

ANNEX VII

**THE EAST AFRICAN COMMUNITY CUSTOMS UNION
(EXPORT PROCESSING ZONES)
REGULATIONS**

**THE EAST AFRICAN COMMUNITY CUSTOMS UNION
(EXPORT PROCESSING ZONES) REGULATIONS**

TABLE OF CONTENTS

REGULATION	TITLE
1	Citation
2	Purpose of the Regulations
3	Interpretation
4	Application of the Regulations
5	Interim Provisions
6	Establishment of Competent Authorities
7	Functions of Competent Authorities
8	Powers and Duties of Competent Authorities
9	Facilities within Export Processing Zones
10	Activities Permitted Within Export Processing Zones
11	Licensing Provisions
12	Export Processing Zones Developers and Export Processing Zones Operators
13	Powers of Export Processing Zones Developers and Export Processing Zones Operators
14	Treatment of Export Processing Zones Goods
15	Goods and Services Within Export Processing Zones
16	Exemptions
17	East African Community Model Export Processing Zones Operational Manual
18	Complaints
19	Compliance

THE EAST AFRICAN COMMUNITY CUSTOMS UNION (EXPORT PROCESSING ZONES) REGULATIONS

REGULATION 1 Citation

These Regulations may be cited as the East African Community Customs Union (Export Processing Zones) Regulations.

REGULATION 2 Purpose of the Regulations

The purpose of these Regulations is to implement the provisions of Article 29 of the Protocol and to ensure that there is uniformity among the Partner States in the implementation of the provisions on export processing zones and to ensure to the extent possible, that the process is transparent, accountable, fair and predictable.

REGULATION 3 Interpretation

In these Regulations, unless the context otherwise requires:

"competent authority" means an authority designated by a Partner State to develop, coordinate and oversee the operations of export processing zones pursuant to these Regulations;

"customs and excise authority" means a body or an institution designated as such by a Partner State;

"customs territory" means the geographical area of the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership of the Community under Article 3 of the Treaty;

"Customs Union" means the East African Customs Union established by Article 2 of the Protocol on the Establishment of the East African Community Customs Union;

"export" with its grammatical variations and cognate expressions means to take or cause goods to be taken out of the customs territory or into an export processing zone;

"export processing zone" means a designated part of the customs territory where any goods introduced are generally regarded, for purpose of import duties and taxes, as being outside the customs territory but are restricted by controlled access and to which benefits provided under these Regulations apply;

"export processing zone developer" means a corporate body established to develop and administer an export processing zone;

"export processing zone enterprise" means a corporate body, including an export processing zone developer or an export processing zone operator, which has been granted a licence under a Partner States' national legislation;

"export processing zone operator" means a corporate body engaged in the management of an export processing zone;

"goods" includes all wares, articles, merchandise, animals, matter, baggage, stores, materials, currency and includes postal items other than personal correspondences, and where any such goods are sold under the auspices of the Protocol, the proceeds of the sale;

"infrastructure" means a physical structure such as a road, bridge or storm sewer, which facilitates economic or other activity or protects property;

"import" with its grammatical variations and cognate expressions means to bring or cause goods to be brought into the customs territory from a foreign country or from an export processing zone;

"import duties and taxes" means customs duties and other duties, taxes, fees or other charges which are collected on or in connection with the importation and exportation of goods, but does not include fees and charges which are limited in amount to the costs of services rendered;

"Partner States" means the Republic of Uganda, the Republic of Kenya and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of the Treaty;

"Protocol" means the Protocol on the Establishment of the East African Community Customs Union;

"services" means export-related services provided by or to an export processing zone enterprise, including consultancy, information, brokerage and repair services, but excludes financial services and commercial activities;

"Secretariat" means the East African Community Secretariat established under Article 9 of the Treaty for the Establishment of the East African Community.

REGULATION 4

Application of the Regulations

1. These Regulations shall apply to export processing zones in the Customs Union.
2. These Regulations shall be applied in conjunction with existing legislation relating to export processing zones in each Partner State.

REGULATION 5

Interim Provisions

1. A Partner State that does not have national legislation on export processing zones undertakes, before applying these Regulations, to enact national legislation for the implementation of these Regulations.
2. Where there exists national legislation, the Partner States undertake to align the national legislation with the provisions of these Regulations.

REGULATION 6

Establishment of Competent Authorities

1. Where a Partner State operates export processing zones, it may establish a competent authority to develop, coordinate and oversee operations within the export processing zones.
2. The competent authorities shall administer these Regulations in conjunction with the relevant national legislation.

REGULATION 7

Functions of Competent Authorities

1. The principal functions of the competent authorities shall include:

- (a) the development of all aspects of export processing zones with particular emphasis on provision of advice on the removal of impediments to, and creation of incentives for, export oriented production in areas designated as export processing zones;
- (b) the co-ordination of approved activities within the export processing zones;
- (c) the promotion of forward and backward linkages of industries in the export processing zones of the Partner States;
- (d) the promotion and co-ordination of investment, mobilization of resources for developing the export processing zones and formulation of market strategies;
- (e) the co-ordination of market research activities and sharing of information with other competent authorities;
- (f) advising on best practices for implementation of export processing zones within the Customs Union;
- (g) enforcing compliance with requirements for preventing the unauthorized use of designated export processing zones and export processing zones enterprises; and
- (h) performing any other functions as may be incidental or conducive to the attainment of the objectives of the Customs Union or the exercise of their powers under these Regulations.

