



ΕΛΛΗΝΙΚΗ ΔΗΜΟΚΡΑΤΙΑ
Πρεσβεία της Ελλάδος στην
Αδδίσ Αμπέμπα
Μόνιμη Αντιπροσωπεία στην
Αφρικανική Ένωση

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ΚΑΝΟΝΙΚΟ

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Η Πρέσβυς της Ελλάδος στην Αιθιοπία



Αννα Φάρρου
Πληρεξούσιος Υπουργός Α'

Ethiopian Investment Board
Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade
Investments No. 1001/2024

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Ethiopian Investment Board

Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No. 1001/2024

Acknowledging that a policy of building sustainable national economy that is anchored on domestic capabilities has been pursued to date, and in this tune, the Investment Regulation No.474/2020 has shielded select trading sectors from foreign investment competition in order to facilitate a qualitative and quantitative growth of domestic investors, their integration into the global trade value chain, and eventually their transition to value-added investments;

Recognizing that in spite of the limited outcomes recorded to date, the policy objective has not been attained on the scale anticipated - that corresponds to the long duration that elapsed since policy implementation commenced, and the protected sectors have been subjected to complaints relating to service reach, quality and efficiency, and are furthermore exposed to an increasing bent of unlawful practices;

Realizing that additional gaps - challenging the policy's objective have been identified stemming from the absence of fair competition practice in the restricted sectors and deficiencies in regulatory oversight;

Understanding that a new approach must be pursued that reorders the existing national policy rational on reserving the export, import, wholesale and retail trade sectors to domestic investors, promotes the sectors' gradual opening to willing and capable foreign investors, and engages in further liberalization measures based on practical appraisal of the implementation process and valuation of the changes and benefits thus realized;

Now, therefore, pursuant to its powers vested under Article 6(4) and Article 31(1)(e) of the Investment Proclamation, the Ethiopian Investment Board has issued this Directive.

PART 1

General Provisions

1. Short Title

This Directive may be cited as "Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No.1001/2024".

2. Definitions

In this Directive,

- 1/ "Proclamation" means the Investment Proclamation No. 1180/2020.
- 2/ "Regulation" means the Investment Regulation No. 474/2020.
- 3/ "Commission" means the Ethiopian Investment Commission re-established under Article 35 of the Proclamation.
- 4/ "Board" means the Ethiopian Investment Board re-established under Article 30 of the Proclamation.
- 5/ "Foreign investor" shall have the meaning accorded to it under the Investment Proclamation.
- 6/ "Export trade", "import trade", "wholesale trade" and "retail trade" shall have the meaning accorded to them under the Commercial Registration and Licensing Proclamation No. 980/2008 (as amended).
- 7/ "Livestock" means cattle and equines;
- 8/ "Appropriate body" means a government entity entrusted, under the relevant law, with the responsibility of supervision, monitoring or facilitation of matters covered by this Directive.
- 9/ Other words and phrases referred to in this Directive shall have the meaning assigned to them under the Proclamation and the Regulation.

3. Objective

The objective of this Directive is to list out investment areas in the export, import, wholesale and retail trade sectors reserved for domestic investors in which foreign investors may participate, establish the conditions that apply, and indicate details of the facilitation and regulatory functions of the appropriate government bodies.

4. Scope of Application

This Directive shall be applicable on the participation of foreign investors in trade sectors reserved for domestic investors pursuant to the Board's decision, the application for permits and issuance thereof, and on any procedure and regulatory function implemented by the appropriate bodies.

PART 2

Conditions Under Which Foreign Investors Participate in Restricted Export, Import, Wholesale and Retail Trade Investments

5. Participation in Export Trade

- 1/ Any foreign investor can engage in export trade investment of raw coffee, khat, oilseeds, pulses, hides and skins, forest products, poultry and livestock bought on the market.
- 2/ A decision by the appropriate body to issue investment and business permits to foreign investors in accordance with sub-article (1) of this Article shall be guided in its actions by a principle which warrants that the applicant possesses the relevant experience, or capacity, or market linkage in the sector.

6. Export Trade Investment Permit Conditions

Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence and other standards, an investor who applies pursuant to Article 5 must fulfil the following conditions and consent to enter into agreement before it receives an investment permit:

1/ In the case of a foreign investor requesting to engage in the export trade of raw coffee, it must have been procuring from Ethiopia an average of at least 10,000,000. (Ten Million) US Dollars worth of raw coffee annually for the last three consecutive years and contractually agree to attain the export of at least 10,000,000. (Ten Million) US Dollars worth of the commodity within the permit year;

2/ In the case of a foreign investor requesting to engage in the export trade of oilseeds, it must have been procuring from Ethiopia an average of at least 5,000,000. (Five Million) US Dollars worth of oilseeds annually for the last three consecutive years and contractually agree to attain the export of at least 5,000,000. (Five Million) US Dollars worth of the commodity within the permit year;

3/ In the case of a foreign investor requesting to engage in the export trade of khat and pulses, it must have been procuring from Ethiopia an average of at least 1,000,000. (One Million) US Dollars worth of khat and pulses annually for the last three consecutive years, and contractually agree to attain the export of at least 1,000,000. (One Million) US Dollars worth of each commodity within the permit year;

4/ In the case of a foreign investor requesting to engage in the export trade of hides and skins, forest products, and poultry, its annual performance for the last three consecutive years must be at least 500,000. (Five Hundred Thousand) US Dollars, and shall contractually agree to attain the export of at least 500,000. (Five Hundred Thousand) US Dollars worth of each commodity within the permit year;

5/ In the case of a foreign investor requesting to engage in the export trade of livestock, no conditions related to prior experience and permit-linked contractual commitment shall apply;

6/ In the case of a foreign investor holding no prior history of procuring from Ethiopia, it must demonstrate an established market and submit a purchase order contract of at least 12,500,000 (Twelve Million Five Hundred Thousand) US Dollars for raw coffee, at least 7,500,000 (Seven Million Five Hundred Thousand) US Dollars for oilseeds, at least 1,500,000 (One Million Five Hundred Thousand) US Dollars for khat and pulses, and at least 750,000 (Seven Hundred Fifty Thousand) US Dollars for hides and skins, forest products and poultry;

7/ In the case of a foreign investor holding no prior history of procuring from Ethiopia, it must demonstrate an established market and submit a purchase order contract of at least 500,000 (Five Hundred Thousand) US Dollars for other export trade products covered by this Directive;

8/ In the case of a foreign manufacturing enterprise that produces finished products by using raw materials imported from Ethiopia, or a foreign manufacturing enterprise that uses raw materials procured from Ethiopia and can avail the product in the market by declaring such facts and can also adduce a sufficient proof of the process;

7. Export Trade Investment Permit Renewal and Revocation

1/ A foreign investor participating in export trade pursuant to this Directive must comply with all investment permit conditions stipulated under the agreement.

2/ An investment permit or business license shall be renewed only when the appropriate bodies verify the investor's compliance with the conditions stipulated under the agreement.

3/ The non-renewal, or suspension, or revocation of an investment permit or business license shall result in the suspension or cancellation of rights and benefits stemming from the permits.

8. Participation in Import Trade

1/ Except for fertilizer and petroleum import trade, any foreign investor can engage in all import trade investments reserved for domestic investors under the Regulation.

2/ The decision by the appropriate body to issue investment permits to foreign investors shall be guided by a principle which warrants that the applicant possesses the relevant experience, or capacity, or market linkage in the sector.

9. Import Trade Investment Permit Conditions

Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence, or other standards, as well as provisions that already permit foreign investors' participation in import trade, an investor who applies pursuant to Article 8 must, as appropriate, fulfil the following conditions or have such standing before it receives an investment permit:

1/ Where the applicant is a manufacturer of the imported product, adducing an evidence thereof; or

2/ Where the applicant is an agent of a manufacturer, adducing an evidence thereof; or

3/ Where the applicant is an existing manufacturer in Ethiopia exporting 50% or above of its produces to overseas market;

4/ Where the applicant is neither a manufacturer nor an agent, but commits to submit a detailed plan and enter into agreement with the appropriate body to annually import commodities worth of at least 10,000,000 (Ten Million) US Dollars.

10. Import Trade Investment Permit Renewal or Revocation

1/ A foreign investor participating in import trade pursuant to sub-article (4) of Article 9 must comply with all investment permit conditions stipulated under the agreement.

2/ An investment permit or business license issued to engage in import trade shall be renewed only after the appropriate bodies verify the investor's compliance with the conditions stipulated under the agreement.

3/ The non-renewal, or suspension, or revocation of an investment permit or business license shall result in the suspension or cancellation of rights and benefits stemming from the permits.

11. Participation in Wholesale Trade and Investment Permit Conditions

1/ Except for wholesale of fertilizers, any foreign investor can engage in the wholesale trade investment of all sectors reserved for domestic investors under the Regulation.

2/ An investor issued with investment permit pursuant to sub-article (1) of this Article may engage in the wholesale trade of products it imported from abroad using import trade permit, or products which it purchases from domestic manufacturers.

3/ Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence or other standards, as well as provisions that already permit foreign investors' participation in wholesale trade, an investor applying for permit in accordance with this Directive, shall, before receiving an investment permit:

- a) priorly express consent, in writing, to enter into agreement with the appropriate body; and
- b) contractually commit to build modern marketing infrastructure and provide streamlined logistics service facilitating its wholesale operations.

4/ The Ministry of Trade and Regional Integration shall issue a manual determining the minimum level of marketing infrastructure that must be met in accordance with sub-article (3)(b) of this Article.

12. Participation in Retail Trade

Pursuant to this Directive, any foreign investor can engage in retail trade investments reserved for domestic investors under the Regulation.

