

PUBLIC NOTICE

Supplement to the Sierra Leone Gazette Vol. CXIII, No. 62

dated 23rd September, 1982

PUBLIC NOTICE No. 15 OF 1982

Published 23rd September, 1982

THE CUSTOMS TARIFF ACT, 1978
(No. 16 of 1978)

THE CUSTOMS TARIFF REGULATIONS, 1982

Short title.

In exercise of the powers conferred upon him by section 31 of the Customs Tariff Act, 1978 the Minister of Finance acting in Agreement with the Member States to the Mano River Union, hereby makes the following Regulations:—

PART I PRELIMINARY

1. (1) In these Regulations, unless the context otherwise ^{interpreta-} requires— _{tion.}

“Member Country” means a Member State of the Mano River Union;

“Member State” means a State which is a signatory to the Mano River Union Declaration signed on the 3rd day of October, 1973, and described in the definition assigned to it in the Customs Tariff Act, 1978;

“Third Country” means any country other than a member State of the Mano River Union.

(2) These Regulations shall apply to the Member States ^{Application} of the Mano River Union and Third countries.

INVOICES

2. All invoices of merchandise to be imported into a Member Country shall be in the English Language and shall set out the following— ^{Form of Invoices and particulars required on imported goods.}

(a) the port of entry to which the merchandise is destined;

(b) a detailed description of the merchandise including the marks and numbers of the packages in which the merchandise is packed;

- (c) the quantities contained in each package in the weights and measures of the country or place from which the merchandise is shipped or in metric;
- (d) the purchase price of each item of merchandise to be imported in the currency of the country of purchase or Leones and cents;
- (e) the amounts, separately itemised by name, for cartage, inland carriage, freight, insurance, cost of containers and packing, and such other charges as may be deemed necessary to include in order to reflect the actual delivery costs of the merchandise to the port of entry designated in the invoices;
- (f) the amount of any discount allowed to the purchaser of the merchandise and of commissions paid or received thereon;
- (g) if the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value of each item in the currency in which the transaction is usually made, or, in the absence of such value, the price in such currency as the manufacturer, seller, shipper or owner would have received or was willing to receive for such merchandise if sold in the ordinary course of trade.

3. The Customs Authority may require an importer to produce the original invoice relating to imported goods for inspection in any instance where such invoice is not presented by the importer for the purpose of Customs entry.

PART II

RELIEF FROM DUTY OF GOODS ORIGINATING IN A MEMBER COUNTRY

4. (1) Goods originating in a Member Country of the kind enumerated at paragraphs (a) to (k) of section 5 of Customs Tariff Act which are imported into one Member Country from the other and are consigned direct to that Member Country shall be certified by the exporter in the invoice which shall be submitted by the importer with his claim for duty free entry.

(2) For goods of the kind enumerated in paragraph (k) of section 5 of the Customs Tariff Act evidence shall be submitted identifying the goods as belonging to a class originating in any of the other Member Countries.

Production of original invoice.

Certificate in Invoice.

5. If the Customs Authority is doubtful as to whether any goods in respect of which admission is claimed without payment of duty under section 4 of the Customs Tariff Act he may require documentary or other evidence to be produced or take any other action he considers necessary in order to substantiate the correctness of the claim. Power to demand additional evidence of origin.

6. Goods originating in a Member Country in respect of which admission without payment of duty is claimed shall be packed separately from other goods and shall not be entered on entries along with goods which are not so claimed. Goods of origin of Member State to be packed and entered separately.

7. Goods in respect of which admission without payment of duty is claimed as originating in a Member Country shall not be granted such admission if they are imported from a third country; provided that, if the Customs Authority is satisfied that the goods were over-carried in error and returned to the port or place of intended destination they may be so admitted. Goods imported from a third Country.

8. Containers and packings of a kind which are chargeable with duty separately from the goods they contain shall qualify for duty free entry only if they meet the conditions of these regulations. conditions for duty-free containers.

PART III

VALUATION OF IMPORTED GOODS

9. The price paid or payable may be accepted as the value for Customs purposes if— price may be accepted as value.

- (a) the contract of sale is executed within the period specified in regulation 10;
- (b) the price corresponds, at the time it is agreed upon, to prices on a sale in the open market between a buyer and a seller independent of each other; and
- (c) the price is adjusted, if necessary, to take account of circumstances of the sale which differ from these on which the normal price is based.

