

REPUBLIC OF MOZAMBIQUE

MINISTRY OF PLAN AND FINANCE

THE MINISTER'S OFFICE

Ministerial Diploma no. 10 / 2002

of 30 January

The current customs legislation reform intends to modernize, soften and adequate the legal norms and procedures to the present solicitations of the international Trade.

Due to such alterations, the customs transit legislation assumes a special relevance, both by the geographically privileged location of Mozambique in terms of international transit, and because it is urgent to incorporate in the legislation the contents of bilateral agreements signed with neighboring countries.

In the formulation of this legislation were included, always that possible, the World Customs Organization (OMA) standards and recommendations, as established in International Conventions, for transparence, simplification reasons and harmonization with our commercial partners.

The main objectives to be achieved with this Diploma are:

- a) To facilitate transits, keeping the necessary precautions to protect the risk revenue;
- b) Uniform the procedures with neighboring countries, for the treatment of goods transported under the customs transit regime; and
- c) Introduce the necessary alterations in this legislation resulting from the introduction of the Sole Document and the changes to the procedures relative to the clearance of merchandise.

Therefore, using the attributions awarded to me by clause f) of article 4 of the presidential Decree no. 2/96 of 21 May, I determinate:

Article 1

The Customs Transit Regulation and its appendixes, which constitute integrating part of this Diploma, are approved.

Article 2

The General Director of the Customs shall issue the necessary instructions for the implementation of this Diploma.

Article 3

It is revoked the Ministerial Diploma no. 94/2000 of 2 August and all the provisions which contravene the provisions of this Diploma.

Article 4

This Diploma is effective from the publication date.

Maputo, November 2001

Luísa Dias Diogo

Minister of Plan and Finance

CUSTOMS TRANSIT REGULATION

SECTION I

GENERAL PROVISIONS

Article 1 - Definitions

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

Authorized consignant: person or entity authorized by the Customs to send merchandise directly from his facilities without having to present them at the origin customs station.

Authorized consignee: person or entity authorized by the Customs to receive merchandise directly in his facilities without having to present them at the destination customs station.

Customs transit declarant: person who signs or on whose behalf the merchandise declaration is signed.

Destination customs station: any customs station where a customs transit operation ends.

Departure customs station: any customs station where the customs transit operation starts.

Control station: Custom station responsible for controlling one or more authorized consignants or consignees and, in such case, performs the special duty of controlling customs transit operations.

Customs transit: the customs regime through which merchandise is transported under customs control, from a customs station to another.

International customs transit: is the transit operation that takes place when the origin and destination stations are borders of the Mozambican customs territory.

National customs transit: is the transit operation that takes place in all the remaining situations not classified as international transit, between an origin station and a destination station.

Freight contractors: natural or legal persons licensed by the Ministry of Transports and Communication to process the international customs transit movements under Customs control.

Transporter: person effectively transporting transit merchandise or who is responsible for the operation of the respective transportation means.

Conveying unit:

- a) Containers with a capacity equal or higher than 1 m³, including the parts;
- b) Road vehicles, including trailers and semi-trailers;
- b) Railroad carriages or wagons;
- d) Ships, vessels, barges and other boats;
- e) Airplanes;
- f) Pipelines.

Article 2 - Scope

1. This regulation applies to the national and international merchandise transit operations.
2. The transports made under the customs transit regime referred in clause a) to c) of paragraph 3 below, shall be designated as international customs transit when they are part of a customs transit movement in which one or many borders are crossed according with bilateral or multilateral agreements.
3. The customs transit transports may be designated by:
 - a) International transit (from a entry customs station to a exit customs station);
 - b) Interior transit (from a entry customs station to a interior customs station);

c) Foreign transit (from a interior customs station to a exit customs station);

d) Interior transit or transfer (from an interior customs station to another interior one).

4. An interior customs station is:

- a) The customs station itself;
- b) Customs terminals;
- c) Industrial free-trade zones;
- d) Customs regime warehouses; and,
- e) Any other authorized facility or establishment.

