess of their duty exemption.

Sole Document (DU) – customs clearance formula for all goods and merchandise entering or leaving the Country, regardless of the applicable customs regime, except for transits, simplified systems and other regimes foreseen in the Law.

Abbreviated Sole Document (DUA) - is the same sole document when used to process the Abbreviated Importation System.

Certified Sole Document (DUC) – is the sole document which has been certified of its submission to the selection process for the realization of the pre-shipment inspection of goods and merchandise and, which may have been selected or in the impossibility of conversion to a declaration through the affixation of the declarant's signature, manifesting his agreement with the information contained in such document.

Origin Certificate – every document conferring the origin of merchandise, foreseen in international conventions, commercial protocols or preferential systems.

Customs station – any place of work created in the scope of the Customs Articles of Incorporation in which all or part of the formalities foreseen in the customs legislation may be executed.

Incoterms (International Commercial Terms) – terms resulting from the international commercial costume which translate the conditions in which the international commercial transactions should be carried out.

Transportation means – any motor or other equipment capable of transporting people, goods or merchandise.

Merchandise – goods subject to commercial transaction.

NUIT – Taxpayer Identification Number.

Country – the Republic of Mozambique.

Customs regime – set of specific customs procedures applicable to merchandise, transportation means and other goods, by the customs authority.

Importer/exporter's representative - the forwarding agent duly authorized by the importer/exporter before the customs authorities, to perform on his behalf all the necessary acts for the clearance of goods and merchandise.

Re-verification – act through which the quality and accuracy of the service carried out by the inspector is verified.

Abbreviated Importation System – abbreviated form used exclusively in importation situations under special clearance procedures for importations of low commercial value.

Customs territory – the entire geographical space in which the Republic of Mozambique exercises its sovereignty.

Customs value – the value of the good to be established in the terms of the appropriate legislation.

Verification – act by which the verification of the declaration and its conformation with the merchandise specification, and duty and other impositions due is processed.

Customs visit – visit carried out to a place or transportation means to verify the compliance with the customs procedures.

Article 2

Scope of application

This regulation establishes the general and specific norms to be applied in the customs clearance of goods and merchandise, people and transportation means verification.

SECTION II

Customs control

Article 3

Of people, merchandise and other goods

1. The customs control is exercised over people, merchandise and other goods, and/or transportation means, from their entry in customs territory until their effective exit, or final importation, and extends to goods and merchandise on board or to be transported, as well as travelers and crew luggage.
2. Goods or merchandise arriving to customs territory remain subject to customs inspection and control in the terms of the law from the moment of their entrance until their clearance at the customs.
3. Goods and merchandise which have been cleared with fiscal benefit remain under inspection in the terms established in the customs legislation.

4. The same treatment applied to goods and merchandise stated in number 3 is applicable to merchandise coming or destined to free-trade zones implanted in national customs territory.

Article 4

Road Transportation

1. All road conveying units arriving to the Country from foreign countries must be directed to the customs station designated for the purpose and by the legally authorized ways.
2. No transporter shall be allowed to deviate from his route, stop or delay beyond the normal time defined by law for the route and transportation means conditions.

Article 5

Aerial Transportation

Aircrafts coming from foreign countries shall land at International Airports or Aerodromes previously authorized by the Customs and by other competent authorities, save if those competent authorities, with prior Customs authorization, have designated another airport or aerodrome, which shall be informed of the aircraft's arrival with the necessary antecedence, by the entities responsible for the airport or aerodrome.

Article 6

Maritime, lake and river transportation

1. The ships and other vessels shall only enter the ports, wharfs and harbors qualified for the loading or unloading of goods.
2. Except for force majeure cases or fully justified reasons or port entrance pilot support, no ship or vessel demanding any port, might, stop its march before anchoring.

Article 7

Railway Transportation

The railway authorities shall report the entrance of trains to the customs station designated as an entry border post and should only go to another designated customs station, or any other place pursuant to a Customs authorization in the terms of the law.

Article 8

Prohibitions and exceptions to conveying means entrance

1. It is not allowed to transportation means coming from, or going to foreign countries to:
 - a) Park or execute loading and unloading operations of goods, including transshipment outside of the authorized place for the purpose;
 - b) Circulate in customs territory in a illegal situation in respect of the international transport regulations corresponding to its species; and
 - c) To deviate from is legal route without a justified reason
2. It is not allowed the placement of the transportation means close one to another if one of them is arriving or departing to a foreign country in order to proceed to the transshipment of people or goods without proper fiscal control.
3. The Managing Director of the Customs Office can exceptionally authorize the entry and exit customs control operations are executed in locations different from the ones established in the previous articles

Article 9

Customs visit to the transportation means

1. The transportation means arriving from or destined to foreign countries are subject to a customs visit
2. The customs visit may be joint or separately effectuated with other competent authorities, for customs purposes.
3. During the visit referred to in the previous paragraphs, the Customs may accept declarations respect of formalization of the entry or exit referred to in the article 11, issuing, for the purpose, the respective entry or exit permit.

Article 10

Registration of the entry/exit of transportation means

1. The entity authorized by the customs to operate the terminal shall be responsible for the registration (countermark) of the arrival and departure at designated terminals, of all transportations means involved in international transportation, according with the requirements of the International Terminals Regulation
2. At the departure and arrival places not designated as customs terminals, the responsible entity shall be the Customs
3. The entry and exit registration shall be made immediately at the moment of arrival and departure.