13. Retail Trade Investment Permit Conditions

1/ Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence or other standards, as well as provisions that already allow foreign investors' participation in retail trade, an investor applying for permit pursuant to this article shall receive investment permit only when it fulfils the following conditions:

- a) undertakes to carry out the retail trade on land/building having a floor area of at least 2000 sq.mt. managed under one unified ownership structure, commits to establish five such supermarkets within a total of three years, completes the opening of at least two supermarkets in order to receive a business permit, and consents to enter into agreement before taking out an investment permit; or
- b) undertakes to carry out the retail trade on land/building having a floor area of at least 5000 sq.mt. managed under one unified ownership structure, commits to establish two such hypermarkets within a total of three years, completes the opening of at least one hypermarket in order to receive a business permit, and consents to enter into agreement before taking out an investment permit; or
- c) undertakes to carry out the retail trade on land/building having a floor area of at least 10,000 sq.mt. managed under one unified ownership structure, and commits to complete the construction and enter into agreement in order to receive a business license;

2/ The Ministry of Trade and Regional Integration shall align the definitions given to supermarket, hypermarket and mall under the Business Licensing Classification Directive No. 17/2011 with the designations of retail trade infrastructure referred to in this Article.

3/ The Board shall make decision, on case by case basis, in respect of foreign investors' participation in reputable single brand retail trades operating on a smaller capital and floor space.

PART 3

Institutional Regulation and Monitoring

14. Responsibilities of Appropriate Bodies

1/ All appropriate bodies shall establish a comprehensive institutional framework to facilitate the implementation of this Directive.

2/ All appropriate bodies regulating export trade pursuant to this Directive shall organize a national marketing system that

is transparent, convenient, modern, and avails level playing field for all in the export of commodities, as well as establish export destination market prices periodic review and information system, and shall as necessary implement a minimum selling price scheme based on such system, and institute and strengthen mechanisms for pre and post-export price control measures.

3/ The appropriate body mandated to levy and collect duties and taxes on imports shall strengthen its system and provide streamlined services in respect of import trades opened pursuant to this Directive.

4/ The Ministry of Trade and Regional Integration shall establish a strong organizational structure and procedure to control anti-competition practices that may sway the market system and to protect consumer rights in respect of wholesale and retail trade activities carried out pursuant to this Directive.

5/ The Commission shall receive applications submitted by foreign investors; inspect compliance with required conditions; effect commercial registration following the appropriate procedures; issue commercial registration certificate and investment permit; prepare a contract and conclude agreement with investors; and follows through the implementation of the agreement jointly with the Ministry of Trade and Regional Integration.

6/ The Ministry of Trade and Regional Integration shall issue business license to foreign investors who obtained investment permit; regulates all trade practices.

7/ The Ethiopian Investment Commission, the Ministry of Trade and Regional Integration, the Ministry of Industry, the Ministry of Revenue, the Ministry of Agriculture, Customs Commission, the National Bank of Ethiopia and other bodies designated by the Board shall establish a permanent joint committee to assess whether the activities implemented under this Directive are achieving the desired objectives, to adopt timely actions as necessary, and monitor the overall implementation. The Chair of the Joint Committee shall be designated by the Board.

PART 4

Miscellaneous Provisions

15. Duty to Implement

1/ Any federal government body having mandate in respect of matters covered in this Directive shall have a duty to respect and execute the Directive.

2/ Any person or entity has the obligation to cooperate in the implementation of this Directive.

16. Effective Date

This Directive shall come into force as of the date when it is posted on the web pages of the Ministry of Justice and the Commission.

Abiy Ahmed Ali (Dr.)

Chair: Ethiopian Investment Board

Ethiopian Customs Guide



Ethiopian Revenues and
Customs Authority
March 2017



Ethiopian

Customs Guide

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Disclaimer

The organizations (that is, IBRD, IFC, and MIGA), using their best efforts in the time available, have endeavoured to provide high-quality services hereunder and have relied on information provided to them by a wide range of other sources.

Although the information presented in this customs guide has been carefully prepared, it is not a legally binding document; it merely constitutes the Ethiopian Revenues and Customs Authority's view on the law. Therefore, the user of this guide required to refer to the Customs Proclamation and other customs related laws and regulations for obtaining legally binding information.

About the World Bank Group's Trade and Competitiveness Global Practice (T&C GP)

The Trade and Competitiveness Global Practice (T&C GP) provides policy advice and lending support to help client countries increase trade and investment, improve productivity and competitiveness at the national and industry levels, and create an inclusive, competitive private sector. The T&C GP works with governments to identify policies that promote growth, while helping identify and remove impediments to the smooth functioning of markets (such as gaps in coordination, under supply of public goods, non-competitive market structures, and regulatory constraints).

The Ethiopia Investment Climate Program, managed by the World Bank Group's Trade and Competitiveness Global Practice aims at streamlining and simplifying high priority regulatory practices and processes burdensome to the private sector and address investment climate issues that are holding back investment and productivity growth in Ethiopia.

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LIST OF ACRONYMS

AEO	Authorized Economic Operator
AGOA	African Growth Opportunity Act
ASYCUDA	Automation system for customs data
CIF	Cost, Insurance, Freight
COMESA	Common Market for Eastern and Southern Africa
ECAE	Ethiopian Conformity Assessment Enterprise
ECCSA	Ethiopia Chamber of Commerce & Sectoral Associations
ECVS	Ethiopian Customs Valuation System
EIC	Ethiopian Investment Commission
ERCA	Ethiopian Revenue and Customs Authority
ERPA	Ethiopian Radiation Protection Authority
FMHCCA	Food, Medicine and Health Care Administration and Control Authority
FOB	Free On Board
FTA	Federal Transport Authority
GIR	General Interpretative Rule
GSP	Generalized System of Preferences
HS	Harmonized System

INSA	Information Network Security Agency
MCIT	Ministry of Communication and Information Technology
MOANR	Ministry of Agriculture & Natural Resources
MoFEC	Ministry of Finance and Economic Cooperation ¹
MoI	Ministry of Industry
MoMPNG	Ministry of Mines, Petroleum & Natural Gas
MoT	Ministry of Trade
NBE	National Bank of Ethiopia
OIASC	Oromia Islamic Affairs Supreme Council
RCTG	Regional Customs Transit Guide
RKC	Revised Kyoto Convention
VDD	Valuation Detail Declaration
VDFACA	Veterinary Drug and Feed Administration and Control Authority
WCO	World Customs Organization
WTO	World Trade Organization

¹ Also referred to in this Guide as the “Ministry” if there is no other qualification.

PART I: INTRODUCTION

1. About this guide

The import and export of goods is an inherently complex undertaking, and is often made even more complex due to the multitude of rules in place. These complex rules in combination with traders and other stakeholders involved in international trade which are not well informed of the rules create uncertainty, risk, and contribute to limited compliance with rules. Ultimately, they increase the cost of trading and harm the investment environment.

The purpose of this customs guide therefore is to provide adequate information on the customs procedures that are in place in Ethiopia. This is in line with the commitment of the Ethiopian Revenues and Customs Authority (ERCA), the government agency responsible for administering customs in Ethiopia, to ensure transparent, reliable and predictable customs services. One of ERCA's objectives is to implement awareness creation programs to promote a culture of voluntary compliance in the discharge of obligations, based on the understanding that an informed customer eases customs operations, facilitates trade, and helps achieve ERCA's other objectives.

Accordingly, this guide provides general information about Ethiopia's customs procedures for internal and external customers, in particular exporters and importers. It explains, in a comprehensible manner, governing rules and other relevant customs information relating to import, export and transit.

1.1 Structure of the Guide

This customs guide consists of three parts. The first, introductory one presents an overview of the guide and directions to where a trader can obtain further information, as well as briefly introduces basic key concepts of customs operation in Ethiopia. This part therefore provides background information and serves as a point of reference for further research that a trader or other interested person may wish to engage in.

The second part of the guide provides simple step-by-step guides for importing and exporting goods into and from Ethiopia. The purpose of these short descriptions is to provide inexperienced traders with an idea of the procedures to be followed when trading across the Ethiopian borders.

Part three then provides more detailed information about individual stages in the import and export process and generally follows the structure of Customs Proclamation No. 859/2014, Ethiopia's primary legislation for customs operations. In order to further facilitate access to the part III, the step-by-step guides in part II also provide cross-references to the relevant sections in the guide's part III.

1.2 Additional Sources of Information

Further information and help on customs operations in Ethiopia can be obtained from ERCA's website – <http://www.erca.gov.et>– or by contacting ERCA's Customer Service Directorate. It can be reached as follows:

- Internet: <http://www.erca.gov.et/index.php/contact-us/head-office>.
- Telephone: Helpline/free phone call center at 8199
- Email: erca@ethionet.et
- Fax: +251-(0)116 629 906
- Post: P.O. Box: 2559, Addis Ababa, Ethiopia

1.3 Other Regulatory Bodies for Import and Export

Apart from ERCA, a number of regulatory agencies are involved in regulating Ethiopia's international trade. Their responsibilities generally include safety and security; environment and health; consumer protection; revenue collection; and trade policy. The main agencies and their specific responsibilities are listed in Table 1.