Article 3 – Payment of the Customs service impositions and tariff

1. The merchandise transported under the transit regime is subject to the payment of duties and other impositions relative to the importation or exportation.
2. By means of services rendered by the Customs, the Ministry of Plan and Finance shall determine that the transit operations are subject to a service charge not higher than the counter value in Meticaís until 10 (ten) united states dollars for each transit declaration.

Article 4 - Guarantee

1. The guarantee is determined based on the risk offered for the revenue.
2. The transit operations foreseen in article 2 may only take place if covered by a guarantee. Such guarantee complies with the following principles:
 - a) If the merchandise is intended or leaves an establishment under customs control and the transportation is made by the beneficiary of the regime, the guarantee from such establishment shall cover the transit operation;
 - b) If the conveying means does not belong to the establishment, the transporter has to prove that he is acting on behalf of the establishment with the guarantee; otherwise he has to use his own guarantee;
 - c) The guarantee from the authorized consignant or consignee covers the transit merchandise, being executed in the circumstances foreseen in this regulation; and
 - d) In the event the merchandise is transferred from an establishment to another, it is the guarantee of the establishment's exit clearance that covers such movement.
3. The guarantee may be:
 - a) Global, if it covers a certain number of transits made during the minimum period of 3 (three) months until 1 (one) year, extendable, subject to the guarantee foreseen in par. 4 hereto; or
 - b) Isolated, if it covers only one transit operation.
4. The guarantee may be authorized by the General Director through:
 - a) Liability term which constitutes as a real guarantee, enough property for the amount guaranteed by the applicant, for natural and legal persons;
 - b) Liability term for merchandise destined to State investment projects, issued by the competent body;
 - c) A bank guarantee, issued by a trusted bank or financial institution;
 - d) Treasure bonds or titles;
 - e) Cash deposits;

- f) Certified check; or
- g) Bond insurance of a similar value.

Article 5 – Guarantor

The guarantee shall be rendered by the customs transit declarant.

Article 6 – isolated guarantee

1. The amount of the isolated guarantee is 100% of the risk revenue, determined according with the provisions of this article.
2. When the guarantee is made through a certified check issued by a bank institution, it shall be returned to the endorser once the transit ends added of ten business days, when the transit movement follows the term foreseen in this regulation.
3. The calculation of the guarantee foreseen in this article shall be made in the simplified way, by means of the application of the parameters established by the General Director of the Customs, calculated over the customs value of the merchandise, for risk revenue guarantee purposes.

Article 7 – global guarantee

1. The global guarantee shall be rendered according with the following table:

Customs value of the Merchandise covered by the guarantee, in american dollars	Guarantee, in American dollars
until 500.000	50.000
from 500.001 to 1.000.000	75.000
from 1.000.001 to 2.000.000	150.000

2. The global guarantee in the cases in which the customs value of the merchandise is higher than two million dollars, may be established by the General Director of the Customs, by application of the interested, taking into account the risk involved for revenue, resulting from the customs record of the interested and the type of merchandise which shall be covered by the guarantee and taking into consideration the company's property.
3. It is the declarant's responsibility to supplement the global guarantee when there is an infringement of the provisions of par. 1 hereto resulting from his operations.
4. The release of the global guarantee coverage linked with a certain transit operation is made after the transit movement has been concluded, in the terms of art. 19. For practical purposes of the application of this rule, the global guarantee is considered released 10 (ten) business days after the confirmation date, made by the destination station in the transit declaration, certifying that it took place complying with the provisions of this regulation.
5. The situations in which the destination station does not certify the declaration due to irregularities found, or the transit does not reach the destination station within the foreseen term, are excluded from the general rule referred in paragraph 4 above.