Article 11

Formalization of the entry/exit of transportation means, goods and merchandise

1. The owner of the transportation means and his legal representative or agent, shall present to the Customs at the designated authorities the documents in respect of the transportation means, its crew, the cargo manifest(s) and other documentation relevant to the cargo and other goods existing on board, in the terms established in this article,
2. In the cases where the goods other than accompanied luggage enter or leave the Country, the transporter or his duly authorized representative shall :
 - a) Present to the Customs the cargo manifest(s) containing the information presented in annex I; and
 - b) Be responsible for the inclusion of all goods in the cargo manifest
3. The ship's agent or representative shall present, within 24 hours after the tax entry, the following documentation to the Customs at the designated authorities:
 - a) The captain's declarations, containing the information presented in annex II;
 - b) Crew list;
 - c) Cargo manifest;
 - d) If applicable, the passengers list indicating who will disembark from the ship at the arrival port;
 - e) A list of all weapons, ammunition and explosives;
 - f) Livestock list; and,
 - g) The list of goods in duty free regime that are in "bonded storage" and their exact location in the ship.
4. At the arrival of the aircraft, the captain or the transportation company's representative shall present to the Customs:
 - a) A manifest for each embarked cargo origin, with the designation of the respective destinations;
 - b) The list of merchandise sold on board;
 - c) The crew list; and,
 - d) The passengers list, by request of the Customs authority.
5. At the road and/or railway transportation means arrival, the transporter or his representative shall present to the Customs:
 - a) A manifest for each embarked cargo's origin, with the designation of the respective destination.
 - b) The crew list.
6. The entry/exit of transportation means is processed with the issuance of an entry/exit authorization thereof, in a model to be approved by the General Director of the Customs.
7. The load, unload or transshipment operations in transportation means coming from foreign countries shall only be executed after the respective transportation means entry formalization, at the port, airport, platform or authorized authorities.

8. The entrance of flammable, explosive or harmful to the public health merchandise in the customs stations shall not be authorized, and should be directed to a safe place previously indicated by the importer.
9. The Regional Customs Director, or whom he delegates, may establish, in his own normative act, cases in which the load and unload or transshipment operations may be initiated before the entry formalization.

Article 12

Direct unload

In exceptional circumstances and by the duties guarantee and other due impositions, the Regional Director may authorize the direct unload of the merchandise to the importer warehouse at his request and expenses, by anticipation of the clearance procedures.

Article 13

Transportation means inspection on their normal course

1. In the scope of its competences the Customs may stop and inspect any transportation means transporting goods or merchandise, with the purpose of determining the customs situation of the transportation means, and the goods or merchandise being transported.
2. During such intervention the Customs may:
 - a) Inspect the transportation means, the goods, the merchandise and demand the presentation of any documents related to them; and,
 - b) Request the person responsible for the transportation means to supply information on the goods, the merchandise and/or the transportation means customs situation.
3. Where it is not practical to proceed with the inspection at the intervention site, the Customs shall direct the transportation means to the nearest appropriate place.
4. The officers involved in this work shall be empowered by the Customs Regional Director in their jurisdiction area and, must always be in the possession of the respective credential.

Article 14

Transportation means breakdown

1. Should there be a breakdown or accident with transportation means that have entered into the country in a temporary importation regime, its owners may decide to:
 - a) its re-exportation;
 - b) its final importation, through the payment of the due impositions, calculated based on a custom value obtained by evaluation, in the terms of the applicable legislation;
 - c) its abandonment on behalf of the State.

2. In the event of express abandonment, the vehicle must be delivered to the customs authorities by its legitimate owner or his representative.
3. The vehicle evaluation expenses or its transportation to the Customs shall be borne by the owner or his representative

Article 15

Transporter's duties relative to the movement of goods and merchandise subject to customs control

1. The goods, merchandise and transportation means that entered or are leaving the customs territory shall be directed, presented and declared to the Customs, at the designated entry or exit customs station.
2. The responsibility for the acts indicated in the previous paragraph is of the person that introduced or intends to remove the goods, merchandise and/or transportation means into and from the country, or other person responsible before the customs law for the purpose.
3. The goods, merchandise and transportation means that have not been cleared and enter any other custom station or any other designated place shall be, by the same way, presented to the Customs.
4. It is also understood as being conducted to the Customs, the goods, merchandise and transportation means that are in normal routes that lead to the customs designated for the clearance.
5. Constitute an exception to the previous paragraphs, the goods and merchandise that are on board of ships or aircrafts, that cross territorial sea or national airspace and which do not have as destination, a port or airport located in the country

Article 16

Presentation enforcement

The goods and merchandise subject to customs clearance are of mandatory presentation to the Customs at arrival or departure.

SECTION III

Clearance of goods and merchandise

Article 17

Mandatory declaration

1. The presentation of the declaration is mandatory to the declarant.
2. The declaration may be made in writing using the appropriate forms, computer based, verbally or by any other mean approved by law.

