

**THE EAST AFRICAN COMMUNITY CUSTOMS UNION
(FREEPORT OPERATIONS) REGULATIONS**

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THE EAST AFRICAN COMMUNITY CUSTOMS UNION (FREEPORT OPERATIONS) REGULATIONS

REGULATION 1 Citation

These Regulations may be cited as the East African Community Customs Union (Freeport Operations) Regulations.

REGULATION 2 Purpose of the Regulations

The purpose of these Regulations is to implement the provisions of Article 31 of the Protocol and to ensure that there is uniformity among Partner States in the implementation of freeport operations and that to the extent possible, the process is transparent, accountable, fair, predictable and consistent with the provisions of the Protocol.

REGULATION 3 Interpretation

In these Regulations, unless the context otherwise requires-

"authorised officer" means a designated officer employed in a freeport authority and entrusted to perform specified activities under these Regulations;

"customs department" means the Customs and Excise Department of the Revenue Authority of a Partner State;

"Customs Union" means the East African Community Customs Union established under Article 2 of the Protocol;

"Freeport" means a customs controlled area within a Partner State where imported duty free goods are stored for the purpose of trade;

"freeport authority" means an authority appointed by a Partner State under national legislation to establish, co-ordinate and operate freeport related facilities in the Partner State, and it shall include all staff of the freeport;

"freeport zone" means a designated area placed at the disposal of the freeport authority where goods introduced into the designated area are generally regarded, in so far as import duties are concerned, as being outside the customs territory;

"licence" means a valid licence issued under these Regulations by a freeport authority of a Partner State;

"licencee" means the holder of a licence issued by a freeport authority under these Regulations;

"proper officer" means an officer whose right or duty is to require the performance of or to perform the functions referred to in these Regulations;

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

REGULATION 4

Application of the Regulations

1. These Regulations shall apply to freeport operations existing within the Customs Union.

2. These Regulations shall be applied in conjunction with existing national legislation relating to freeport operations in each Partner State.

REGULATION 5

Interim Provisions

1. A Partner State that does not have national legislation on free ports and intends to operate such a scheme shall enact national legislation for the implementation of these Regulations.
2. Freeport zones may be established at seaports, river ports, airports and places with similar geographic and economic advantage.
3. In specifying the kind of goods that are admissible into a freeport zone, restriction shall not be imposed on the quantities that may be brought in.

REGULATION 6

Licence to Operate in a Freeport Zone

An application for a licence to operate in a freeport zone shall be made to the freeport authority in a manner and under such conditions as shall be specified by the freeport authority.

REGULATION 7

Security in Relation to Physical Controls in Freeport Zones

1. A freeport authority shall take necessary measures including audits and physical verification where possible, to prevent loss of revenue within a freeport zone.

2. An authorised officer may at any time carry out checks on the premises of a licensee in order to:
 - (a) examine any package and its contents;
 - (b) inspect all labels, wrappers of containers used or attached, or intended to be used or attached, in connection with the licensee's operations; and
 - (c) place seals on any packages of goods.
3. An authorized officer may require a licensee to provide any information relevant to the licensee's operations within the freeport zone.
4. The freeport authority shall erect and maintain a strong perimeter wall or fence around the freeport zone to provide adequate security for the goods in the freeport zone and shall take all necessary measures to ensure their security. The premises and means of access shall be kept under permanent or intermittent supervision.
5. All persons or vehicles entering or leaving the freeport zone shall use designated entry and exit points and shall comply with laid down security requirements including specified hours of business.
6. A proper officer shall have the right at any time, to carry out spot checks, to stop and search any person or vehicle entering or leaving a freeport zone, to ensure proper accounting of goods based on a risk-management system.
7. A freeport authority shall make necessary arrangements with a customs department for the escort of goods to and from a freeport zone, in accordance with the customs law of a Partner State.
8. Freeport zones shall be non-smoking areas and no naked flames or fires shall be lit on the freeport zones.

9. A freeport authority shall place posters in conspicuous places in a freeport zone specifying the prohibitions specified under paragraph 8 of this Regulation, for the benefit of all freeport users.
10. All accidents occurring within the freeport zones shall be promptly reported to the freeport authority.