10. (1) For purposes of regulation 9, the price paid or payable may be accepted if the date of the contract precedes the material time for valuation specified in paragraph (f) of Section 12 of the Customs Tariff Act, 1978 by not more than six months. Time limit for contract price. Act No. 16 of 1978.

(2) Where goods are usually sold with a delivery period of between six months and twelve months, the six-months' period of grace referred to in paragraph (1) may be extended to twelve months.

(3) Where goods are usually sold with a delivery period of more than twelve months, the period of grace may be correspondingly increased, but shall not, however, exceed twenty-four months.

(4) The goods for which the periods of grace referred to in paragraphs (2) and (3) can be allowed and the length of the period of grace admissible under paragraph (3) shall be determined by the Customs Authority.

(5) Where goods are manufactured to order, the price paid or payable may be accepted for the purpose of regulation 9 when delivery has been made within the agreed period.

(6) If it is proved that reasons of 'force majeure' or exceptional circumstances have caused the delivery period to exceed the period of grace admissible under paragraphs (1) to (5) the latter period may be correspondingly extended.

(7) The application of the periods of grace referred to in paragraphs (1) to (5) may be suspended by the Customs Authority during any period of abnormal price fluctuations.

Importer to supply all information. 11. The importer of any goods or other person concerned at any time with such goods shall supply all information and also produce all documents to the Customs Authority as he, in his opinion, may require for the valuation of the goods.

Declaration of value. 12. Where any goods, for which a rate of duty is specified in the Customs Tariff by reference to their value are imported, the person making entry shall at the time of making entry or within such period thereafter as the Customs Authority may in special circumstances allow, produce to the Customs Authority a declaration made by the importer in respect of the goods and duly completed in the appropriate form prescribed in these regulations.

Declaration not necessary for goods less than Le100.00. 13. Notwithstanding the provisions of regulation 12, except where there is reason to doubt the correctness of the declared value or where there is suspicion of fraud, a declaration in the appropriate prescribed form need not be produced where the value for Customs purchases does not exceed one hundred leones.

Goods may be revalued. 14. (1) Where there is reason to believe that imports by particular importers from particular exporters may not be the result of open market sales as envisaged by section 12(c) of the Customs Tariff Act the Customs Authority shall examine all relevant facts with a view to determining the value.

(2) Delivery of the goods, on security to cover the duty chargeable being given, may be allowed by the Customs Authority pending determination of value.

15. (1) The form of declaration specified in the Appendix to this Part of these regulations is hereby prescribed for use by importers in respect of goods liable to *ad valorem* rates of duty. Form of declaration.

(2) A declaration not made in accordance with directions thereon shall be invalid and shall not be accepted.

16. Section 12 (e) of the Customs Tariff Act shall not be construed as preventing the inclusion of the value of any intellectual or industrial property rights in the normal price. Intellectual or industrial property rights.

17. A trade mark shall be treated as a foreign trade mark if it is the mark of— Foreign trade marks.

- (a) any person by whom the goods to be valued have been grown, produced, manufactured, offered for sale or otherwise dealt with outside the Member Country; or
- (b) any person associated in business with any person referred to in paragraph (a); or
- (c) any person whose rights in the trade mark are restricted by an agreement with any person referred to in paragraph (a) or (b).

18. (1) The price for the right to use a foreign trade mark shall be included in the normal price of the goods to be valued after importation taking into account one or more of the following— Value of Trade Mark.

- (a) simple uses, such as application of the trade mark, breaking bulk, sorting or packing;
- (b) uses which do not contribute in any way or contribute only slightly to the essential characteristics or properties of the goods to which the trade mark is to be applied.

(2) The value of the right to use a foreign trade mark shall be wholly excluded from the normal price of the goods to be valued, if the provisions of paragraph (1) do not apply, and if—

- (a) the goods are of a kind in general supply and are freely available in the open market; or
- (b) the right to apply the trade mark to the finished product depends on operations carried out after importation and not on the use of the goods to be valued; or
- (c) the imported goods are regarded by the Customs Authority as constituting a relatively negligible element in the product to which the trade mark is to be applied.