Table 1: Ethiopian regulatory agencies involved in importation and exportation

No	Regulatory agency	Area regulated (related to imports and exports)	Responsibilities
1	Ministry of Trade (MOT)	All import and export goods	<ul style="list-style-type: none"> • Issues Import Release Permit • Issues Import Release Permit for Legal-Metrology Instruments • Issues Export Release Permit
2	Ethiopian Investment Commission (EIC) and Regional Investment Bureaus	All goods imported and exported by investors	<ul style="list-style-type: none"> • Issues and renews Investment permit • Issues Custom Duty Free permission letter
3	National Bank of Ethiopia (NBE) and Commercial Banks (CBs)	Foreign currency	<ul style="list-style-type: none"> • Registers sales contract agreement • Issues Export Bank Permit • Issues Foreign currency Approval • Issues Bank import permit • for: <ul style="list-style-type: none"> • Letter of Credit • (Open L/C) • Advance Payment • Approves Purchase Order for CAD

4	Ministry of Agriculture & Natural Resources (MOANR)	Import of plants, seeds, plant products, pesticides and fertilizers Export of animal feed, live animals and meat	<ul style="list-style-type: none"> • Issues Phytosanitary Certificate for re-export • Issues Veterinary Health Certificate • Issues Export Permit for Animal Feed • Issues pre-import permit for plant & plant Products • Issues pre-import permit for fertilizers & pesticide • Issues import release permit for plant & plant Products • Issues import release permit for list of registered pesticides
5	Ministry of Industry (Mol)	Incentives related to manufacturing	<ul style="list-style-type: none"> • Issues Duty drawback authorization letter • Issues & renews Export trade duty incentive • Scheme Certificate • Issue and Renew 2nd Schedule Certificate • Approvals of raw material • supply contract agreement

6	Ministry of Mines, Petroleum & Natural Gas (MoMPNG)	Export of mineral products	<ul style="list-style-type: none"> • Issues Export Permit • Issues Customs duty & tax • free support Letter
7	Ethiopian Conformity Assessment Enterprise (ECAE)	Conformity with accepted standards	<ul style="list-style-type: none"> • Issues Laboratory Test Report • Issues inspection report
8	Federal Transport Authority (FTA)	Import of vehicles	<ul style="list-style-type: none"> • Issues pre-import permit (Criteria specification) • Issues import release permit
9	Ethiopian Radiation Protection Authority (ERPA)	Import of radiation emitting equipment and machinery	<ul style="list-style-type: none"> • Issues Pre-Import Permit • Issues Import Release Permit • Issues Export Release Permit & Transport License
10	Oromia Islamic Affair Supreme Council (OIASC)	Export of meat	<ul style="list-style-type: none"> • Issues Halal Certificate
11	Food, Medicine and Health Care Administration and Control Authority (FMHACA)	Import & export of drugs, medical supplies or instruments, baby food, supplement food, cosmetics	<ul style="list-style-type: none"> • Issues pre-import permit and/or Special import permit • Issues export permit • Issues import release permit • Issues free sale certificate/letter • Issues health certificate • Issues list of registered drugs

12	Veterinary Drug and Feed Administration and Control Authority (VDFACA)	Import and export of veterinary drugs and animal feed	<ul style="list-style-type: none"> • Issues Pre-Import Permit • Issues Import Release Permit • Issues re/export Permit • Issues list of registered drugs
13	Information Network Security Agency (INSA)	Import of communication and security equipment	<ul style="list-style-type: none"> • Issues pre-import permit • Issues import release permit • Issues re/export permit
14	Ministry of Communication and Information Technology (MCIT)	Import of telecommunication and network equipment	<ul style="list-style-type: none"> • Issues Pre-Import permit • Issues Import Re-release permit • Issues Export/Re-export permit • Issues Customs duty & tax • free permit

15	Ministry of Livestock and Fishery (MOLF)	Import of live animals, animal products, and export of animal feed	<ul style="list-style-type: none"> • Issues pre-Import permit for live animals & animal products • Issues import release permit for live animals & animal products • Issues international veterinary health certificate for cattle, sheep & goat, meat & meat product, Hide & Skin • Issues export permit for animal feed
16	Ethiopian Radiation Protection Authority (ERPA)	Radiation emitting equipment and radioactive sources.	<ul style="list-style-type: none"> • Issues Pre-Import permit • Issues Import Release permit • Issues Export/ Re-export permit
17	ECCSA - Ethiopia Chamber of Commerce & Sectoral Association	Goods Export to Member states of COMESA and any countries which have no preferential treatment agreement	<ul style="list-style-type: none"> • Issue COMESA Certificate of Origin • Issue Ordinary Certificate of Origin

1.4 Know Your Rights and Obligations

Breaches or attempted breaches of customs rules are generally considered as an offence in Ethiopia, as elsewhere. Traders should therefore know their responsibilities as well as the implications of violations.² Section 17 therefore provides more details about customs offences and penalties.

Conversely, ERCA recognizes that it may also make mistakes. Also, the customs administration sometimes takes decisions with which an importer or exporter may not agree. In line with the principles of transparency, accountability and fair treatment, any person who feels aggrieved by an ERCA decision may appeal or submit a complaint; section 18 describes the appeals procedures in some more detail.

² The rights and obligations of traders that undergo customs procedures can also be found in each section.

2. Customs operations in Ethiopia

A brief overview

2.1 Overview of Customs Functions

The World Customs Organization (WCO) defines Customs as “the government service which is responsible for the administration of Customs law and the collection of import and export duties and taxes and which also has responsibility for the application of other laws and regulations relating, inter alia, to the importation, transit and exportation of goods.”

In Ethiopia, ERCA’s functions include the enforcement of the Customs Proclamation provisions governing the import and export of cargo, baggage and postal articles; the arrival and departure of vessels, aircrafts, and other means of transport; goods in transit; and the governance of any goods subject to customs control, including rights and obligations of persons taking part in customs formalities.

2.2 Principles of Customs Operations in Ethiopia

Customs operations involve the administration of customs law relating to the importation, exportation, movement or storage of goods and the collection of duties and taxes. In this regard, customs operations are a key factor for trade facilitation and economic development of a country. For such a crucial sector to function soundly it should stand on principles that guide its course to worthwhile goals.

Accordingly, the Ethiopian customs law contains provisions that clearly prescribe the basic guiding principles that have to be applied on customs operations. These guiding principles, which have important implications for the roles of all stakeholders, including the traders themselves, are the following ones:

1. **Self-assessment:** It is the responsibility of importers and exporters or their agents to assess and submit the value of goods to the customs office, which then determines the appropriate duties and taxes to be paid based on the information provided by traders.
2. **Risk management:** ERCA steers its activities through assessing, directing and controlling risks which emanate from the import and export of goods. The purpose is to strike a balance between trade facilitation and controls. Successful implementation of the risk management principle helps to avoid unnecessary delays and wastage of resources by concentrating customs control on high risk consignments and expediting the release of low risk consignments.
3. **Transparency:** Under this principle, ERCA provides relevant information about trade – including the rates of duties and taxes, fees and charges, customs laws and procedures, appeal procedures, etc. – through publications and other means. This guide is one example of ERCA's commitment to enhancing the transparency of its operations.
4. **Accountability:** ERCA clearly defines the duties and responsibilities of each actor in customs operations.
5. **Service orientation:** As a result of the preceding principles, ERCA is committed to creating a conducive environment to provide equitable, expeditious, predictable and reliable services.
6. **Prevention of illegal practices by promoting self-compliance:** Under this principle, which is related to risk management and self-assessment, ERCA will seek to prevent illegal practices such as commercial fraud (under-or over-invoicing, wrong description and classification of goods, etc.), smuggling of prohibited and restricted goods, and others, by taking measures that promote self-compliance. Examples of such measures are the provision of information and advice to traders, advance rulings for customs classification, customs valuation and preferential origin, the

implementation of post clearance audits, or the use of simplified procedures for authorized traders.

7. Promotion of priority sectors and economic development:

This principle is aimed at the Authority to play its vital role in expediting the economic development of the country by providing special service to priority sectors, such as manufacturing.

To uphold these principles, a vital system that informs all the functions of customs operations is the customs approved treatment or use of goods. Under this system, in keeping with the standards that are set by the customs law all the goods that pass customs are **treated without any discrimination** as to the nature, quantity, origin, and destination or shipment conditions. However, the application of this system is precluded in situations where it would conflict with measures put in place for public morality, protection of health and life of humans and animals and plants, the protection of cultural heritages, or other specific treatment or use of goods provided by law.

The national import and export procedures and laws provide special privileges and schemes for foreign direct investments, exporters and industry park participants.

The Ethiopian Revenue and Customs Authority is currently developing different modern technologies. These include; Electronic Single Window System (eSW), Electronic Customs Management System (eCMS) and Cargo Trucking. In addition ERCA is using modern cargo scanning technologies to facilitate the international trade and to support foreign direct investment.

2.3 Prohibited or restricted imports and exports

While Ethiopia, as a general rule, allows any commodity to be traded freely, this is not true for two categories of goods: Some are **“prohibited goods,”** according to Article 4 of the Customs Proclamation, which must not be imported into, exported from, or

transited through Ethiopia. Examples are illicit narcotics and drugs or worn clothes.

Secondly, **restricted goods** are not allowed to be imported, exported or transited unless in compliance with the requirements of the specific restriction. Normally, restricted goods are administered by specific regulatory agencies (see chapter 3). Examples of restricted goods are medicines and pharmaceutical products, foods and beverages, communication equipment, fertilizers, seeds, live animals, etc.

The lists of prohibited and restricted goods are available from ERCA as well as included in ERCA's Customs Management System.

2.4 Legal Basis for Customs Operations

The following laws and secondary legislation are the basis on which ERCA's operations rest:

- Value Added Tax Proclamation No. 285/2002;
- Excise Tax Proclamation No. 307/2002;
- Ethiopian Revenues and Customs Authority Establishment Proclamation No. 587/2008;
- A Proclamation to Amend the Value Added Tax Proclamation No. 609/2008;
- A Proclamation to Amend the Excise Tax Proclamation No. 610/2008;
- A Proclamation to Promote Sustainable Development of Mineral Resources, Proclamation No. 678/2010;
- A Proclamation on Export Trade Duty Incentive Schemes, Proclamation No. 768/2012;
- A Proclamation on Investment, Proclamation No. 769/2012;
- Customs Proclamation No. 859/2014;

- Income Tax Proclamation No. 979/2016;
- Commercial Registration and Business Licensing Proclamation No. 980/2016
- Tax Administration Proclamation No. 983/2016
- Customs Warehouse License Issuance Council of Ministers Regulations No. 24/1997;
- The Customs Tariff Regulations Amendment Council of Ministers Regulation No. 25/1997;
- The Customs Tariff Regulations Amendment Council of Ministers Regulation No. 80/2002;
- The Revised Regulation on the Importation of Goods on Franco- Valuta Basis Council of Ministers Regulation No. 88/2003;
- The Customs Tariff Regulations Amendment Council of Ministers Regulation No. 89/2003;
- Customs Clearing Agents Council of Ministers Regulation No. 108/2004;
- Import Sur-tax Council of Ministers Regulation No. 133/2007;
- Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulation No. 270/2012;
- Temporary Admission Directive No. 28/2002 E.C;
- Goods Released under Security Directive No. 37/2002 E.C;
- Postal Parcel Customs Procedure Directive No. 38/2002 E.C;
- Customs Warehouse Administrative Directive No. 40/2002 E.C;
- Disposal of Abandoned Goods under Customs Control Procedure Directive 56/2003 EC;