2. In the execution of their functions, the competent authorities shall co-operate with the Secretariat in the implementation of these Regulations.

REGULATION 8

Powers and Duties of Competent Authorities

For the purpose of carrying out the functions specified in Regulation 7, the competent authorities may:

- (a) identify and map the areas to be designated as export processing zones;
- (b) plan the development and maintenance and finance the basic infrastructure up to the perimeter of the export processing zones;
- (c) examine and process applications for licenses by export processing zones and issue relevant approvals;
- (d) examine and process applications for licenses by export processing zones developers, export processing zone operators, export processing zone enterprises and issue the relevant licenses;
- (e) promote and market export processing zones among investors;
- (f) issue certificates of origin to export processing zones enterprises for the purposes of a generalized system of preferences and other trade preferences given under bilateral or multilateral trade agreements;

- (g) act as a “one-stop” centre through which the export processing zone enterprises channel all their applications for permits and facilities;
- (h) process building plans and issue relevant approvals in consultation with the ministries responsible for physical planning and other relevant authorities in the Partner State;
- (i) perform all such administrative functions in relation to the designated export processing zones as would normally be performed by local authorities;
- (j) maintain current data on the performance of the programme in each export processing zone and export processing zone enterprise;
- (k) enforce within the export processing zone compliance with customs procedures and other requirements for preventing the unauthorized use of designated export processing zones and export processing zones enterprises;
- (l) suspend or cancel licences of export processing zones operators or export processing zone enterprises or export processing zones developers which are in violation of the relevant laws in force ;and
- (m) perform any other functions as may be incidental or conducive to the attainment of the objectives of these Regulations.

REGULATION 9
Facilities Within Export Processing Zones

1. The competent authorities may require export processing zones developers to provide and maintain in an export processing zone facilities including, adequate enclosure to separate an export processing zone from the customs territory, as it may consider necessary for the proper and efficient functioning of the export processing zone.
2. Except as otherwise permitted by the competent authority, no person shall reside within an export processing zone.
3. The competent authorities may order the exclusion or removal from export processing zones of any goods, or discontinuance of any activity or operations which, in their opinion, are dangerous or prejudicial to public interest, health or safety.
4. The competent authorities shall not issue orders under this Regulation without first giving the person concerned an opportunity to be heard.

REGULATION 10
Activities Permitted Within Export Processing Zones

The activities which may be carried out within the export processing zones are manufacturing, commercial and service activities.

REGULATION 11
Licensing Provisions

1. No person shall carry on business as an export processing zone developer, export processing zone operator or export processing zone enterprise or purport to provide or maintain activities or facilities within an export processing zone enterprise unless that person has been licenced as an export processing zone developer or an export processing zone operator or an export processing zone enterprise, as the case may be.
2. The competent authority may, on receiving an application in the prescribed form, issue a licence to the applicant to carry on business as an export processing zone developer, an export processing zone operator or an export processing zone enterprise, and every licence so issued shall be in the prescribed form.
3. A licence shall be granted where the application is found to meet the objectives of these Regulations and where the proposed business enterprise:
 - (a) is incorporated under the relevant legislation of a Partner State, whether or not it is one hundred percent foreign owned, for the sole purpose of producing goods or services for export within an export processing zone;
 - (b) proposes to engage in any activity or activities eligible to be undertaken by an export processing zone enterprise in the export processing zone;
 - (c) shall not have a deleterious impact on the environment, or engage in unlawful activities which impinge on national security or prove to be a health hazard; and

- (d) conducts business in accordance with the laws for the time being in force save for any exemptions that may from time to time be granted.
- 4. The competent authority shall give notice to the relevant national revenue authority of every licenced export processing zone enterprise specifying:
 - (a) the activities in respect of which the enterprise is licensed, and shall, in relation to commercial activities, indicate whether the enterprise is permitted to deal in goods not directly related to its manufacturing activities; and
 - (b) any conditions attached to the licence.

REGULATION 12
Export Processing Zones Developers and
Export Processing Zones Operators

- 1. An export processing zone developer or export processing zone operator shall:
 - (a) be a company incorporated in the customs territory for the sole purpose of developing and operating an export processing zone;

- (b) have the necessary capital and expertise required for developing the export processing zone; and
 - (c) lease land for such periods of time as may be provided in national legislation.
- 2. An export processing zone developer that qualifies under the criteria prescribed in these Regulations, shall receive an export processing zone operator's licence from the competent authority.
- 3. No export processing zone enterprise shall be established and the benefits described in Regulation 16 shall not accrue to any export processing zone enterprise unless that export processing zone enterprise holds a valid licence issued by a competent authority and has complied with customs requirements, security laws, environmental and health laws and any other requirement that may be in force.