(3) Where the provisions of paragraphs (1) and (2) do not apply, part of the value of the right to use the foreign trade mark shall be included in the normal price of the goods to be valued the part of such value, attributable to further manufacture after importation, being excluded from the normal price of the goods to be valued.

Exemption
from duty on
value of the
right to use
trade mark.

19. Exemption from duty shall be allowed in respect of the value of the right to use a trade mark in the following cases—

- (a) When for goods imported under a trade mark which is not traced as a foreign trade mark within the meaning of regulation 17 trade mark is that of a person established in the Member Country, if that person is the importer of the goods and the mark has been affixed at his request;
- (b) When, in the circumstances envisaged in section 12 (c) (ii) and (iii) of the Customs Tariff Act and if no royalty has been charged for the right to use the trade mark which is treated as a foreign trade mark within the meaning of regulation 17 as follows—
 - (i) the trade mark is the mark of a sole concessionaire established in the Member Country as long as there is no relationship between the concessionaire and the supplier of the goods to be valued other than trade relationship and that paragraph (c) of regulation 17 does not apply,
 - (ii) the trade mark is the mark of a person established in the Member Country who is associated in business with the supplier of the goods to be valued and also imports identical goods obtained in circumstances conforming to paragraph (a) of section 12 of the Customs Tariff Act 1978 for re-sale under that mark;
 - (iii) the trade mark is the mark of a person established in the Member Country who is associated in business with the supplier of the goods to be valued solely by reason of the fact that a third person has a holding in the property of both of them, provided that such association does not influence the transactions concerning the goods to be valued;

- (iv) the trade mark is the mark of a person established in the Member Country who is associated in business with the supplier of the goods to be valued solely by reason of the fact that he has granted a loan to the supplier, that he has received a loan from the supplier, or that a third person has granted a loan to both of them:

Provided that such association does not influence the transactions concerning the goods.

20. Where goods are imported under a contract of lease or hire and a sale price of the goods to be valued or of competitive goods which could be used as a basis of valuation is not available, the total anticipated lease or hire charges of the goods during their normal life shall serve as a basis for valuation subject to adjustments of time and place and allowances for charges, including import duties, incurred in the Member Country, which are included in the hire or leasing charges, and subject further to any adjustments necessary to ensure that the contract conforms to the conditions of section 12 (c) and (d) of the Customs Tariff Act as if it were a contract of sale. Value of goods on lease or hire.

21. Where the quantity of goods which are the subject matter of a sale as envisaged in section 12 of the Customs Tariff Act is imported in split or successive consignments the Customs Authority shall have discretion to determine the quantity to be valued having regard to the circumstances under which the importation takes place. Customs to determine quantity.

PART IV

DRAWBACK

22. Drawback shall not be granted unless exportation occurs within one year after importation of the imported goods or such longer period as the Customs Authority may in particular cases allow. Condition of drawback.

23. Drawback shall not be paid on any goods—

- (a) where the amount of the drawback claimed in respect of the goods entered on any one export entry or other relevant documents is less than ten leones;
- (b) where the proper officer is not satisfied that the goods in respect of which drawback is claimed are identical with the particulars thereof contained in the entries, invoices or other documents relating to such goods;

When drawback not payable.

- (c) where the Customs Authority considers that the value of the goods has on account of deterioration or any other cause whatsoever substantially depreciated;
- (d) where the person presenting the goods for examination does not furnish the proper officer with such samples as he required for purposes of test or otherwise or does not duly assist such officer in examining and taking an account of such goods;
- (e) unless the goods are conveyed direct and without delay from the place of examination on to the aircraft, ship or vehicle in which they are to be exported, or to the bonded warehouse or free zone in which they are to be deposited:

Provided that the proper officer may in his discretion allow goods to remain in official custody for a reasonable period at the risk and expense of the trader before their direct conveyance.

Form of claim. 24. All claims for drawback shall be made in the form prescribed by the Customs Authority.

Records of stock account to be available. 25. Any person claiming drawback shall maintain records or stock accounts in order to enable the validity of the claim for drawback to be verified.