- Vehicles Tax Incentive Directive No. 04/2004 E.C
- Directive Providing for Simplified Customs Procedures for Authorized Economic Operators, Directive No. 65/2004 E.C;
- Franco-Valuta Directive No. 66/2004 E.C;
- Export Trade Duty Incentives Directive No. 86/2005 E.C;
- Establishment of Compliance Review Committee and Procedures Directive No. 91/2006 E.C;
- Directive to Determine the Working Modalities of the Customs Complaints Review Sections No. 107/2007 EC;
- Second Schedule Tariff Application Directive No. 45/2008 E.C;
- Determination of Customs Dutiable Value Directive No. 111/2008 E.C;
- Administrative Penalties for Customs Offences and Forfeiture of Goods Implementation Directive No. 112/2008 EC;
- A Directive to Amend the Establishment of Compliance Review Committee and Procedures Directive No. 113/2008 E.C;
- Directive to Determine Temporary Importation of Goods Accompanied by Tourists, Directive No. 116/2008 E.C;
- Directive of Transit Procedures No. 117/2008 E.C. 11
- Directive to Determine the Application of Customs Declaration, Directive No. 118/2008 E.C;
- Directive of Goods Examination and Goods Subject to Prior Customs Procedure. Directive No. 119/2008 E.C;

The key legal texts can be accessed at the ERCA website (<http://www.erca.gov.et>). Proclamations and Council of Ministers Regulations can also be bought at the Birhanna Selam Printing Press.

PART II: HOW TO IMPORT AND EXPORT GOODS IN ETHIOPIA

3 How to import goods into Ethiopia - step by step

This step-by-step guide provides an overview for importing goods into Ethiopia. Figure 1 provides a summary of the steps that an importer has to take, and the following pages provide more information regarding each of the steps. Further details are provided in Part III of this customs guide. Importers can also obtain additional information from ERCA (contacts given above) and/or use the services of a clearing agent to facilitate imports.³

³ Licensed clearing agents are trained and certified by ERCA and have a business license. The list of licensed clearing agents can be obtained from ERCA's Customer Service Directorate.

Figure 1: How to import goods into Ethiopia – summary of steps



1. Obtain an import license

The first step to import a good is to obtain an import license.⁴ Licenses are issued by the concerned government offices against the submission of a completed application form⁵ along with the following documents:

- A copy of the Tax Identification Number (TIN);
- A copy of the Memorandum of Association and Articles of Association for private limited and share companies;
- A contractual agreement of office rent or office building plan;
- A document evidencing the capital allocated for the commercial activity;
- Two passport size photographs taken within the last six months;
- If the applicant is a foreign investor, the investment and residence
- permits; and
- A valid business registration certificate.

Currently, import licenses are issued through a manual process which requires the applicant to visit the government offices in person.

⁴ According to Article 43 of the Commercial Registration and Business Licensing Proclamation No. 980/2016, the Ministry of Trade based on the national interest and with the approval of the Council of Ministers can ban the importation or exportation of certain goods and services. It can also give permission for persons who have no import or export license to import or export goods. The Proclamation is available online from the MoT website: <http://www.mot.gov.et/trade-proclamations>. In addition, some other licenses also entail the authorization to import, e.g. an investment license can also serve as an import license to import investment goods.

⁵ Application forms can be found on the MoT website, <http://www.mot.gov.et/forms>, and are available from MoT offices.

2. Obtain a pre-import permit for certain restricted goods in Ethiopia

The import of certain goods into Ethiopia is restricted for safety, security, environmental, health and other reasons, i.e. they must not be imported without permission.⁶

Important restricted goods and the responsible regulatory agencies issuing pre-import permits are listed in Table 2 below. However, the import of other goods may also be restricted, and any importer should check in advance, with ERCA and/or regulatory agencies, if the import goods are subject to controls or limitations.

Table 2: Goods with pre-import restrictions and corresponding regulatory agencies

Restricted goods	Regulatory agency
Pharmaceuticals and medicines, medical supplies or instruments, baby food, food supplements, cosmetics	Food, Medicine and Health Care Administration and Control Authority (FMHACA)
Veterinary drug and animal feed	Veterinary Drug and Feed Administration and Control Authority (VDFACA)
Communication equipment	Information Network Security Agency (INSA)
Telecommunication and network equipment	Ministry of Communication and Information Technology (MCIT)
Radiation emitting equipment and radioactive sources.	Ministry of Communication and Information Technology (MCIT)
Vehicles	Ethiopian Transport Authority

6 Furthermore, the import of certain goods is prohibited, such as worn clothing, illegal narcotic substances or pornographic materials.

Permissions are granted in a two-stage process: first, a pre-import permit by the relevant regulatory agency must be obtained before the import procedure starts. At a later stage, an import permit must be obtained.

3. Arrange payment issues

An important step early in the process – after the pre-import permit is secured, if required – is to prepare for the payment of imported goods, which might be through a bank or franco-valuta. Payment through a bank requires two tasks. First, a foreign currency approval must be obtained. This approval is necessary due to the foreign exchange controls in place and will allow the importer to pay for the imported goods in foreign currency.⁷ Second, the payment arrangements have to be agreed with the importer's bank.

Foreign currency approvals must be requested through the bank at which the importer has the account which is to be used for the import.⁸ As part of the request, the importer must present his/her valid business license⁹ and a pro-forma invoice from the supplier. The pro-forma invoice should describe the imported goods, state the unit price, quantity and total price, as well as list additional charges that may be applied on the transaction.

Currently, foreign currency approvals are issued by Commercial banks and are processed manually; the time required for the approval depends on the availability of foreign currency requested.

The second task within the payment issues is to arrange with the bank for the method of payment and obtain a bank permit. In this regard, the methods of payment for imports used in Ethiopia are the following:

⁷ A foreign currency approval is not required if the goods are being imported on a franco-valuta basis, which is possible only in exceptional cases and where no foreign exchange is payable. See section 16.16 for further details.

⁸ A foreign currency approval is not required if the goods are being imported on a franco-valuta basis, which is possible only in exceptional cases and where no foreign exchange is payable. See section 16.16 for further details.

⁹ It follows that having a bank account is a precondition for importing. Alternatively, the investment, manufacturing or mining license can be presented.

- **Letter of credit (L/C)**, in which the bank undertakes to pay the supplier a stated sum of money within a prescribed time limit and against the hand-over of the documents needed for the release of goods from customs;
- **Cash against document (CAD)**, where the importer's bank hands over to the importer the documents needed for the release of goods from customs against full payment;
- **Advance payment**, i.e. the importer orders the bank to pay the seller via SWIFT transfer prior to shipment or rendering the service.

For all methods of payment, the importer needs to have an account with the bank, the required approved foreign currency (as obtained in the previous task), and he/she must not be listed on the NBE delinquent list.¹⁰

Currently, bank permits are issued through a manual process. Application forms are available from the bank, which will also provide details about the documents to be submitted.¹¹

4. Collect documents

Once the payment issues have been completed and the supplier has been informed, the goods will be shipped to Ethiopia. Upon arrival of the goods at the port of entry in Ethiopia, they will be placed in a customs warehouse,¹² and the importer must accomplish the necessary customs formalities. For this, the first step is to collect the necessary commercial documents from his/her bank (in case of L/C or CAD) or directly from the supplier (in case of advance payment).

¹⁰ The delinquent list is a register held by the NBE of account holders whose cheques have been dishonored repeatedly and whose accounts are closed by banks.

¹¹ These will normally include the documents required for the foreign currency application as well as the foreign currency approval, an insurance certificate, the regulatory permit (for products requiring pre-import permit), and ownership certificate from country of purchase (for used vehicles), an original price confirmation (for used commodities), a written waiver (in case of shipment by a foreign vessel), and an undertaking letter for the entry of goods (in case of advance payment).

¹² For more information on customs warehousing please see section 7 of this guide.

The following documents are necessary for the preparation of a customs declaration:¹³

- **Transportation document** such as bill of lading, air way bill or truck way bill;
- **Invoice** which describes the value of imported goods;
- **Bank document**, i.e. L/C, CAD, confirmation of advance payment/TT;
- **Packing list** which describes how the goods are packed during transport;
- **Certificate of origin** which describes where the goods were originally produced;
- **Other documents** as required, such as pre-import permits issued by regulatory agencies and duty free permits for investment goods.

With the exception of the other documents, all documents will be obtained from the bank and/or the supplier.

5. Prepare customs declaration

The importer or his/her agent is required to fill in the clearance customs declaration, indicating the type of import regime, detailed data or information about the imported goods, and also tariff classification and customs valuation, which leads to determining the import duties and taxes.

According to the Ethiopian tax laws the following duties and taxes are levied on imported goods:

- **Customs duty** is normally calculated as a percentage of the duty paying value, also known as CIF value. This is the sum of the transaction value (cost of goods), transport charges paid to

¹³ See step 6 below and section 5 of this guide for details on how to complete and submit a declaration.

transport the good from the original port of loading to the port of entry in Ethiopia, the transport insurance paid and other charges such as loading and unloading charges, port charges, etc. The duty rate varies depending on the type of imported goods and ranges from 0-35%.