REGULATION 13
Powers of Export Processing Zones Developers
and Export Processing Zones Operators

- 1. An export processing zone developer shall have power to:
 - (a) act as or appoint an export processing zone operator to undertake management and administration of the export processing zone on its behalf subject to any specific requirements under national legislation; and

- (b) lease or sub-lease land or buildings to licenced export processing zones enterprises, and charge rent or fees for other services that may be provided;

2. An export processing zone developer shall:

- (a) make improvements to the export processing zone site and its facilities according to the plans approved by the competent authority;
- (b) provide or facilitate provision of infrastructure and other services according to the design and engineering studies submitted to the competent authority with the application;
- (c) provide adequate enclosures to segregate the export processing zone area from the customs territory for the protection of revenue;
- (d) make suitable provisions for the movement of persons, conveyances, vessels and goods entering or leaving the export processing zone;
- (e) provide adequate security on the site office accommodation and facilities for customs as may be determined by the competent authority;
- (f) adopt rules and regulations for businesses within the export processing zone, which shall promote its safe and efficient operations; and
- (g) register any lease agreements and services.

REGULATION 14
Treatment of Export Processing Zones Goods

Unless otherwise provided under national legislation:

- (a) goods which are taken out from any part of the customs territory and brought into the export processing zone or services provided from part of the customs territory to an export processing zone shall be deemed to have been exported from the customs territory of the Partner States and shall be paid for in convertible currency; and
- (b) goods which are brought out of an export processing zone and taken into any part of the customs territory for use in the customs territory or services provided from an export processing zone to any part of the customs territory, shall be deemed to be imported into the customs territory of the Partner States.

REGULATION 15
Goods and Services Within Export Processing Zones

1. Goods within an export processing zone shall not be taken out of the export processing zone except:-
 - (a) exports;
 - (b) exports into the customs territory subject to:
 - (i) necessary permits being obtained from the competent authority;

- (ii) payment of all applicable import duties, levies and other charges;
 - (iii) compliance with all customs procedures; and
 - (iv) the per centum of the exporters which shall not exceed twenty per centum of the total annual production of the company concerned; or
 - (c) with the prior approval of the competent authority, for repair and maintenance under supervision of the customs and excise authority, and subject to such conditions as may be imposed.
2. Services provided by an export processing zone enterprise shall be provided to:
- (a) persons outside the customs territory of the Partner States;
 - (b) other export processing zone enterprises in furtherance of the export activities of those export processing zone enterprises subject to the approval of the competent authority; or
 - (c) persons in the customs territory, subject to necessary and relevant approvals by the competent authority.

REGULATION 16

Exemptions

1. Export processing zones enterprises, export processing zones developers and export processing zones operators shall be granted exemptions from all existing and future taxes and duties payable under existing customs regulations on all export processing zones imports for exclusive use in the eligible business activities of the export processing zones enterprises including machinery and equipment, spare parts, tools, raw materials, intermediate goods, construction materials and equipment, office equipment

and supplies, and transportation equipment subject to the limitations on goods specified in the East African Community Model Export Processing Zones Operational Manual and according to the conditions specified in the customs regulations of the Partner States.

2. The Partner States shall develop a harmonised list of exemptions under these Regulations and such list shall constitute an integral part of these Regulations.

REGULATION 17

East African Community Model Export Processing Zones Operational Manual

The Partner States shall, in order to promote the uniform application of these Regulations, develop an East African Community Model Export Processing Zones Operational Manual, to guide the competent authorities in the development of national operational manuals, which shall provide for the following:

- (a) facilities permitted within export processing zones;
- (b) activities permitted within export processing zones;
- (c) performance procedures to be observed by firms operating within the export processing zones;
- (d) procedures and rules for admission into and exclusion from the export processing zones;
- (e) rights and obligations of export processing zones developers and export processing zones operators;

- (f) movement of finished goods, raw materials and services into and out of the export processing zones;
- (g) limitations on imports into and exports out of the export processing zones;
- (h) particulars required in an application for the designation of an area as an export processing zone;
- (i) standards to be met by export processing zones developers when designing export processing zones;
- (j) types of licences to be issued;
- (k) form for applications by export processing zones developers and export processing zones operators of export processing zones;
- (l) form for quarterly reports to be filed by export processing zones developers;
- (l) types of export processing zones enterprises licences;
- (m) requirements for the maintenance of stock books, registers, books of accounts, and any other records;
- (n) use of available infrastructure and manpower;

- (o) the submission of returns on raw materials received, production of semi-finished products and finished products, including byproducts and their releases for local consumption and export, waste stocks and loss through spillage;
- (p) submission of annual survey and returns; and
- (q) procedures governing the destruction of raw materials in export processing zones.

REGULATION 18

Complaints

Any person aggrieved by any directive or decision given by a competent authority:

- (a) for refusing to grant a licence;
- (b) for imposing limitations on a licence;
- (c) for canceling or suspending a licence; or
- (d) on any other matter,

may take recourse to the mechanisms for handling complaints under the relevant national legislation .

REGULATION 19

Compliance

The Partner States shall ensure compliance with these Regulations as appropriate.