3. Subject to the Managing Director's or his delegate's authorization, the declaration may be presented with a maximum antecedence of two business days relatively to the arrival of the merchandise, with the completion of less mandatory boxes. Should the goods or merchandise not arrive within such period, the declaration shall be automatically cancelled.
4. The customs clearance must be processed within a maximum period of 25 calendar days, from the date of arrival of the transportation means, goods and merchandise to the destiny customs station.

Article 18

Prior verification

1. The importer may request to the head of the customs station, through an appropriated form, the execution of a prior verification of the goods and merchandise, a faculty given to the importer to confirm the goods and the merchandise before effectuating the declaration.
2. The prior verification may be carried out in the warehouses under customs regime, at the customs, wharfs or other places under customs control, under supervision of a customs officer chosen for the effect
3. The importer is subject to the payment of taxes for the services rendered, due according to the location where the prior verification has been carried out.
4. The importer is responsible for organizing the verification site in order to assure the handling of the merchandise and guarantee the physical security of those who attend to the verification.
5. Once ended the prior verification, the goods and merchandise shall be restored to the original packing and sealing conditions.

Article 19

Customs declaration

1. The customs declaration is made in the DU form shown in the annex III, except for merchandise subject to the simplified importation regime or other established in applicable legislation.
2. The Minister responsible for the Customs area may determine the use of another form for the customs clearance, subject to a proposal from the Managing Director of the Customs.
3. A declaration presented with amendments, interlineations or erasures not properly excepted shall be considered invalid, and with no effect. The corrections made with interposition of the words "in fact", "I mean" or similar are not considered to be amendments.
4. The codes and regimes to be used in the completion of the DU shall be established and published by order of the Managing Director of the Customs.
5. The declaration to be used in the movement of goods and merchandise under customs transit is the foreseen in the Customs Transit Regulations, approved by the Ministerial Diploma no. 10/2002 of 30 January.

Article 20

Declaration delivery places

1. The DU and the documentation to be filed with it shall be processed for the clearance at the customs stations where the goods and merchandise are deposited.
2. The DU relative to goods and merchandise deposited at customs regime warehouses shall be delivered and processed in the respective jurisdiction customs station.
3. For small commercial orders using the DUA and for the simplified system using the DS, defined in the terms of the article 25 of this regulation, the declaration shall be delivered to the customs stations designated by the Managing Director of the Customs Office.

Article 21

Procedures for filing the Declaration

1. At the moment that the importer or his representative deliver the DU to the Customs, it shall be subject to a prior verification (prior scrutiny) together with other support documentation.
2. If there are any defaults detected in the completion of the DU mandatory boxes in the prior verification, and/or the lack of documents, the set of documents presented shall be immediately returned to the declarant or his representative, including the declaration and all its copies, accompanied by a communication in which are mentioned the reasons for the refusal.
3. If the prior verification shows that the declaration is complete, it shall be formally accepted by the Customs through the issuance of a proper model receipt
4. The respective chief of the custom station shall guarantee that, at the time of reception:
 - a) All declarations which have been formally accepted are immediately registered and no customs formality other than the prior verification referred in paragraph 1, may be executed before such register. The formal acceptance date and hour shall be written in the registry book; and,
 - b) All the formally accepted copies of the declaration and any documents annexed to them shall be numbered using the following number in register.
5. When the proper conditions are created, the Managing Director of the Customs Office may authorize the electronic presentation/delivery of the declarations.
6. Electronic declarations shall always be supported by the same documentation that is demanded for a physical declaration, in the terms of this regulation.

Article 22

The Declarant

1. Any person entitled to dispose of the goods or merchandise may act in the capacity of declarant in the clearance process thereof.

2. All the declarants who are not travelers importing goods or merchandise for personal use, shall include in each customs declaration their NUIT, following the instructions on the completion of the declaration established in the present regulation.
3. The declarations that do not contain the NUIT indication shall not be accepted, the goods and the merchandise withheld by the Customs until the NUIT proof is presented by the declarant.
4. If, in the terms of the previous paragraph the justifications are not presented, the goods will be considered abandoned, beginning the respective confiscation on behalf of the State, according with the legislation in force.

Article 23

Declarant's duties

1. The declarant is liable, before the customs station, for the authenticity of the information contained in the declaration signed by him.
2. Until the prescription of the tax obligation, the declarant continues to have obligations before the customs authorities, even after the clearance of goods or merchandise declared by him.
3. Should the customs authorities require for verification purposes, the declarant is obligated to supply any necessary additional information which should be in the declaration.
4. The declarants shall be obligated to comply with the following additional conditions :
 - a) Maintain organized registries and accounting, for a minimum period of 5 years from the clearance date, which shall be adequate to the type of business being carried out, making possible the effective control of transportation, documentation, container identification and the generic description of goods and merchandise and their location in the deposits, and the documentation that confirm its regime; and,
 - b) Fully cooperate with the Customs in the customs control practice and auditing of the movements of goods and merchandise subject to international trade, including:
 - i. The free access of the Customs, during the normal working hours, to the facilities and warehouses used in connection with these movements.
 - ii. To assist the Customs, when requested, with the purpose of facilitate the physical inspection of goods and merchandise.
 - c) Grant the Customs the access to the registers, accounting, contracts, mail, and to other documentation relative to the goods and merchandise subject to international trade including the computerized systems and respective data base access codes, when the control and registry of such movements are executed via computer.