Drawback may be made periodically. 26. If a request to that effect is made by the claimant the Customs Authority may pay drawback periodically in respect of goods exported during a specific period.

Production of Landing Certificate. 27. The Customs Authority may require the person claiming drawback to produce satisfactory evidence of the landing outside the Member Country or disposal of any goods exported before certifying the debenture.

Application to be filed in duplicate. 28. (1) A manufacturer desiring to establish a drawback claim shall file with the Customs Authority an application in duplicate setting out the following information—

- (a) Name and address of applicant;
- (b) Location of factory;
- (c) Articles produced with use of imported materials;
- (d) Imported materials used in the Manufacture of articles manufactured for export;
- (e) Quantity of imported materials appearing in manufactured articles;
- (f) A detailed description of manufacturing processes;
- (g) A description of records to be maintained;

- (h) A statement to the effect that any change in a manufacturing process resulting in the use of a different quantity of imported materials as set out in the application will be immediately reported to the Customs Authority;
- (i) Date of manufacture of first articles for export;
- (j) Records of disposal of waste.

(2) The application shall be referred to a Customs Officer for the purpose of verifying the statement contained therein. The verifying officer shall report as to whether the processes of manufacture and the records to be maintained as described in the application are adequate to enable identification of imported materials used in the manufacture of articles to be exported with benefit of drawback.

(3) If the application is approved, drawback may be allowed on articles exported or deposited in bonded warehouse or free zones on or after the date of approval.

(4) Drawback shall not be allowed on articles manufactured with the use of imported materials if such imported materials were imported more than one year prior to manufacture, unless an extension of time is allowed by the Customs Authority.

29. (1) The exporter shall prepare an Export Entry on the prescribed Customs Form for articles exported with benefit of drawback and shall type in the upper left-hand corner of the form the words "Exported with Benefit of Drawback Laden Under Customs Supervision." The lading of the merchandise shall be supervised by a Customs Officer who shall report the date and time of lading and show shortages if the merchandise is in less quantity than that described in the export entry. Upon receipt of the report of lading the Collector shall transmit the entry to the Customs Authority who, if satisfied, will pay drawback on the basis of the rate established under the application for drawback. Export Entries.

(2) Export entries shall be presented to the Collector of Customs on the prescribed form such entries shall be examined to determine that all regulations relating to the exportation of merchandise have been complied with. The procedure relating to classification, the amount of duties and taxes due, and approval and payment of duties and taxes shall be the same as those prescribed for the processing of import entries.

PART V

TEMPORARY IMPORTATION

30. Whenever goods are admitted temporarily without payment of duty under a provision of law the following general regulations shall apply— Temporary Importation.

- 10
- (a) the importer may be required by the Customs Authority to make application before hand on a form prescribed for the purpose and in as many copies as the Authority may specify;
 - (b) security for payment of duty may be demanded and in such case shall be in an amount to be decided by the Customs Authority;
 - (c) unless it is otherwise provided for in any other legislation relating to Customs, the time for temporary admission of the goods without payment of duty shall be fixed by the Customs Authority:

Provided that at the request of the importer the Customs Authority may, in its discretion extend the period so fixed;

- (d) the importer may, with the consent of the Customs Authority, terminate temporary admission by declaring the goods for home use subject to payment of the duty demanded and subject to compliance with the conditions and formalities imposed by the Authority.

PART VI REVOCATION

31. The Customs Tariff Rules are hereby revoked.

Revocation
Volume VIII
p.2119.

APPENDIX TO PART I

FORM A

Country of Origin	Marks and Numbers on packages	Quantity and Description of goods	Selling price to Purchaser	
			at	Amount

I (i).....* of (ii).....† of (ii).....
 manufacturer/supplier of the goods specified in this invoice
 amounting to.....hereby declare that I.....
 [(iv) have the authority to mark and sign this certificate on
 behalf of the said manufacturer/supplier and that I] have the
 means of knowing and do hereby certify as follows—

1. That this invoice is in all respects correct and contains
 a true and full statement of the price actually paid or to be paid
 for the said goods, and the actual quantity thereof.