- **Excise tax** is charged on selective goods such as luxury goods, basic goods demand for which is hardly affected by price changes, goods that are hazardous to health, etc. The excise tax is computed on the basis of the CIF value plus the amount of the customs duty payable. The rate of the excise tax varies depending on the type of imported goods, from 10%-100%.
- **Value added tax (VAT)** is levied at a flat percentage rate of 15% on the sum of CIF value, customs duty, and excise tax. Some types of supplies of goods, services and imports are exempted from payment of VAT.
- **Surtax** of 10% is levied on all goods imported to Ethiopia with some exceptions, such as fertilizers, petroleum and lubricants, etc. The amount payable is calculated on the sum of CIF value, customs duty, excise tax, and VAT.
- **Withholding tax** is collected on goods imported for commercial use, at a level of 3% on the CIF. The collected amount is creditable against the taxpayer's income tax liability for the year. Thus, it is not a tax in itself but rather a (partial) guarantee on the payment of income taxes.

The calculation of the duties and taxes on imports to be paid to ERCA is the responsibility of the importer. This requires the following steps.

- First, the goods must be classified in order to determine the applicable import duty (tariff classification).
- Second, the value of the imported goods for the purpose of

calculating duties and taxes must be established (customs valuation).

- Third, the duties and taxes payable must be calculated by applying the respective percentages on the respective base values.

Tariff classification

Tariff classification is used to determine the correct commodity code of, and duty and taxes payable on, imported goods.

Ethiopia's tariff classification, like that of most countries, is based on the International Convention on the Harmonized Commodity Description and Coding System (HS). The national tariff book¹⁴ specifies the rate of duties and taxes applicable on each import good. The book is structured in two schedules (1st and 2nd) and the COMESA tariff rate: The two schedules allow the importer to apply different customs duty rate for the same import good depending on the intended purpose of importation; the COMESA tariff rate is a preferential tariff applicable on goods originating in COMESA member countries.

Tariff classification numbers can be determined by consulting the tariff book, searching the code online on ERCA's website,¹⁵ or obtaining binding information regarding tariff classification from ERCA.¹⁶

For more information on tariff classification, see section 12 of this guide.

14 Hardcopies of the tariff book can be purchased from ERCA. An online version, in Microsoft Excel, can be downloaded from the ERCA website; see <http://www.erca.gov.et/index.php/search-hs-code> and follow the link "Download all HS Code with Tariff detailed information".

15 See <http://www.erca.gov.et/index.php/search-hs-code>.

16 See section 8.24 below for more details on binding information regarding tariff classification.

Customs valuation

The amount of duty and taxes payable depends on the customs value of imported goods (adjusted by freight, insurance and other charges, as mentioned above). In most cases, the cost of the imported goods is the amount paid to the seller, as expressed in the commercial invoice. However, the Customs Proclamation distinguishes six different customs valuation methods applicable in Ethiopia.

For more information on customs valuation see section 11 of this guide.

Calculation of duties and taxes

In order to calculate the duties and taxes payable, look up the applicable percentages for the tariff classification number, either in the tariff book or online,¹⁷ and multiply them with the duty paying value as obtained through the customs valuation. The table below provides examples of how duties and taxes are calculated. ERCA's website also provides an online tax calculator which calculates duties and taxes based on the HS Code and the CIF value indicated.¹⁸ More details on the payment of duties and taxes are provided in section 14 of this guide.

¹⁷ See footnote 13 above.

¹⁸ See <http://www.erca.gov.et/index.php/tax-calculator>.

Table 3: Calculation of import duties and taxes – an example

Steps to calculate duties and taxes	Basis for duty/tax calculation	Item "A"		Item "B"	
		Rate	Amount (ETB)	Rate	Amount (ETB)
Invoice value			100,000.00		300,000.00
Freight and insurance			12,000.00		36,000.00
Other charges			5,000.00		15,000.00
Duty paying/CIF value			117,000.00		351,000.00
Customs duty	CIF	20%	23,400.00	35%	122,850.00
Excise tax	CIF + duty	-	0.00	100%	473,850.00
Value added tax	CIF + duty + excise tax	15%	21,060.00	15%	142,155.00
Surtax	CIF + duty + excise tax + VAT	10%	16,146.00	10%	108,985.50
Withholding tax	CIF	3%	3,510.00	3%	10,530.00
Total duties and taxes			64,116.00		858,370.50

6. Submit the customs declaration

To obtain clearance of imported goods from ERCA, two different procedures exist, depending on the type of transport used for the goods, i.e. whether it is multi-modal or unimodal. Under multi-modal transport, goods are transported under a single contract with the logistics company but using different means of transport (e.g., sea and road transport). Conversely, unimodal transport only uses one means of transportation.

Multimodal transport

In the case of multimodal transport, the importer or his/her agent must complete the customs declaration and submit it, in hard copy, at the ERCA office of destination together with the entire documentation necessary for clearance.¹⁹ In addition, the importer must pay the amount of duty and taxes, on the basis of the self-assessment undertaken (see above), before submitting the

¹⁹ See section 5.5 of the guide for details on documentation requirements.

declaration. Payments made through a bank can be proven by a cash payment order (C.P.O.) from the bank, and ERCA will issue a payment receipt.

Declaration forms can be obtained from ERCA's website²⁰ or from the customs offices. More details about customs declarations are provided in section 5 of this guide.

Unimodal transport

In the case of unimodal transport, as per ERCA's current practice the importer or his/her agent must pay the duty and taxes, and register and submit a transit declaration with the ERCA office of destination together with the necessary documentation for clearance, prior to the start of the transit.²¹ Once the transit goods arrive at the customs office of destination in Ethiopia, the importer or his/her agent is required to submit the transit documents together with the clearance declaration and supporting documents to initiate the clearance processes.

7. Obtain import customs clearance and goods release note

After submitting the customs declaration, ERCA first determines, and notifies the importer of the decision, whether to accept or reject it based on an initial compliance check, including of the completeness of documentation submitted.²² If accepted, the risk level of the consignment is determined using the customs management system. ERCA distinguishes three risk levels, i.e. Green (automatic release of goods without further checks), Yellow (requiring the verification of the declaration only), and Red (requiring the verification of the declaration and the physical examination of the imported goods) and Blue (automatic release of goods without further checks at own premise).

²⁰ See http://www.erca.gov.et/images/Documents/Declaration_Forms/Other_Forms/im4.pdf.

²¹ For more information on transit procedures, see section 6 of this guide.

²² See sections 5.6-5.8 of this guide for details regarding the acceptance, modification and cancellation of declarations.

The **examination of the declaration** includes the verification of the correctness of data information, tariff classification, valuation and payment of duties and taxes registered and supporting documents attached to declaration. The verification process may also include the fulfillment of legislative requirements administered by other regulatory agencies, such as veterinary, health and/or phytosanitary issues.

The **physical examination** of goods is performed to satisfy that the origin, country of export, nature, condition, quality, quantity, tariff classification and value of the goods are in accordance with the information furnished in the goods declaration.²³

In addition to ERCA's clearance activities, other regulatory bodies will also be involved in the clearance of certain imported goods. This applies to all goods for which pre-import permits are issued, as well as the ones listed below for which an import permit is issued only at the time of clearance. The importer or his/her agent is responsible for obtaining the necessary permits from the regulatory agencies at the time of clearance.

23 See section 8.2 of this guide for details on the examination of goods.

Table 4: Regulatory agencies issuing import permits at the time of clearance

Agency	Certificates and permits issued
Ministry of Agriculture & Natural Resources (MOANR)	Phytosanitary certificate and veterinary health certificate, export permit, pre-import permit and import release permit
Ethiopian Conformity Assessment Enterprise	Laboratory test report, quality certificate
Food, Medicine and Health Care Administration and Control Authority	Special import permit
Veterinary Drug and Feed Administration and Control Authority	Import release permit
Information Network Security Agency	Import release permit

Once ERCA is satisfied, based on the risk assessment and examinations undertaken, that all requirements prescribed by law have been complied with, the goods release note is released to the importer or his/her agent.

8. Pay service charges, exit goods from customs warehouse, and receive final import customs declaration

As the goods have been stored in a customs warehouse during clearance, storage fees must normally be paid by the importer; in addition, other service charges (e.g. for scanning of goods) might

apply.²⁴ Therefore, the importer must settle these charges once the goods release note has been issued. The goods will then be released and the importer takes possession of them. In addition, ERCA will issue a final declaration for the importer as a certificate of completing the import procedures and importation of goods.

9. Submit clearance declaration to NBE

Any importer who obtained a foreign currency permit should present the final import customs declaration to the NBE. This is a requirement for importing (or exporting) goods in the future.

An importer must keep all records and documents related to the import for five years from the date of ERCA's acceptance of the goods declaration. During this period, ERCA may perform a post clearance audit of the import. The purpose of such audits, which may cover traders' commercial data, business systems, records and books, is to verify the accuracy and authenticity of declarations and information provided by the importer.

4 How to export goods from Ethiopia – step by step

The procedure for exporting commercial goods from Ethiopia mirrors the one for importing, and this section provides an overview (a summary of steps is shown in Figure 2). Further details are provided in Part II of this customs guide. Exporters can also obtain additional information from ERCA (contacts given above) and/or use the services of a clearing agent to facilitate exports.

²⁴ See section 14.8 of this guide for details on service charges.

Figure 2: How to export goods from Ethiopia – summary of steps



1. Obtain export license

The first step to export a good is to obtain an export license. For example, a manufacturing license can also serve as an export license for output (finished goods) of a manufacturing company.²⁵ Licenses are issued by the concerned government offices against the submission of a completed application form²⁶ along with the following documents:

- A copy of the Tax Identification Number (TIN);
- A copy of the Memorandum of Association and Articles of Association for the company;
- A contractual agreement of office rent or office building plan;
- A document evidencing the capital allocated for the commercial activity;
- Two passport size photographs taken within the last six months;
- If the applicant is a foreign investor, the investment and residence
- permits; and
- A valid business registration certificate.

Currently, export licenses are issued through a manual process which requires the applicant to visit the government offices in person.

²⁵ According to Articles 21-23 of the Commercial Registration and Business Licensing Proclamation No. 980/2016, any person wanting to export goods into Ethiopia for commercial purposes must obtain an export license from the Ministry of Trade. In addition, a person engaged in importing does not need a wholesaler license and might do retail but needs permission in accordance with the grounds to be provided in a future Council of Ministers regulation. The Proclamation is available online from the MoT website: <http://www.mot.gov.et/trade-proclamations>. In addition, some other licenses also entail the authorization to export.