Article 24

Representation rights

The declarant may authorize the forwarding agent to sign the declaration in his behalf, in the terms established in the Regulation for the Exercise of the Goods Forwarding Business and in the Forwarding Agent Licensing.

TITLE II

SPECIFIC RULES

Section I

Declaration format, documents to be filed with it and their completion

Article 25

Declaration format and utilization

1. The declarations for customs clearance purposes are made through a proper form and its continuation sheets which constitute integrating part thereof and that define the DU forms for the normal import and export regime and the DUA for small commercial orders and which is presented as the annex III to this regulation.
2. The international traveler's luggage declarations shall be made by completing the proper form designated as the Simplified Personal Goods Clearance (DS) which is presented as annex IV to this regulation.
3. The DU shall include an original and three or four copies.
 - a) The original, in white color, is sent to the verification department and after the respective proceedings shall be filed together with the transportation means file;
 - b) The duplicate, in yellow color, constitutes the revenue documentation;
 - c) The triplicate, in blue color, is intended for the declarant;
 - d) The quadruplicate, in green color, belongs to the National Institute of Statistics
 - e) The quintuplicate, in pink color, when necessary, is sent to the Customs Regimes Department.
4. The rules for the completion of each DU box are made explicit in the annex V of the present regulation. The boxes described as compulsory must be necessarily completed.

Article 26

Completion of the DU continuation sheets

Should there be two or more tariff positions to be included in the declaration, their discrimination shall be made in the continuation sheets. These sheets shall be numbered and signed by the declarant, the total number of sheets that constitute the declaration shall be mentioned in first sheet of the DU. All continuation sheets must mention the process number that is figured in first sheet of the DU.

Article 27

Amendments to the declaration It is allowed to the declarant to make amendments to a customs declaration that has already been accepted by the Customs, provided that the application is filed prior to the payment in the treasury.

Article 28

Enforcement of the use of the original declaration

It is expressly prohibited to the customs officers who, by the nature of their functions, have to intervene in the clearance procedures, to execute any formalities inherent thereof by a document that is not the original declaration, except in the cases specially indicated by law or in written instructions, emanated from the Managing Director of the Customs Office.

Article 29

Enforcement of DUC's utilization

1. No goods which have been subject to pre-shipping inspection, in the terms of the customs law, may be cleared without the DUC issued by the company that executed the pre-shipping inspection.
2. The non presentation of the DUC in the cases of compulsory pre-shipping inspection gives place to the post-shipping inspection, in the terms and conditions foreseen in the pre-shipping inspection regulation, subject to any other action which may be applied due to the non-compliance with the customs laws
3. If in the same bill are included the goods or merchandise subject to the pre-shipping inspection, all other merchandise shall be subject to pre-shipping inspection.

Article 30

Goods and merchandise that cannot be included in the same DU

The following goods and merchandise cannot be included in the same declaration:

- a) Those destined to be imported in different customs regimes;
- b) Those benefiting from exemption or reduction of duties and other impositions, and that do not enjoy those benefits;
- c) Those benefiting from a preferential treatment and the ones that do not benefit thereof, in the terms of the international agreements;
- d) The ones which although belonging to the same countermark have to be dispatched in different customs station;
- e) Those destined to different owners or consignees; and
- f) Those coming from different suppliers or exporters.

Article 31

Misplacement of the declaration or other documentation

1. Should any DU copies be misplaced after being accepted by the Customs, new copies of the misplaced declaration shall be issued in the shortest space of time, pursuant to an authorization of the head of the customs station, after such misleading has been duly confirmed. The fact that the new copy is a duplicate must be written in its right superior corner, and it shall be signed by the head of the customs station. The authorization order shall be in appendix or registered in the new documentation.
2. In the event the declarant misleads his own customs certified declaration, the issuance of the duplicates may only be made pursuant to authorization of the head of the customs station and the payment of a charge corresponding to the administrative costs relative to the re-issuance, in the amount of 100.000,00 Mts (One Hundred Thousand Meticaïs) by the reason of personal emoluments.
3. The amount referred in the previous paragraph may be quarterly updated by an order of the Managing Director of the Customs Office, according with currency fluctuation.

Article 32

Completion of the abbreviated DU

1. The rules to complete the abbreviated DU referred in the article 25 shall be approved and published by the Managing Director of the Customs Office.
2. The DUA shall include an original and three copies which destination will be the same as described in the paragraph 3 of article 25, except for the quintuplicate which is not applicable.
3. The clearance of goods recurring to the DUA shall be effectuated by the declarant by presenting the support documentation to be determined by the Managing Director of the Customs Office.

Article 33

Completing the DS

1. The rules to complete the DS referred in Article 25 shall be approved and published by the Managing Director of the Customs Office
2. The DS shall be composed by an original, a duplicate and a triplicate that have the same destination of the ones in article 25 to this regulation.
3. The clearance subject to the simplified regime shall be effectuated by the owner of the goods, presenting the support documentation to be determined by the Managing Director of the Customs Office.

Article 34

Exchange rates used in customs declarations

The exchange rate to be used in the conversion of foreign currencies to Meticaís shall be the one used in commercial transactions, at the day the clearance is accepted.

Article 35

Documents to be filed with the declaration

The documentation to be filed with the declaration (DU) shall be approved and sent for publication by the General Director of the Customs.