SECTION II

OBLIGATIONS OF PERSONS INVOLVED IN TRANSIT

Article 8 – Declarant's obligations

1. The declarant is responsible for the compliance of the obligations resulting from customs transit, and shall namely ensure the presentation of the intact merchandise at the destination customs station, as well as the accompanying documents, according with the provisions of this regulation.
2. The properly licensed agents at the Customs who act in representation of the person bearing the merchandise shall be jointly liable for the compliance of all the obligations foreseen in this regulation, including the provision of a guarantee and the payment of the impositions due, when applicable.

Article 9 – Transporter's obligations

Subject to the obligations foreseen in special legislation, the transporter is obligated to place the merchandise at the Customs disposal, for verification purposes always that solicited.

SECTION III

CONVEYING MEANS EFFECTUATING TRANSIT OPERATIONS, REQUIREMENTS AND PROCEDURES

Article 10 – Conveying units

The units involved in road transit, under customs control, shall be built and equipped in the following way:

- a) When applicable, the customs seals may be placed in a simple and effective manner;
- b) No merchandise shall be removed or introduced in the sealed parts of the conveying unit, without visible traces of tampering and rupture of the customs seal;
- c) When involved in the transportation of small merchandise which do not constitute luggage must have fixed containers in which such merchandise is conditioned in order to the sealing of the container;
- d) Does not have places in which to hide merchandise; and
- e) Every space susceptible of containing merchandise is easily accessible to customs inspections.

Article 11 – Customs seal and identification marks

1. The head of the departure customs station shall decide in the terms of paragraph 3 hereto, if the conveying means shall have customs seals or not.
2. When deemed necessary and when the merchandise is transported in a closed compartment, it is mandatory the use of a cover closed by a sole cable and the sealing shall be made over the two ends of the cable closing the cover.
3. The head of the departure customs station may dispense the customs sealing requirements in the following situations:
 - a) when the cargo is abnormal due to its dimensions or characteristics, not allowing its conditioning in sealed containers, being therefore easily identifiable by the serial number or other easily recognized characteristics, and when the documents accompanying it make possible the correct identification of the merchandise;
 - b) The merchandise considered to be of low risk in terms of the possibility of misplacement and illegal introduction into the domestic market. The General Director shall publish orientation norms of how the merchandise may be included in this exception; and
 - c) When the customs seals or other customs administration are placed and considered proper for such purpose.
4. The number of customs seals and other details shall be reported in the merchandise transit declaration and the respective manifest.
5. The tampering of the seal applied or authorized by the Customs or signs of its tampering are considered to be fiscal violations, if other evidences do not indicate the occurrence of a more serious fiscal violation punishable in the terms of the customs legislation. Consequently, the execution of the guarantee may be determined for the payment of the fines and/or other impositions due which are covered by it, regardless of other penalties foreseen in the law.
6. The head of the customs station shall determine the customs follow up of merchandise at the owner or his representative's expenses, based on the risk involved for the revenue, in the terms of article 25 hereto.

Article 12 – Electronic control of conveying means

The Customs may place an electronic device in the conveying means for monitoring the transit movement purposes.

SECTION IV

TRANSIT DOCUMENTS AND PROCEDURES

Article 13 – Presentation at the departure Customs Station

1. The following shall be presented to the Customs at the departure place:
 - a) The conveying means to be used in the transit movement;
 - b) The merchandise;
 - b) The manifests or other commercial documents for the merchandise; from each destination customs station for the transported merchandise; and
 - d) The transit declarations corresponding to each manifest.
2. The departure customs station may carry out the verification of the declared merchandise, and if necessary, shall seal the compartments or trailers in which the merchandise is kept, registering in the transit declarations the references of the respective seals.
3. The conveying means is considered to be in transit until it is presented at the destination customs station, registered in the transit declaration.