REGULATION 8
Building and Construction Within
Freeport Zones

1. A licensee may, with the prior approval of the freeport authority, erect a building or other structure within a freeport zone, subject to paragraphs 2 and 3 of this Regulation.
2. The freeport authority shall specify the arrangements for customs control including appropriate requirements regarding the suitability, construction and layout of freeport zones.
3. Plans for buildings or structures submitted to a freeport authority for approval, shall be in strict compliance with the following conditions:
 - a) adherence to a Partner State's laws governing building, construction and erection of structures;
 - b) assurance that the buildings or structures are at least five meters away from the perimeter fence of a Freeport zone;
 - c) assurance that all expenses for the demolition of structures or buildings by the licensee or freeport authority are borne by the licensee;

- d) abandonment of buildings or structures after the expiry or revocation of a licence shall not give rise to a claim by the licensee; and
 - e) any building or structure erected in a freeport zone may be let to any licensee on such terms and conditions as the freeport authority may approve.
- 4. No approval shall be given by a freeport authority unless the plans for buildings or structures submitted by a licensee, comply with the conditions in paragraph 3 of this Regulation.

REGULATION 9

Goods Brought Into Freeport Zone Premises

- 1. All goods entering a freeport zone shall be free from import duties and taxes and shall be deemed to be outside the customs territory and not subject to the usual customs controls.
- 2. All goods re-exported from a freeport zone shall qualify for exemption or repayment of import duties and taxes or internal taxes granted on exportation.
- 3. A licensee shall maintain proper records of the goods by maintaining special registers, relevant declarations and computer records in order to control the circulation of goods.
- 4. No declaration shall be required by the customs department in respect of goods introduced into a freeport zone directly from abroad where the information is already available on the documents accompanying the goods. The documents accompanying the goods may include commercial invoices, airway bills, bills of lading, dispatch notes or other simplified document on a special form identifying the goods entering a freeport zone.
- 5. Equipment to be used solely inside the freeport zones for

transportation, storage and processing of goods and office stores, fuel, food and beverages to be consumed by the people working inside a freeport zone, may be exempted from import duties and taxes subject to the fulfillment of conditions stipulated in the national legislation of a Partner State.

REGULATION 10

Authorized Freeport Zone Activities

1. The activities that may be carried out by a licensee in a freeport zone shall be restricted to only those activities that are required to preserve the goods, or to improve their packaging, preparation for shipment or marketable quality without changing the character of goods and shall exclude the manufacturing or processing of goods.

2. The activities that may be carried out by a licensee in a freeport zone shall include:

- (a) warehousing and storage;
- (b) labeling, packing and repacking;
- (c) sorting, grading, cleaning and mixing;
- (d) breaking bulk;
- (e) simple assembly; and
- (f) grouping of packages.

3 Notwithstanding the provisions of paragraph 1 of this Regulation, a licensee shall not introduce or remove goods or carry out operations in a freeport zone without permission from the freeport authority.

REGULATION 11
Movement of Goods Inside Freeport Zone Premises

1. No goods shall be transferred from one premise to another within a freeport zone without the approval of the freeport authority.
2. Approval for the transfer of goods shall be in the appropriate form, prescribed by the freeport authority.

REGULATION 12
Transfer of Ownership Inside Freeport Zone Premises

1. Goods may be transferred while in a freeport zone for commercial reasons, subject to compliance with national legislation of the Partner State regarding the transfer.
2. Goods may be transferred from freeport zones premises as provisions for ships and aircrafts, duty free.

REGULATION 13
Removal of Goods From Freeport Zones

1. A licensee who intends to remove goods from a freeport zone shall apply to the customs department using appropriate application forms and attach supporting documents.
2. Where a freeport authority rejects an application for removal of goods under this Regulation, an endorsement giving reasons for the rejection shall be made on the reverse side of the application form informing the licensee of the rejection.
3. A licensee whose application is rejected under paragraph 2 of this Regulation, shall within 10 days of the notification of the rejection, comply with the conditions of the rejection.

4. A licensee whose application is rejected under paragraph 2 of this Regulation may, within ten days of the notification of the rejection, appeal to the freeport authority for a review of the decision.
5. Where a freeport authority approves an application it shall inform the customs department of the decision.
6. Where goods are to be removed from a freeport zone for home use, the date of their removal shall be specified for the purpose of determining the value, quantity and applicable rates and tariffs for future reference.
7. Goods which constitute a hazard, which are likely to affect other goods or which require special installations shall be admitted to freeport zones specially designed to receive them.
8. Retail trade shall not be carried out in a freeport zone except with the prior written permission of the freeport authority.
9. Where goods are removed in small lots, and it is impracticable to convey them under the agreed convoy system, each lot shall be accompanied by a duly filled appropriate gate pass which shall tally with the quantities approved in the respective import or export entry and shall be recorded at the receiving end.
10. A licensee may, with the approval of the freeport authority, provide canteen facilities on freeport zones premises for his or her staff subject to internationally approved practices for freeports, provided the goods used in the canteens are not imported for freeport operations.