²⁶ Application forms can be found on the MoT website, <http://www.mot.gov.et/forms>, and are available from MoT offices.

2. Arrange payment issues

Payment may be made on the basis of franco-valuta or bank permit. The bank permit allows for three types of payment modalities, i.e. letters of credit (L/C), cash against document (CAD), and advance payment. To obtain a permit for any of these, the exporter is required to present a completed bank permit form, which is available from the banks, along with the following documents to his/her bank.

- An original sales contract agreement;
- The exporter's business license;
- The exporter's TIN certificate;
- For L/C: Advice and shipping documents (commercial invoice, packing list, bill of lading or air way bill, certificate of origin and regulatory permit, if required);
- For advance payments: original credit advice, and advance payment receipt advice (incoming telegraphic transfer) or customs declaration along with a bank advice for the sale of the cash notes to the bank.

For all methods of payment, the exporter needs to have an account with the bank and must not be listed on the NBE delinquent list.

3. Collect documents

Similarly to the case of imports, an exporter has to prepare a custom declaration to ERCA, accompanied by documents. The exporter should therefore collect the documents prior to filing the declaration. The following documents are necessary:²⁷

- **Transportation document** such as bill of lading, air way bill or truck way bill;
- **Invoice** which describes the value of the goods to be exported;

²⁷ See step 5 below and section 5 of this guide for details on how to complete and submit a declaration

- **Bank document**, i.e. L/C, CAD, confirmation of advance
- payment/telegraphic transfer;
- **Packing list** which describes how the goods are packed during transport;
- **Certificate of origin** which describes where the goods were originally produced.

4. Obtain export permit for goods restricted for export in Ethiopia

The export of some goods from Ethiopia is restricted, for example animal feed. For these, the exporter must obtain an export permit from the relevant regulatory body prior to submitting an export declaration. The list of restricted goods can be obtained from the concerned regulatory agencies (see Table 2 above) or from ERCA.

5. Prepare customs declaration

The exporter or his/her agent is required to complete the clearance customs declaration, indicating the type of export regime, detailed data or information about the exported goods, and also tariff classification and customs valuation, which leads to determining the export duties and taxes.

According to the Ethiopian tax law, with the exception of hide and skin all export goods are exempted from duty and taxes.

6. Submit customs declaration

The exporter needs to present his/her export customs clearance declaration with the supporting documents to customs clearance office.

In terms payments, export goods – except raw hides, skins and leather – are not subjected to any export duties and taxes. For those export goods where duty and tax payments are required, these must be paid before submitting the declaration.

7. Obtain export customs clearance and ship goods

The procedures for export customs clearance is similar to the import procedures as outlined above, except for some differences in the individual steps. The main steps are thus:

- Acceptance or rejection by ERCA of the goods declaration;
- Checking of the declaration and examination of the export goods by ERCA, depending on the risk assessment;
- Preparation of the goods release note;
- Payment of the warehouse fee (and other services charges, if applicable) by the exporter.

After completing these formalities, ERCA will allow the goods to exit from the customs territory for export and they can be shipped abroad.

8. Pay service charges and receive final export customs declaration

This is the last stage of the export procedure. After fulfilling all obligations for customs clearance and the release of goods, ERCA will issue the final declaration to the exporter as a certificate that all customs procedures related to the export of the goods have been accomplished.

9. Submit clearance declaration to NBE

Any exporter who obtained an export bank permit is expected to present the final export customs declaration to the NBE. This is a requirement for importing or exporting goods in the future.

As in the case of imports, an exporter must keep all records and documents related to the export for five years from the date of ERCA's acceptance of the goods declaration. During this period, ERCA may perform a post clearance audit of the export.

PART III: CUSTOMS OPERATIONS IN ETHIOPIA

5 Goods declarations

5.1 Introduction

A goods declaration is a statement made in accordance with the provisions of the Customs Proclamation, by which the declarant indicates the customs procedure to be applied to import, export or transit goods and furnishes the particulars which the customs administration requires for its application. It is a very crucial initial step for the smooth flow of the good through customs procedures. Since careless handling of the declaration can carry penalties, filling this document and its handling should be cautiously done.

5.2 Declarant

A declarant is normally the importer or exporter;²⁸ it can also be a legal person.²⁹ The declarant can be represented by a customs agent. The declarant is responsible for the comprehensiveness, clarity, and authenticity of the information provided in the declaration, as well as for the provision of any other required supporting documents.

²⁸ Legally, it is the person with the power to dispose of the goods or decide on a particular good in a manner he/she sees fit and who can make a goods declaration or in whose name such a declaration is made. As per Article 1205 of the Civil Code, such a person can also be entitled to use and exploit his property, as well as having the power to dispense his/her property for consideration or gratuitously.

²⁹ A legal person is an entity, such as a corporation, created by law and given certain legal rights and duties of a human being.

5.3 Goods to Be Declared

In principle, all import, export, or transit goods need to be declared. Any goods in respect of which goods declaration is presented shall, in the declaration, be identified as any of the following:

- a) Dutiable or duty free (e.g., if imported for home use or under the duty draw back import regime);
- b) For outright export or temporary export;
- c) Exported for outward processing; or
- d) Imported for inward processing and whether it is duty free; or
- e) Imported temporarily without payment of duties and taxes.

Some goods are exempted from requiring a goods declaration depending on their nature or use. These include:³⁰

- a) Non-commercial goods imported or exported for personal and home use;
- b) Goods for commercial advertising and samples, valued under USD 1,000;
- c) Gifts for government, NGOs and religious institutions that do not have commercial amount and character, as per the directive issued by the Ministry of Finance and Economic Cooperation and produce donation certificate and invoice value for customs purposes;
- d) Goods related with the security and defense of the country as per Directive No. 47/2000 EC;
- e) Goods exported as samples or gifts, the size and number of which are permitted to be exported without getting foreign exchange in return as per the National Bank of Ethiopia or a bank authorized by the National Bank to do the same.

³⁰ Pursuant to Articles 4 & 5 of the Directive issued for determination of conditions for implementation of Customs Declarations No. 118/2008 EC.

- f) Ethiopian Birr and foreign currency for outgoing passengers with the permission of the National Bank of Ethiopia;
- g) Goods for consumption of the staff of Ethiopian foreign Missions with the permission of Ministry of Foreign Affairs; and
- h) Other goods exported for special purpose by government organizations.

Furthermore, the declarant is allowed to inspect the goods and take samples before submitting a customs declaration. A separate declaration for the sample is not required to be submitted.

5.4 Forms and Preparation of Goods Declaration

The declaration can either be made in writing, electronically, orally, or by bodily action (the latter two are usually reserved for travelers). Bodily action is when a traveler passes either through the green or red channel, whereby the former denotes that no taxable good is carried. A traveler's verbal declaration to a customs officer is accepted as an oral declaration. However, when the good has a commercial nature, a written or electronic declaration must be made.

Traders can complete and register electronic declarations into ERCA's customs management system either from their own computers (remote Direct Trader Input, DTI) or at the ERCA offices (bureau DTI). The process for preparing goods declarations is as follows:

- a) Collect the necessary documents (invoice, packing list, certificate of origin, transportation document, bank permit, etc.; see next section);
- b) Complete and register electronic declaration into ERCA's customs management system (either through remote DTI or bureau DTI);
- c) Review the registered declaration data and produce assessment notice;

- d) Prepare Cash Payment Order, if tax is payable;
- e) Pay duties and taxes; and
- f) Submit the declaration to customs to accomplish the customs procedures.

Additionally, the submission of a hard copy of the original declaration and supporting documents is at present still required.

There are nine types of written and electronic declaration forms that can be produced from ERCA's customs management system. These are:

- EX-1 for outright export of goods; EX-2 for temporary export of goods; EX-3 for re-exportation of goods;
- IM-4 for home consumption of goods;
- IM-5 for temporary importation of goods;
- IM-6 for re-importation of goods;
- IM-7/EX-7 for import warehouse/for partial exportation of domestic products from ideal export warehouse;
- IM-8/EX-8 for transit of import or export of goods; and
- IM-9/EX-9 for other import and export goods.

Annex 1 shows a sample of a declaration form (IM-4). Please note the boxes to be completed by the declarant.

Blank declaration forms can be downloaded from ERCA's website.³¹ They are also included in customs management system and can be obtained from customs offices.

³¹ The forms can be found at the authority's website at: http://www.erca.gov.et/images/Documents/Declaration_Forms/Other_Forms/im4.pdf, http://www.erca.gov.et/images/Documents/Declaration_Forms/Other_Forms/ex1.pdf. Please note the authorization of the Authority is necessary to possess and distribute customs forms as per Article 178(2) of the Customs Proclamation.

5.5 Supporting Documents of Goods Declaration

Supporting documents and goods declaration shall constitute a single indivisible legal instrument upon acceptance of the declaration. Supporting documents must be submitted in English or Amharic. If they are in another language, they may need to be translated by a licensed translator to be processed during the goods declaration.

The following supporting documents shall be submitted with presentation of the goods declarations of imported and exported goods:

- transportation document; invoice;
- bank permit;
- packing list;
- certificate of origin; and
- other documents demanded by ERCA and relevant for compliance, e.g. letters from regulatory bodies.

In principle, originals of supporting documents shall be submitted to customs. However, where there are adequate reasons, the declarant may submit, and ERCA may accept, copies of the necessary supporting documents. The declarant is required to present a guarantee to use copies of supporting documents. The types of guarantee and time limits are the following:

- a) Letter of guarantee for government organizations administered through budget and Insurance guarantee or cash for others;
- b) Where the guarantee is needed to get duty exemption letter or the use of export incentive scheme, the amount must cover the duties and taxes;
- c) The amount of the guarantee for international airport customs users is based on the tax or duty amount:

- In case of telegram transfers, 50% of the total duties and taxes payable;
- In case of credit or cash against documents, 25% of the total duties and taxes payable;

d) The amount of the guarantee for other customs branch users is:

- In case of a telegram transfer, 5% of the total duties and taxes payable;
- In case of credit or cash against document, 2.5% of the total duties and taxes payable;

e) The time limit for the above guarantee is two months, which can be extended by one month.³²

If there are adequate reasons³³ explaining why supporting documents cannot be submitted in time and in full, ERCA may nevertheless accept the declaration if the information available is sufficient to calculate duties and taxes and if the declarant provides a guarantee to produce the documents within the time limit proposed by ERCA; the guarantees are identical to the ones listed above.