Article 36

Contents of the final invoice

1. The final invoice shall contain, when applicable, at least the following information:
 - a) Supplier/exporter: name, full address, Country, telephone and/or fax;
 - b) Consignee/Importer: name, full address, telephone and/or fax;
 - c) Issuing date and respective number;
 - d) Merchandise designation;
 - e) Quantities, brands, models, serial numbers, units, gross and liquid weight, volume or length, and other specifications according with the quality of the goods;
 - f) Unit price, transaction value and the currency in which the values are expressed, and
 - g) Delivery conditions (Incoterms).
2. The Managing Director of the Customs may, and if the service requirements so determinate, add mandatory elements to be presented in the final invoices.

Article 37

Freight and insurance

When the freight and insurance values are not contained in the documentation to be filed with the declaration for the purposes of merchandise estimate price CIF calculation, the percentage of 10 % over the FOB price shall be used by the declarant for the freight, and for insurance 2% over the FOB price added to the freight.

Article 38

Payment of the impositions due

After the payment notice issued by the Customs, the declarant has a 10 days period to effectuate the payment, at the end of which the respective DU shall be cancelled and sold out at three times the amount of the duty.

Article 39

Tare taxation

1. The tare taxation shall obey the following rules:
 - a) When included in the goods value, are taxed as such and classified in the same tariff position of the respective goods.
 - b) When the packing material is invoiced separately, it shall be treated as an separated item for tariff purposes, either for temporary importation or for definitive importation; and,
 - c) When the packing material has a different nature, or is a valued higher than what normally used for goods packing, it shall be taxed as merchandise, according with the respective tariff position for the packing material.

2. The packing material which is specifically imported for the goods packing, except if subject to a temporary importation, shall be taxed as a good according with the respective tariff position referring to the packing material.

Section II

Customs debts guarantee

Article 40

Guarantee

1. The guarantee may be rendered to cover all or part of the due impositions, in the situations foreseen in the next article.
2. The guarantee shall be rendered through the deposit in cash or by a certified check or in accounting notes, bank guarantee letter or from a trusted financial institution, or even by a liability term.
3. For the import/export of merchandise in partial shipments with the same nature may be used a global guarantee that covers the total impositions corresponding to the bulk merchandise
4. The terms and conditions of the guarantee shall be ordered by the authorization to which they are linked, which shall always be awarded by the Managing Director of the Customs or by whom he delegates.

Article 41

Cases in which the guarantee is applied

1. In specific cases and, by application of the interested to the Managing Director of the Customs or to whom he delegates, may be authorized the rendering of a guarantee of the

impositions to be paid, and authorized the anticipated exit of the merchandise, in the following cases:

- a) Perishable goods and other goods which permanence at the Customs may result in deterioration of the quality;
 - b) Newspapers and periodical magazines, which sale depends on the circulation opportunity;
 - c) Dangerous goods which require special treatment and/or which storage cannot be provided in the customs station; and
 - d) In the temporary importation cases including samples for exhibits and fairs when there is urgency in the clearance of the goods.
2. The anticipated exit of merchandise may also be authorized with the guarantee of the value corresponding to the main impositions due in cases of technical dispute process relative to the tariff classification, to the value or origin of the goods.
 3. In all the situations foreseen in this article, the authorization for the anticipated exit of goods and merchandise shall refer to the guarantee that covers it and the respective term, and in all cases the importer shall present a importation declaration, even if he doesn't complete all the mandatory DU boxes.

SECTION III

Payment by accounting note

Article 42

Investment projects reported in the State Budget

The payment of customs impositions due in the importation of goods intended for investment projects that are registered in the State Investment Budget, may be effectuated through the accounting notes issued by the National Directorate for Public Accounting, in the terms of the applicable legislation.

Section IV

Fiscal Benefit

Article 43

Prior authorization

1. The goods and merchandise to be imported with the fiscal benefit foreseen in the law shall be subject to a prior authorization issued by the competent entity.
2. The General Director of the Customs shall issue the necessary instructions for processing of applications.

Article 44

Temporary exportation of goods for repair purposes

1. It is only allowed the temporary exportation of goods susceptible of being identified by means of confrontations with pictures.
2. The form and respective rules to be used in the re-importation of goods in the terms of this article shall be approved by the General Director of the Customs.
3. The temporary exportation of goods for enhancement purposes is subject to a prior authorization by the competent entity, in the terms of the Table VI of the Decree 30/2002 of December 02.

Section V

Verification and re-verification

Article 45

Verification of the declaration

1. The process of verification of the declaration includes:
 - a) The checking of the customs declaration and the support documentation by the Customs, and its conformation with the applicable legislation, and
 - b) The physical verification of the goods and merchandise reported in the declaration
2. The operation referred in clause b) above is of random nature, however it shall mandatory take place always that the merchandise or any other element of the declaration is reported in the risk criteria.
3. The operation of verification of the declaration consists in examining the merchandise description and its tariff classification, the declared values, paying attention to the merchandise quality, quantity, its origin and destination, the regime to which it is subject and the operations of payment and collection of the duties due.
4. Subject to the provisions of article 52, after the above mentioned operations have been carried out without the recurring to a re-verification, and there being no existing proof or evidence of any irregularity in the declaration and, if the payment has been made, the exit of the merchandise is authorized and the examiner shall declare in the DU the conformity with the declaration with the sayings " the declaration is in conformity", and sign it.
5. The exit authorization shall be issued by the computerized system and signed by the examiner or by the re-examiner, as the case may be. In the event there is a computer system breakdown, this authorization shall be given by the respective head of the customs station.