REGULATION 14 **Revaluation of Goods**

1. The customs department may, on application and at the expense of an owner, reassess the value of goods which have deteriorated or are lost or destroyed in a freeport zone.
2. Where the customs department is satisfied that an owner is not responsible for the deterioration, loss or destruction of the goods, the customs department shall revalue the goods taking into account the deterioration, loss, or destruction of the goods as the case may be.
3. Where it is not established to the satisfaction of the customs department that the owner is not responsible for the deterioration, loss, or destruction of the goods, the licensee shall be liable to pay all applicable taxes at the rates in force at the time the deterioration, loss, or destruction of the goods is discovered.
4. Where a licensee intends to destroy any goods which are unfit for the licensee's operations, the licensee shall apply to the freeport authority for permission to destroy such goods.
5. Permission under paragraph 4 of this Regulation shall not be unreasonably withheld, but a freeport authority shall, when granting the permission, require that the destruction be carried out under the supervision of the customs department.
6. Where goods are abandoned in a freeport zone, the freeport authority shall after consultation and agreement with the customs department dispose of the goods in conformity with the provisions of the national legislation regarding such disposal.

ARTICLE 15

Assessment of Duties and Taxes of Freeport Zone Goods

The National legislation of each Partner State shall specify the rules applicable for determining the amount of import duties and taxes or internal duties

and taxes, as the case may be, chargeable on goods taken into home use on removal from a freeport zone.

REGULATION 16

Renewal and Effects of Expired and Revoked Licences

1. A licence issued by a freeport authority shall be valid for a period of twelve months from the date of issuance.
2. A licensee whose licence expires or is revoked shall not remove goods from the freeport zone unless that licensee satisfies the freeport authority that all duties payable in respect of such goods, have been paid.
3. Where the freeport authority revokes or refuses to renew a licence, the freeport authority shall serve or cause to be served in writing on the licensee a notice to that effect.
4. Goods left in the freeport zone by a licensee whose licence has expired or has been revoked shall within thirty days of the expiry or revocation of the licence be re-exported or subjected to home consumption.
5. Any goods which remain in a freeport zone after the period of thirty days provided for under paragraph 4 of this Regulation, shall be deemed to be abandoned and shall be dealt with in accordance with Regulation 14(6) of these Regulations.

REGULATION 17

Disposal of Movable Assets of a Licensee From a Freeport

1. Movable assets imported for the purpose of providing or for improving a freeport's facilities, required by a licensee inside a freeport zone, may unless

exported by a licensee, be sold or otherwise disposed of within the domestic market, upon payment of import duty, value added tax, excise duty or any other import levy as may be prescribed.

2. Goods imported exclusively for the activities authorised for a licensee may, unless they are exported, be sold or otherwise disposed of by the freeport authority or another licensee without payment of import duty, sales tax, excise duty or any other import levy provided that the other licensee is authorised to deal in such goods by his or her licence.

3. Where the goods provided for in paragraph 2 of this Regulation are sold to the freeport authority, they shall not be consumed by the freeport authority but shall be used to further freeport activities by selling them to any other freeport licensee.

REGULATION 18

Monthly Returns and the Auditing of Licensees in a Freeport

1. A licensee shall submit to the freeport authority a monthly return in the prescribed form in respect of:

- (a) all goods received into or re-exported from his or her premises;
- (b) the stock of all the products on the premises at the close of business on the last day of every month;
- (c) waste stock and the manner in which the disposal of the waste stock takes place; and
- (d) loss through evaporation, processing, damage, spillage; leakage or other cause.

2. A monthly return shall be submitted on or before the tenth day of the month immediately following the month to which the return relates.

3. A licensee shall keep and maintain in such form and manner as the freeport authority thinks fit:

(a) a stock book recording the quantity, description, country of origin and other relevant details of all goods received on, or re-exported from his or her premises;

(b) a record of the description and quantity of physical loss of goods resulting from evaporation, damage, spillage, leakage or other cause;

(c) books of accounts, invoices, customs permits and relevant documents connected with the processing operations; and

(d) any other record that may be required by the freeport authority.

4. A licensee shall permit the freeport authority and a proper officer at all reasonable times, to inspect the records specified in paragraph 3 of this Regulation and to have access to any premises of the licensee for the purpose of examining goods and checking the records and making a comparison of the goods and their records.

REGULATION 19

Closure of a Freeport Zone

In the event of a closure of a freeport zone, a licensee shall be given ample time to remove his or her goods to another freeport zone or to place them under a customs procedure, subject to compliance with the conditions and formalities applicable in each case.