Additionally, a provisional goods declaration can be made when the declarant, for credible reasons, does not have all the information for the declaration, but can submit the specifics necessary for customs assessment, and if the declarant agrees to present the final goods declaration within a fixed period. A separate tariff assessment may be done for the final declaration.

5.6 Acceptance or Rejection of Goods Declaration

A declaration is said to be accepted when it has been registered in the customs system. This refers to the goods declaration submitted

³² Failure to furnish the documents in these given times results in forfeiture of the guarantee or security given.

³³ "Adequate reasons" is not qualified in the Customs Proclamation or any directives; the decision depends on ERCA.

to the customs officer together with the supporting documents in hard copy as well as electronically. ERCA verifies and confirms the declaration without delay and notifies acceptance in writing.

If ERCA has to reject a declaration, the declarant will be notified in writing, and the reasons for rejection will be explained. Possible reasons for rejection include missing required documents or errors in completing the declaration.

5.7 Amendment of Declaration

In principle, the declarant must make sure that the declaration and supporting documents are complete and correct before they are presented to ERCA. In particular, errors committed through gross negligence or fraudulent intent which are found after the declaration has been presented will be penalized. However, a declarant can amend some of the particulars in the declaration before it is accepted and taxes and duties are paid on it. It can also be amended after it has been accepted but before it has been assessed. After assessment, the declarant can request that ERCA amends the declaration. However, once the ERCA has found irregularities in the specifics of the declaration or if it has notified the declarant its desire to examine the goods, the declarant cannot amend the declaration unless there is good cause.

Some specific examples for situation where the declaration can be amended are:

- When a claim for refund of duties and taxes is submitted within one year after the goods are imported or exported upon completion of customs formalities, the declaration can be amended.
- ERCA can amend the declaration to collect the duty and tax that is not paid or paid at a reduced rate and to correct the difference in an export declaration.
- When the goods are not imported partially or entirely within a

period of three months after a goods declaration is registered and duty and tax are paid or guarantee furnished, the goods declaration will be amended.

The responsibility and rights to amend goods declarations are as follows:

- a. The declarant can amend a goods declaration before acceptance is issued by ERCA and payment is made;
- b. The customer service department can amend a goods declaration before acceptance is issued by ERCA and after payment is made;
- c. The goods clearance team can amend a goods declaration after acceptance has been issued by ERCA and payment has been made;
- d. The post clearance audit department can amend a goods declaration when duty and tax have not been paid or paid at a lesser amount;
- e. The customs procedure department can amend a goods declaration after the customs procedure is finalized and a copy of final declaration is issued.

5.8 Cancellation of Declaration

A declaration may be cancelled if any of the following conditions are present:

- a) When the declarant fails to follow-up with customs formalities with ERCA within five days after submission the declaration or after the conclusion of the preparation of an assessment notice;
- b) Where it is proved that the declaration has been presented contrary to the provisions of the Customs Proclamation or any appropriate customs procedure and payment has not yet been effected;
- c) When the declarant is unable to pay the duty and tax and

import the good and applies for re-exportation;

d) When the declarant reports within ten days of the date of approval that the declared goods are not imported or exported, the declaration can be cancelled; but if the application is received more than ten days after the date of approval (and within one year), the declaration can be cancelled with administrative penalty;

e) When goods are imported under one transport document and registered with more than two or more customs branch offices;

f) When goods are imported under one transport document and registered twice by the same declarant;

g) When the declaration is registered with incorrect declaration model or office code;

h) When the consignor/consignee name or tax identification number is incorrectly registered;

i) When there is a mistake in registering a warehouse declaration;

j) If there is a dispute between the declarant and the clearing agent and one of them applies to the cancellation of goods declaration before the goods are imported or exported;

k) When a restricted good did not get the necessary authorization in 30 days and when the good is prohibited from export or ordered to be exported.;

l) A declaration may also be cancelled upon the request of the declarant before payment has been made.³⁴

The cancellation of a declaration is no longer possible once the goods are released.

The responsibility to cancel a goods declaration depends on the

³⁴ Article 15(4) of the Customs Proclamation demands a good cause for this.

specific situation and reason for the cancellation:

- a) When the declarant reports that the declared goods cannot be imported or exported, the customer service department can cancel the goods declaration;
- b) When goods are imported under one transport document and registered with more than two or more customs branch offices/two or more clearing agents, the General Complaints and Resolution Coordinator can cancel the goods declaration;
- c) When a declaration has been registered with an incorrect declaration model or office code or incorrect consignor/consignee name or tax identification number, the customer service officer can cancel the goods declaration;
- d) In the case of other reason for the cancellation of a declaration, the customer service is responsible to check the application and cancel the declaration as per the cancellation procedure.

In addition, the customs procedure department is responsible for the cancellation of the goods declaration in the case of restricted goods that are not imported or exported within 30 days.

The cancellation of declaration does not clear the declarant from penalties; he/she can be liable to administrative penalties.

6 Customs transit

6.1 Introduction

Customs transit refers to customs procedures under which goods are transported under customs control from one customs office to the other. The Revised Kyoto Convention (RKC) provides standards for the application, formalities at the office of departure, customs seals, formalities en route and termination of customs transit.³⁵ In line with this, the Customs Proclamation contains provisions related to the application of customs transit operation in Ethiopia. This includes the basic transit terms and concepts such as goods declaration for customs transit, sealing and identification of consignments, customs seal, procedures en route, termination of customs transit, etc.

Importantly, according to Article 16(2) of the Proclamation goods being carried under customs transit shall not be subject to the payment of duties and taxes, provided the conditions laid down by ERCA are complied with and a security has been furnished for this purpose.³⁶

Article 16 of the Proclamation prescribes that there are four types of customs transit operations allowed in Ethiopia:

- Inward transit: from a customs station of entry to an inland customs station;
- Outward transit: from an inland customs station to a customs station of exit;
- Through transit: from a customs station of entry to a customs station of exit; and
- Interior transit: from one inland customs stations to another inland customs station.

³⁵ RKC, Specific Annex E, Chapter One, in respect of customs transit operation.

³⁶ In practice, however, the procedure applied distinguishes between transit under multimodal and unimodal transport. For the latter, duties and taxes must be paid before transit begins.

The responsibility for ensuring that the goods are produced intact at the customs station of destination, in accordance with the conditions imposed by ERCA, rests jointly and individually with the declarant and the carrier.

For the purpose of customs control, transit goods must enter or exit through prescribed customs ports or customs crossings and be transported through prescribed routes. As prescribed by Article 140(2) of the Customs Proclamation, customs ports, customs crossings and transit routes are determined by ERCA through public notice.³⁷

However, it is also possible in principle for an importer to receive or an exporter to send transit goods directly from his/her premises. When ERCA is satisfied that the conditions laid down by the Transit Directive are met, it authorizes:

- a) a consignee to receive goods directly at his premises without having to present them at the customs station of destination; or
- b) a consignor to send goods directly from his premises without having to present them at the customs station of departure.

6.2 Commencement of Customs Transit

The following procedure will be applied by the customs office of departure to commence customs transit:

- a) the transit declaration submitted by the declarant will be verified;
- b) the transport unit will be checked to assure it is secure for the purposes of customs transit;
- c) the duty and tax paid or guarantee submitted by the declarant will be verified;
- d) the customs seal, if required, will be affixed; and

³⁷ Customs crossings and transit routes are determined by Transit Directive No. 117/2008 EC.

e) all necessary actions will be taken to enable the customs station of destination to identify the consignment and to detect any unauthorized interference.

With regard to the first step, in order to obtain a transit permit the declarant is required to submit a transit declaration (IM-8 for inward transit or EX-8 for outward transit) along with supporting documents to the customs office of departure. The required supporting documents accompanying the transit declaration vary according to the type of transit undertaken, i.e.:

I. For inward transit³⁸ and through transit, the following documents are needed:

- Commercial invoice or proforma invoice authorized by the bank; Cargo manifest (submitted by sea carrier);
- Truck manifest for goods purchased from Djibouti and neighboring countries;
- Guarantee (Insurance or Regional Customs Transit Guarantee, RCTG, or Moral Guarantee).

II. For interior transit, the following documents are needed: Truck manifest;

Insurance Guarantee.

III. For outward (export) transit, the following documents are needed:

- Commercial invoice;
- Truck manifest;
- Regulatory agencies permit, if required;
- Guarantee (Insurance or RCTG or Moral Guarantee).

³⁸ In practice, the document requirement for inward transit operation in case of unimodal transit is different. Currently, unlike the international practice and the transit operational manual, it is mandatory to submit a clearance declaration with all necessary supporting documents for clearance at the destination office.

Any commercial or transport document setting out clearly the necessary particulars may be accepted as the descriptive part of the goods declaration for customs transit.

In terms of the use of a customs seal, the following types of transit cargo are required to be affixed with a customs seal:

- Containerized cargo;
- Cargo convenient to cover and seal with canvas, and
- Fuel products.

Conversely, the following types of cargo are not required to be affixed with a customs seal:

- Big industrial and construction type machinery;
- Iron and steel cargos;
- Non-containerized vehicles;
- Cargo adequately secured and affixed with a customs seal by a foreign customs authority;
- Relief goods, fertilizers and charcoal that are not loaded by train; and
- Goods not difficult for customs transit control.