Article 46

Re-verification of the declaration

1. After the verification, all the clearances selected by the risk management system shall be submitted for a re-verification by the senior officers or by the head of the station.
2. Subject to the provisions of article 52, once carried out the above mentioned operations, without recurring to a re-verification and there being no proof or evidence of any irregularity in the declaration and, if the payment has been made, it is authorized the exit of the

merchandise and the re-examiner shall declare in the DU the conformity with the declaration with the sayings " I re-verified" , signing and authorizing the exit of the merchandise, in the same terms of the previous article.

Article 47

Place of verification

1. The verification place is the customs station where the declaration shall be delivered and processed which generally coincides with the place where the merchandise is located.
2. The unusual places shall be designated in a Service Order by the Regional Directors or by the Head of the Provincial Customs Services.
3. The procedures relative to the verification of the goods obey the regulations for international terminal, customs warehouses and industrial free-trade zones applied jointly with this regulation.
4. In special circumstances and duly authorized by the head of the customs station and taking in account the revenue preventive measures, the verification may take place out of the places referred in paragraph one above. In such case, the declarant may incur in the payment of taxes by means of a personal emolument due for the services rendered out of the usual working place, according with the place where the verification takes place.
5. In the cases where the verification cannot be made in the places referred in paragraph one above because they do not gather the minimal conditions for the purpose, the verification may be authorized in other places, including the importer's facilities without costs to him.

Article 48

Physical verifications

1. Always that a physical verification to merchandise is effectuated by the examiner or re-examiner the presence of the owner or his legal representative is mandatory. The examiner

or re-examiner cannot delegate this competence, and they can only use other officers to assist them in this operation.

2. If the verification referred in the paragraph one takes place out of the customs clearance station, the owner or his representative shall guarantee the necessary security conditions for the protection of the customs officers, and provide as well the human and material means to effectuate the verification.
3. Save for exceptional and duly justified cases and authorized by the head of the station, the physical verification of the same merchandise may be authorized. Therefore, if the examiner has effectuated the physical verification of the merchandise he shall inform the re-examiner of his conclusions in the declaration.

Article 49

Verification/re-verification through a sampling

1. The normal method for the verification and re-verification of goods and merchandise is through a sampling. The examiner and re-examiner shall guarantee that sufficient samples are inspected in order to represent the entire shipment. In this case, the result of the verification and re-verification is presumed valid for all the goods and merchandise mentioned in the declaration
2. If the declarant disagrees with the partial verification results he may request an additional verification at his expenses

Article 50

Samples taken for analysis

1. When there is any doubt about the tariff classification or other aspect of the declaration, the examiner or re-examiner shall order to another officer the collection of samples for analysis to be carried out by the Customs or by people or institutions with competences for the purpose.

2. Always that necessary the Customs shall request to the importer or to his representative catalogs, brochures or photographs where the technical specifications of the merchandise are stated for the purposes of paragraph one above.
3. In the event experts are used to provide information on the quality of the goods and merchandise, and there are doubts on the tariff classification, the process shall be appreciated by the Resource Technical Council.
4. The number of samples shall always be three, one for analysis, other to be delivered to the importer and a third shall remain with the customs seal and the signature of the officer that took the sample, until any possible dispute has been solved. All the samples in duplicate shall be returned to the declarant or destroyed under the supervision of a senior officer such as a custom supervisor or above, when requested by the declarant, writing the respective act.
5. Each sample shall identify the customs clearance station from where it was taken, the order and revenue numbers of the DU, the reason of sampling, the date and the examiner/ re-examiner's signature.
6. The collection of samples and its movements to and from the experts, as well as its return to the declarant, shall be registered in the proper book

Article 51

Verification/ re-verification results

The results of all the physical verifications of goods and merchandise shall be registered in the DU.

Article 52

Differences found in the merchandise verification/re-verification

1. Should, during the verifications of the merchandise documentation, there being no bad faith from the importer, any differences up to the value of 2, 500, 000, 00 (Two Million Five

Hundred Thousand Meticais) are identified from the impositions to be paid, due to a divergence on the customs value, the tariff classification and due to error in the accounting of the impositions, the examiner or re-examiner shall within 24 hours:

- a) Issue an additional bill with the specified impositions to correct the impositions to be paid should the amount be of lower value;
 - b) Report the excess value paid for purposes of organization of the restitution process for the impositions paid in excess and, writing down in the initial clearance opened in the process of restitution of the duties.
 - c) Accept the importer or his representative's declaration, stating that he waives the value of the excess payment.
2. Once verified the circumstances in the paragraph one above and if the differences in the impositions to be paid are higher than 2,500,000,00 Mts (Two Million Five Hundred Thousand Meticais), the examiner shall proceed to the setting of the impositions through the affixation on the reverse side of the clearance, stating that he does not agree with the declaration and the reasons of his disagreement and, ordering the issuance of the additional correction order, or in case of impositions paid in excess, proceed according with the paragraph 1 (b).
 3. If the importer or his representative agrees with the examiner and/or re-examiner's position he shall pay the impositions due within five days. Should he disagree with the report and within the same term, the importer or his representative shall declare in writing that he does not agree, presenting his reasons, opening immediately a technical or divergence contestation process in the terms of article 9 of the IPPs, approved by the decree no. 39/2002 of 26 December.
 4. If the differences found in the verification result from bad faith, then the procedure shall be according with the provisions of the fiscal dispute.