Article 14 – Transit merchandise declaration

1. The merchandise in customs transit shall always be accompanied by the competent transit declaration form in Annex I hereto.
2. The transit merchandise declaration shall be signed by the declarant.
3. It is mandatory the presentation of a declaration of transit merchandise for each transit movement. Merchandise destined for many consignees may be carried in the same conveying means, for the same destination and included in the same transit declaration provided that:
 - a) Only one declarant provides the transit movement guarantee; and
 - b) A cargo manifest is presented in the terms of article 15 below.
4. It is mandatory the reference of the guarantee in the transit merchandise declaration.
5. The declaration shall be presented by the declarant at the origin customs station, properly completed. The customs station shall state in the declaration the route to be followed, details of the seals applied, any other relevant detail at the departure time, stamping the original and the four copies, which shall have the following destination:
 - a) The original shall be sent by the origin station to the destination. After being certified the end of the transit by the destination station, shall be sent by it to the Clearance Office;
 - b) Copy 1, followed by the conveying means in transit at the declarant's responsibility. After being certified at the end of the transit at the destination station, remains with the declarant;
 - c) Copy 2, shall be sent to the origin station by the Clearance Office;
 - d) Copy 3 shall be sent by the origin to the destination station and after being certified is intended to be archived at the latter station; and
 - e) Copy 4 shall be archived at the origin station.

Article 15 – cargo manifest

1. It is mandatory the elaboration of a cargo manifest for each transit consignment.
2. The merchandise in transit shall be described in the manifest, respecting the contents of Annex II hereto, such manifest shall be completed in an original and two copies. The General Director may authorize the alternative commercial documentation to be used for this purpose. The destination is the following:

- a) The original remains with the declarant;
 - b) Copy 1 shall be archived at the origin station; and
 - c) Copy 2 shall be archived at the destination station.
3. Provided that the manifest contains the data reported in the form in Annex II hereto, the Customs may accept that it has a different form from the one prescribed in the referred annex.

Article 16 – Documents in the event the merchandise is ungrouped

When transit merchandise intended to a customs station in which the merchandise have to be ungrouped, the declaration of the merchandise in transit shall clearly mention the first destination. After the ungrouping, the merchandise which continues in transit for another customs station or warehouse shall be subject to a new merchandise declaration, initiating a new transit.

Article 17 – Transshipment during transit movement

1. When the merchandise has to be transshipped from a conveying means to another during the course of transit, as a result of factors out of the control of the transit declarant, the declarant or transporter shall report, if possible, the nearest customs station and only after the authorization may proceed to the transshipment.
2. If for security reasons, the transporter cannot wait for the Customs authorization to effectuate the transshipment, he may take the necessary and indispensable measures and, notify the Customs as soon as possible.
3. In any of the situations foreseen in paragraph 1 and 2 hereto, it is mandatory that the declarant or transporter writes in the verso of the merchandise declaration the occurrence, describing the reasons of the transshipment, the place, date and hour in which took place, the data of the vehicle to which the merchandise was transshipped and the destination of the vehicle from which they were transshipped.

Article 18 – Arrival at the destination customs station

1. When the conveying means arrives to the destinations customs station, the declarant, his representative or the transporter responsible for the transit, shall observe the following procedures:
 - a) Deliver the documents relative to the transit;
 - b) When applicable, the opening of the seal protecting the conveying unit shall only be made after the authorization of the Customs; and
 - c) The unloading of the transit merchandise intended for importation shall only be made at approved customs facilities, such as:
 - i. a international cargo terminal;
 - ii. an approved customs warehouse;
 - iii. the facilities of an authorized consignee;
 - iv. a industrial free-trade zone; or
 - v. any other facilities duly approved by the Customs.
2. As soon as the merchandise is presented to the destination customs station, it shall verify if all transit conditions have been complied, and shall certify the end of the transit.