2. That no arrangement or understanding affecting the pur-
 chase price of the said goods has been or will be made or entered
 into between the exporter and purchaser, or by anyone on behalf
 of either of them, either by way of discount, rebate, compensation
 or in any manner whatever other than as fully shown in this in-
 voice, or as follows (v).....

Dated at.....this.....day of.....19.....

.....
 (Signature).

(Signature of witness).....

-
- (i) Here insert manager, chief clerk or as the case may be.
 - (ii) Here insert name of firm or company.
 - (iii) Here insert name of city or country.
 - (iv) These words should be omitted when the manufac-
 turer or supplier himself signs the certificate.
 - (v) Here insert particulars of any special agreement.
-

* The person making the declaration should be a principal or a mana-
 ger, chief clerk, secretary, or responsible employee.

† The word "supplier" may be interpreted as including the actual
 exporter or consigner of the goods in Sierra Leone.

APPENDIX TO PART III

Warning.

Importers are advised to read this Form and the relevant Public Notice carefully before making any declaration. Any person who furnishes any document or makes any statement relating to Customs which is untrue in any material particular is liable to heavy penalties.

DECLARATION REGARDING GOODS OF A VALUE EXCEEDING ONE HUNDRED LEONES LIABLE TO AD VALOREM DUTY (COMPLETE EITHER CERTIFICATE A OR B AS APPROPRIATE)

Certificate A (to be completed by an importer who is in no way associated in business with the supplier.)

1.hereby declare that
(name of Signatory)

I am the.....of.....
(name of Signatory) (Name of Importer)

who is the importer of the goods specified in the attached invoice(s) dated.....amounting in all to.....

2. The importer is not a broker, agent, distributor or concessionaire for the seller nor is he associated with him in business. No part of the proceeds of the use, disposal or sale of the goods will accrue either directly or indirectly to the seller or his business associates.

3. The importer has purchased the goods unconditionally under contract(s) dated..... from..... for the total amount shown on the said invoice(s); no materials, equipment or services in connection with producing the goods were provided by or on behalf of the importer, and no further payment, direct or indirect with the exception of the charges shown in clause 4 below, has been or will be made by the importer in respect of the goods.

4. In addition to the amount stated above only the charges declared below are payable in connection with the production, purchase, importation or use of the goods.

5. The importer claims the following legal deductions or discounts from the invoice price for assessment of duty.

.....
.....

DATED.....Signature:.....

(to be completed by an importer, who is either an Agent, Certificate B. broker, distributor or concessionaire for the consignor or is associated in business with him).

1. I.....hereby declare that I am the
(Name of Signatory)

.....of.....
(Status of Signatory) (Name of Importer)

who is the importer of the goods specified in the attached invoice(s)

2. The importer is:

- * (a) an agent or broker for the consignor
- * (b) a distributor or concessionaire
- * (c) associated in business with the consignor by reason of.....

3. * (a) At the time of the importation the goods have been sold to the persons named in the said invoice(s) at the price shown therein and these persons are not associated in business in any way with the importer or consignor, and no further payment with the exception of the charges shown in Clause 5 has been or will be made in respect of the goods.

* (b) At the time of importation the goods have not been sold to any person other than the importer but have been imported for sale from stock in this country at the prices set out in the attached documents.

* Delete as appropriate.

* (c) The goods have been purchased unconditionally on the basis of an independent importation and no further payment direct or indirect with the exception of the charges shown in paragraph 5 has been or will be made. No part of the proceeds of the use, disposal or sale will accrue to the seller nor to any person associated with him in business.

4. No materials, equipment or services in connection with producing the goods were provided by or on behalf of the importer or his customer, other than.....

5. In addition to the amount stated above, only the charges declared below are payable in connection with the production, purchase, importation or use of the goods.
.....
.....

6. The importer claims the following legal deduction or discounts from the invoice price for assessment of duty.
.....
.....

DATE:.....Signature.....

Delete as appropriate.

MADE this 21st day of September, 1982.

Issued under my hand,

SIAKA STEVENS,
for Minister of Finance.

EXPLANATORY NOTE

These Regulations which are applied for general purposes
Mano River Union, revoke and replace the Regulations of the Member VIII, p.2119) and provide for the