Article 53

Restitution of the impositions paid in excess

1. When there are differences, found in the verification or re-verification, giving place to a restitution by the Customs to the declarant, it shall be effectuated through the issuance of a offsetting certificate, by means of the organization of a restitution process for the purpose.
2. If the importer/exporter is an individual and/or does not have sufficient movement to proceed to the offsetting through a certificate, he may request to the General Director of the Customs the restitution in cash or the endorsement to third parties
3. The authorization for the restitution shall be given by the head of the customs station up to the value of 2,500,000, Mts (Two Million Five Hundred Thousand Meticaïs) and, by the Regional Director up to the value of 25, 000, 000, 00 Mts (Twenty Five Million Meticaïs) and, by the General Director of the Customs when the value is higher than the stated ones.
4. For the purposes of paragraph one hereto, the restitutions due shall be claimed by the declarant within 5 (five) years counting from the clearance date, at the end of which the obligations of the state before the declarant ceases.
5. The offsetting certificates may be used by the importer for the payment of duties and other customs impositions at the Customs, and may however, be endorsed under the authorization of who emitted the title.

SECTION VI

Exit of goods

Article 54

Exit authorization

1. Once concluded the verification and re-verification of the merchandise, its exit shall be authorized, together with the transportation means, if that is the case, which shall be presented at the gate of the customs station. The Customs officer in charge shall check the conformity of the volumes and the brands with the authorization, and pass an exit permit to the merchandise

2. The exit authorization shall be issued by computerized means, in the terms of this agreement

Article 55

Delayed merchandise

1. 25 days after the entrance of the merchandise in the customs station without their submission by the importer/consignee to the clearance process, a confiscation process on behalf of the state shall start on the grounds of abandonment and the goods shall be removed to the auction warehouses.
2. The period established in article 38 hereto do not interrupt the counting of the period foreseen in the previous number.
3. When the subjects are empty containers parked in places under the customs control, the head of the customs delegation shall exceptionally and at the request of the interested, authorize the parking for a maximum period of 60 days.

SECTION VI

Breakdowns

Article 56

Breakdown acknowledgment

1. A breakdown may be acknowledged by two arbitrators, one of them, a customs officer appointed by the head of the respective customs station, and the other by the importer.
2. When the head of the customs station chief deems necessary, he can recur to the services of companies, institutions or skilled professionals for the acknowledgement of the breakdown.

3. In the case of perished goods which can affect public health, the head of the customs station shall request the examination thereof by the competent sanitary authority at the owner or consignee's expenses, proceeding as deemed appropriate by such authority. If the goods are void, the competent act shall be written and filed at the customs station, affixing the respective notes in the order.
4. The breakdown shall not be acknowledged by the Customs after the unload report has been written or, when the goods are not unloaded from the transportation mean, after the customs clearance.

Article 57

Customs regime for damaged goods

1. It is foreseen the reduction of the duties and other impositions due in the importation of damaged goods, in the terms defined in the Customs Value Regulation, provided that there is proof that the damage is not due to the owners or consignee responsibility.
2. In the event of damage to food products, medicines or medicinal substances, except if the re-utilization foreseen in article 58 is applicable, they shall be destroyed in the regulatory terms, writing the respective terms. In such case, the reduction shall be complete.

Article 58

Clearance of damaged goods

1. It is allowed to the owners or consignees of goods partially damaged to separate the good part from the damaged one.
2. The owner of the goods or the consignee may clear the good part, introducing them in the consumption or, re-exporting them.
3. When there is abandonment of damaged goods, and these are medicines or medicinal substances, or other perishable substances, or are hazardous to public health, their destruction shall be immediately effectuated in compliance of the provisions of the law, in collaboration with the competent institutions, when applicable. In the case of other goods, the regime normally established shall be followed for the abandonment cases.

Article 59

Damaged food products

1. Damaged food products, inappropriate for human consumption but usable for feeding animals or for any other authorized purposes, may be submitted to clearance by the importer, subject to their classification according with the tariff text.
2. If the goods are not susceptible of enhancement in order to make them proper for the feeding animals, nor usable for other authorized purposes, shall proceed to their destruction.

TITLE III

Special Provisions

SECTION I

Preferential systems

Article 60

Proof of origin

1. The origin certification shall be supported by the documentation that is filed with the goods.
2. For imported goods and those subject to the preferential treatment claim based on the origin, an origin certificate or similar document shall be presented to the Customs according with the Protocol or Treaty that legitimates the preferential treatment.
3. When there are doubts in the analysis of the documentation presented for the clearance of merchandise subject to preferential treatment due to its origin, the Customs may demand an additional proof of origin, including confirmation/verification in the Country of origin.
4. The information reported in the DU shall be the same reported in the origin certificate.