Article 19 – End of the customs transit

1. In order to certify the transit movement, the destination customs station shall register in the original and the copies of the transit declaration, as well as in the manifest or other equivalent document the conclusion of the transit movement relative to the provisions of this regulation, giving the following destination to the documents:
 - a) The original transit declaration shall be sent to the Clearance Office corresponding to the origin customs station for the transit;
 - b) Copy 1 of the declaration and the original of the manifest or equivalent document are given to the declarant; and

- c) Copies 3 of the declaration and 2 of the manifest or equivalent document and the unloading report, in the last case when the merchandise is unloaded from the conveying means, it remains archived at the transit destination customs station.
2. The payment or release of the guarantee shall be given by the Clearance Office at the origin customs station, after the reception of copy 2 of the declaration, sent to the origin station, and the original of the declaration sent to the destination station, after the transit movement consummation according with the rules of this regulation has been certified.
3. The destination customs station shall always register in the transit declaration the date and time of arrival of the conveying means.
4. The head of the destination customs station is responsible for starting any investigations on merchandise not arrived, and shall proceed to it as soon as it is evident that the merchandise awaited did not arrive .

Article 20 – Breakdown or accident

1. In exceptional cases in which there is a delay in the transit course, the transporter shall report the fact to the nearest Customs through the fastest means, and shall make identical communication to the destination customs authority.
2. If the merchandise transported under the customs transit regime are destructed or irremediably lost by virtue of an accident or force majeure or which are lacking, for reasons related to their nature, the declarant shall solicit to the Customs the acknowledgement of the breakdown, as well as the application of the most convenient action.
3. The procedures to be applied in case of breakdown are reported in the Customs Tariff's Preliminary Instructions.
4. After the acknowledgment of the breakdown by the Customs, the remaining merchandise may be, upon decision of the customs authorities:
 - a) Be introduced in the market, by means of the payment of the duties and other impositions calculated over the value of the merchandise as it is;
 - b) Continue the transit;
 - c) Be re-exported;
 - d) Be considered abandoned on behalf of the State; or
 - f) Be destructed or treated in a way to remove all its commercial value, under customs control and at the expenses of the State.

Article 21 – Priorities in the transit operations

The Customs shall give priority to the operations relative to the customs transit of:

- a) Live animals;
- b) Newspapers and magazines;
- c) Medicines; and
- d) Dangerous or easily deteriorating merchandise for which rapid transportation is essential.

SECTION V

SPECIFIC PROCEDURES ACCORDING WITH THE CONVEYING MEANS

Part 1 – Road Transit Procedures

Article 22 – Authorization to transport merchandise in transit

Every person transporting merchandise in road transit must be properly authorized by the competent Authority. Such authorization shall be presented to the Customs always that solicited.

Article 23 – Authorized routes

1. Road transits shall only take place in the authorized routes for the joint order of the General Director of the Customs and the Authority responsible for Roads and Bridges. Such routes shall be published in the Official Gazette.
2. The noncompliance with the routes stated in paragraph 1 above constitutes a fiscal violation punishable in the terms of the customs law, if the most serious punishment is not applicable.
3. The head of the origin customs station may, exceptionally, and by justified reasons stipulate an alternative route for only one trip, in coordination with the head of the destination customs station.

Article 24 – Duration of the route

1. Every transit movements shall be the as direct as possible, between the origin customs station and the destination, in the routes foreseen in paragraph 1 of article 23 and taking the minimum time possible, taking into consideration the conditions of the route, the nature of the transportation means and any other relevant factor.
2. The destination customs station shall verify the time of departure and arrival. If the interval seem to be excessive, and taking into consideration the conditions of the route and the characteristic of the conveying means, shall be carried out a careful verification of the customs seals and the conveying means and, if deemed necessary the verification of the merchandise, shall be made through the documents accompanying the transit.

Article 25 – Fiscal follow up

1. In exceptional circumstances and when the transit operation represents a high risk level and the conveying means do not present the conditions foreseen in this regulation, the head of the origin customs station shall decide on the convenience of the fiscal follow up, or other security measure.
2. The expenses resulting from a fiscal follow up shall be paid by the declarant, in the Treasury of the origin customs station, before the transit movement starts. The cost of the fiscal follow up shall be established by the Head of the origin customs station, according with the parameters defined by the General Customs Directorate.