Section II

Special import systems and regimes

Article 61

Abbreviated import system

1. The imports which FOB value is lower or equivalent to 37,000,000,00 Mts (Thirty Seven Million Meticaís) shall be cleared through the DUA, provided that the importer selects such system and, presents a DUA on which the option for the abbreviated system is clearly highlighted in the respective box in the upper right corner.
2. Similarly it is allowed the utilization of the abbreviated system in the import of urgent replacement parts and spares, for production unit machines and equipment, including ports, airports, communication systems, power and water supply systems and industrial units, without value limitation.
3. This special proceeding shall only be used in border customs stations designated by the General Director of the Customs, and in the movement of goods and merchandise imported for commercial purposes or for own use by the destination company.
4. The form to be used for this special proceeding is also the DU, completed in a limited number of boxes in the terms of article 32 hereto.
5. The utilization of the DUA shall only be allowed to the IRPC taxpayers, and the presence of the NUIT number in the box is mandatory
6. The duties and other impositions shall be paid by the declarant before the exit of the goods.
7. The use of this special proceeding its no allowed in the following situations:
 - a) When there are separated shipments with the intention of benefiting of the regime;
 - b) For the goods reported in Table III of the Customs Clearance General Rules;

- c) Goods to which the exemption benefit or other tariff benefit is requested
- d) Goods destined to the State institutions in which the taxes due may be paid by means of an accounting note;
- e) Goods subject to the pre-shipment inspection, and
- f) Goods which evaluation procedure is different from method 1 reported in the rules for the determination of customs value for import merchandise.

Article 62

Simplified system (DS)

1. The simplified import system may be used exclusively for the clearance of goods of a value equivalent or lower than 12, 000, 000, 00 Mts (Twelve Million Meticaís), which accompany the passenger and are not, intended for commercial purposes, obeying the following rules:
 - a) Be articles that by their nature, quantity, quality and value do not result in doubts of commercial nature;
 - b) There is not more than one article of the same species, in the case of electrical appliances and other goods of long-lasting consumption.
 - c) No having been requested any tax benefit for the goods;
 - d) Are not reported in Table III of the Decree nº 30/2002 of 2 December, and
 - e) Goods that require special treatment
2. When the traveler uses the simplified system, the DS form shall be used as foreseen hereto.
3. A normal DU shall be elaborated for values higher than the maximum established hereto.

Article 63

Imports in shipments

1. The Regional Director of the Customs Office may, at the parties' request, authorize the globalization in one DU for the clearance of a shipment of the same species relative to the same transportation means, excepting ships. The General Director of the Customs shall establish in an own normative act the rules for the clearance of various shipments for the same DU.
2. The shipment importation regime in kits for assembly lines shall be authorized by the Minister responsible for the Customs area under a regulating regime.

SECTION III

Audit

Article 64

Post-clearance audit

1. The post-clearance audits referred in the article 18 of the Decree 30/2002 of 2 December shall take place if there are reasons for the confirmation of the customs declaration presented by the importers.
2. Subject to any other tax procedures, the audit mentioned in the previous number may include the verification of:
 - a) The customs regime;
 - b) The quantities;
 - c) The value;

- d) The tariff classification;
 - e) The origin; and,
 - f) In the case of goods with fiscal benefit or any other suspension of duties, the respective authorization and also the verification of the proper use or destination.
3. For audit effectuation and verification purposes referred in this article, the Customs have competence to:
- a) Inspect the goods in site;
 - b) Inspect the accounting, contracts, mail and other documentation related to the purchase or sale, the movement, and payment of those goods that have been imported or exported or even copy or take out any registration, and,
 - c) Request to the owner, manager or accountant, the information relevant for the effectuation of the audit, and they are obliged to provide them, the access codes to the computerized systems, programs, data bases, reports and data , when the control and registration of such movements is effectuated by computer.
4. The audit visitations to the facilities that are not under customs control can only be effectuated by the authorization of the Regional Director of the Customs. Regarding the facilities under customs control, those may be effectuated in the scope of regular control.

Article 65

Joint audits

Nothing prevents post-clearance audits from being followed by auditors and inspectors from other entities.

Article 66

Procedures for the post-clearance audit

1. Always that the documents are removed by the customs authorities, they shall provide for the owner to have in his power a receipt with the details of the files collected and, by a written request, copies of such documentation and files.
2. For the confirmation of any other element of a customs declaration, the customs authorities may request information to the competent authorities of the supplier Country, in the terms of international agreements, protocols or mutual assistance agreements.
3. Once verified any anomaly in the post-clearance audit process, the competent report to the Customs Court shall be written for the instauration of the fiscal procedure, on the grounds of misplacement of duties.

Article 67

Confidentiality rights

1. Any information kept by the Customs, relative to persons or other entities shall not be revealed without express authorization of such person or entity.
2. The following cases constitute an exception to the established in the previous number:
 - a) When ordered by a court or judicial institution,
 - b) In the scope of international treaties, agreements, commercial concessions, or cooperation agreements.
 - c) At the request of the General Director of the Customs, for taxes matters investigation purposes.
 - d) When requested in the terms of the applicable legislation, including the verification of the origin that may involve other agencies.

TITLE IV

Final provisions

Article 68

Offenses and Penalties

Subject to any civil or criminal liability, the noncompliance with the rules established in this Regulation by the declarant, shall be deemed as an infraction punishable in the terms of the customs legislation.

Appendixes:

Explanation notes on the completion of the DU.

DU – Face

DU – Reverse

DU - Simplified