Part 2 – Railway transit

Article 26 – Railway transit procedures

1. The basic railway transit procedures are the same established in articles 13 to 21 of this regulation.
2. The general Director of the Customs shall issue the necessary instructions for the operation of the provisions of this regulation.
3. The merchandise transported by railway may only enter Mozambican territory through the border posts approved by the Customs for such purpose. The General Director shall designate the railway station at the site or near the entry point to the Country which shall be authorized as entry and exit point for railway traffic. The merchandise shall be transported:
 - a) Directly to or from an authorized railway terminal; and
 - b) When authorized to any other authorized railway facility, warehouse, or authorized consignee facilities, provided that the proper equipment and commodities are available.
4. The railway transit movements which originate in Mozambique shall equally depart from an approved railway terminal. However, the loading or merchandise conditioning point shall be authorized in the terms of clause b) of paragraph 2 hereto.
5. The customs transit control and movement are at the responsibility of the railway operator who shall be designated as transporter or in the case of international transportation by the properly licensed and authorized customs agents in the terms of this regulation.

Part 3 – Air Transit

Article 27 – Air transit procedures

1. The basic procedures for air transit are the same established in articles 13 to 21 hereto.
2. The General Director of the Customs shall issue the necessary instructions for the operation of the provision of this regulation.
3. The merchandise transported in customs air transit regime may only be effectuated by customs transit agents authorized by the Customs for such purpose.
4. When the transit movement starts or ends an air movement, it shall only take place at an airport approved for such purpose. For international transit, the airport shall be an approved international terminal.
5. The customs control and movement is at the responsibility of the operator of the airline company who shall be designated as the transported.
6. The air transit operator shall, with the proper antecedence, report to the Customs authorities the effectuation of regular and extra flights.

Part 4 – Maritime Transit

Article 28 – Maritime Transit procedures

1. The basic maritime transit procedures are the same established in articles 13 to 21 hereto.
2. The General Director of the Customs shall issue the necessary instructions for the operation of the provisions of this regulation.
3. The merchandise in the maritime transit regime shall only be transported in proper embarkations for such purpose, and such movements shall begin in ports which are approved International Terminals.

Part 5 – Pipeline Transit

Article 29 – Pipeline Transit Procedures

1. The basic pipeline transit procedures are the same established in articles 13 to 21 hereto.
2. The General Director of the Customs shall issue the necessary instructions for the operation of the provisions of this regulation.

SECTION VI

INFRIGIMENTS AND PENALTIES

Article 30 – Infringement and penalties

1. Subject to any civil or criminal liability, the noncompliance by the declarant or transporter, of the conditions established in this regulation shall be considered as an infringement punishable in the terms of the customs legislation.
2. In case of recurrence by the customs agent or transporter, the General Director of the Customs may recommend to the competent Authority the suspension or cancellation of the transit license.
3. The conveying means and the merchandises in it are subject to confiscation and abandonment on behalf of the State in the event a infringement punishable with such penalties is made.
4. The declarant and/or any person involved in the infringement punishable with the confiscation, loss of the transport and merchandise penalty, shall also be subject to the effective loss of the business license, subject to other applicable penalties.

SECTION VII

TRANSITORY AND FINAL PROVISIONS

Article 31 – Transitory provisions

1. The operators involved in customs transit have 120 (hundred and twenty) days, counting from the publication date of this regulation, to adjust the safety and control conditions, foreseen in this regulation.
 2. The provisions relative to the guarantee which cover the transit movements, contained in this regulation, shall be implemented by the Customs 120 (hundred and twenty) days counting from the publication of this regulation.
 3. The guarantees still in force at the date of publication of this regulation, and which matures before the term foreseen in paragraph 2 above, may be renewed until the implementation date of the new system of guarantee foreseen in this article.
 4. The other provisions shall be applied first as a term, foreseen in this regulation.
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Appendixes

Annex 1 [Transit merchandise declaration \(face\)](#) [\(overleaf\)](#)

Annex 2 [Cargo manifest \(face\)](#) [\(overleaf\)](#)