6.3 Procedures En Route

In accordance with Article 20 of the Customs Proclamation, the declarant can perform the following activities while goods are in transit:

- change the customs station of destination without prior notification except where ERCA has specified that prior approval is necessary; and
- transfer goods from one means of transport to another without authorization by ERCA, provided that any customs seals or fastenings are not broken or interfered with.

Accidents or other unforeseen events directly affecting the customs transit operation must promptly be reported by the declarant or carrier to the nearest customs station or other appropriate government body.

ERCA may allow goods to be transported under customs transit in a transport unit carrying other goods at the same time, provided that it is satisfied that the goods under customs transit can be identified and any other customs requirements can be met.

6.4 Termination of Customs Transit

The carrier is required to present the transit goods and the relevant goods declaration to the customs station of destination:

- within the time limit fixed;
- without the goods having undergone any change;
- without the goods having been used; and
- with customs seals, fastenings or identification marks intact.

The time limits for presenting goods in transit to the customs station of destination vary according to the transit route and entry/exit customs office. The time limits are prescribed as follows (also see Annex 3 for a map of transit routes):

1. Goods entering into or exiting from the country via Djibouti:

- Galaffi – Addis Ababa: Three (3) days
- Galaffi – Mekele/Gonder/Bahirdar: Four (4) days
- Galaffi – Hawasa: Three (3) days
- Dewelle – Addis Ababa: Three (3) days
- Dewelle – Jigjiga: Two (2) days and
- Dewelle – Hawasa: Three (3) days

2. Goods entering into or exiting from the country via Kenya:

- Moyale – Addis Ababa: Three (3) days
 - Omorate – Addis Ababa: Three (3) days
3. Goods entering into or exiting from the country via Somalia:
- Togowichale – Dire-Dawa: two (2) days
 - Omorate – Addis Ababa: Three (3) days
4. Goods entering into or exiting from the country via Sudan:
- Humera – Mekele: Two(2) days
 - Metema Yohannis– Addis Ababa: Three (3) days
 - Metema Yohannis– Kombolch: Two(2) days
 - Metema Yohannis– Mekele: Two(2) days
 - Metema Yohannis– Bahirdar: Two(2) days
 - Metema Yohannis– Gondar: One(1) day
 - Humera – Addis Ababa: Four(4) days
 - Mankush– Addis Ababa: Three (3) days
 - Kumruke– Addis Ababa: Three (3) days
 - Behamza- Bahirdar: Two(2) days
5. Goods entering into or exiting from the country via South Sudan:
- Lare - Addis Ababa: Three (3) days
6. Goods crossing the country (through transit operation):
- Humera – Galaffi: Five(5) days
 - Humera – Togowichale: Seven(7) days
 - Humera – Moyale: Six (6) days
 - Metema Yohannis – Galaffi: Five(5) days
 - Metema Yohannis – Togowichale: Seven(7) days
 - Metema Yohannis – Moyale: Six (6) days

- Togowichale – Moyale: Six (6) days
- Galaffie– Behamza: Six (6) days
- Dewelle – Togowichale: Three (3) days
- Galaffie – Moyale: Six (6) days

If goods in transit are not presented to the customs station of destination within the prescribed time limit and the declarant has failed to report the reasons, the guarantee secured will be forfeited to the government.

6.5 Transshipment

Transshipment means the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs port, which is the port of both importation and exportation.

No duties and taxes are paid on goods being transshipped. However, a goods declaration has to be submitted. Any commercial or transport document setting out clearly the necessary particulars can be accepted as the goods declaration for a transshipment operation.

In addition, ERCA may fix a time limit for the exportation of goods declared for transshipment.

7 Customs warehousing

7.1 Introduction

The Revised Kyoto Convention establishes standards and recommended practices for the following terms and concepts related to customs warehousing:³⁹

- a) Establishment, management and control of customs warehouses,
- b) Admission of goods;
- c) Authorized operations;
- d) Duration of stay;
- e) Transfer of ownership;
- f) Deterioration of goods;
- g) Removal of goods; and
- h) Closure of a customs warehouse.

The Ethiopian rules on customs warehousing incorporates many of the specifications and standards set in the RKC. For example, in accordance with the RKC, customs warehousing is defined as the customs procedure under which goods are stored under customs control in a designated place (a customs warehouse) without payment of duties and taxes. The Customs Proclamation prescribes that customs warehouses may be established for general use (public customs warehouses) or for the use of specified persons only (private customs warehouses).

The main purpose of the customs warehousing procedure is to facilitate trade and, specifically, the next customs operation. Since goods deposited in a customs warehouse do not become liable to

³⁹ RKC, Specific Annex D, Chapter One.

the payment of import duties and taxes until the goods are cleared, it allows the owner of the good⁴⁰ sufficient time to negotiate their sale or to arrange for the goods to be processed or manufactured. Because of their exemption from duties while in storage they are closely regulated by government. Therefore, warehouses are an essential part of the customs process and the details on how they operate are given below.

Ethiopian customs law distinguished three types of customs warehouses. These are:

a) Temporary customs storage, i.e. a type of customs warehouse which can be enclosed or open premises including dry ports, where, according to Article 2(10) of the Customs Proclamation:

- Import goods are stored under customs control (in other words, subject to any measure by ERCA to ensure compliance with customs law), until they are released upon completion of customs formalities or transferred to a bonded or government customs warehouse; and/or
- Export and transit goods are stored under customs control until the completion of the applicable customs formalities or until they are transferred to a bonded or government customs warehouse.

b) Bonded customs warehouses, which are authorized to deposit incoming goods at the customs port. In particular, these are warehouses where goods are stored under customs control without payment of duties and taxes; important examples are duty free shops⁴¹ and bonded factories.⁴² Generally, goods are stored in bonded customs warehouses for a longer period of time than

40 ERCA may permit transfer of ownership but the person to whom ownership of goods stored in customs warehouse is transferred will assume the obligations of the previous owner as it relates to the goods. Caution is required in the case of duty and tax exempted imported goods, since such privileges cannot be transferred to another person.

41 Established in international airports or, where necessary, in other places in which duty and tax free goods are sold to international travelers and other duty free privileged persons.

42 Bonded factories produce goods under customs control using raw materials and accessories acquired without payment of duty and taxes.

under temporary customs storage, where they only stay until the completion of documentation and other formalities; and

c) Government customs warehouses are warehouses where goods seized or forfeited for violating customs law as well as abandoned goods are stored under customs control until they are sold or disposed. Unlike the other types of warehouses, government customs warehouses are run by ERCA itself.

7.2 Establishment of Customs Warehouses

In accordance with Article 175(1) of the Customs Proclamation, certain groups of persons can establish temporary customs storage and bonded customs warehouses for rental or private use upon obtaining the necessary permits issued by ERCA. The groups of persons eligible to establish customs warehouses differ depending on the type of warehouse. Thus, public temporary customs storage or a public bonded customs warehouse may be established, for rental use, by:

- An enterprise engaged in freight transport;
- An enterprise established to operate warehouse service;
- An enterprise established to provide industrial zone services;
- An enterprise established to operate customs clearing services;
- or Any other person specified by ERCA.

Temporary customs storage for private use may be established by:

- A contractor engaged in a government project; or
- Any other person exceptionally authorized by ERCA.

And a bonded customs warehouse for private use may be established by:

- An enterprise engaged in the sale of duty free goods;
- A charity or other non-profit making organization;

- An enterprise engaged in the manufacturing of goods using raw materials and accessories acquired without payment of duty and tax; or
- Any other person specified by ERCA.

Applications for establishing a customs warehouse must be submitted to ERCA together with:

- Documents showing the specific activities of the applicant's business;
- The license issued to operate the business;
- Certificate of registration where the applicant is an enterprise; The building plan of the warehouse;
- Declaration of commitment to enter into an insurance contract for the warehouse and the goods to be stored in the warehouse;
- Documents showing that the warehouse is equipped with apparatus necessary for proper storage and safety;
- Applicant's tax identification number; and
- Other documents specified by ERCA directives.

As per Articles 4 and 8 to 11 of the Customs Warehouse License Issuance Council of Ministers Regulations No. 24/1997, ERCA will inform the applicant in writing about the decision of granting or rejecting the license within thirty (30) days from the date of receipt of the application.⁴³ The regulation also lays down the license fee for General Customs Warehouse.⁴⁴ In addition, it will include the conditions of validity of the permit and cancellation.

Pursuant to Article 132 of the Customs Proclamation, customs warehouse permit holders shall:

⁴³ This regulation is under review but is still applicable unless it conflicts with the Customs Proclamation.

⁴⁴ As to the rates of the different types of storage, see section 14.8 below.

- Maintain office equipment, technological devices and staff necessary for customs operation;
- In accordance with a directive issued by ERCA, keep a registration book for the goods deposited in and removed from the warehouse, and report to ERCA from time to time;
- Segregate goods on the basis of their type and nature for the purpose of their safe storage and convenience for control;
- Provide proper replies to queries made by customs officers and cooperate for inspection and investigation;
- Ensure that no goods are deposited in or removed from the warehouse without ERCA's permission;
- Secure renewal of the customs warehouse license within the specified time;
- Prohibit unauthorized persons from entering the customs warehouse;
- Store goods requiring quarantine examinations, as soon as they are discharged from the means of transport, in a separate zone until completion of the quarantine examination;
- Pay duties and taxes with respect to goods lost or damaged due to improper handling;
- Where delivery of goods intended to be deposited in the warehouse has not been effected, report to ERCA immediately the non-receipt of the goods;
- In case of temporary customs storage:
 - a) release goods from the storage upon completion of customs formalities;
 - b) report to ERCA the list of those goods deposited for more than the time specified under the Proclamation and transfer them to a Government customs warehouse;

- In case of a bonded customs warehouse, furnish security to cover the duties and taxes in a situation where the goods are not used for the authorized purpose.

The Directive on Customs Warehouse Administration Implementation No. 40/2002⁴⁵ describes the particular requirements for the different kinds of warehouses as well as their grades.

7.3 Entry and Storage of Goods in Customs Warehouses

Goods arriving at any customs port⁴⁶ must be deposited in temporary customs storage or a bonded customs warehouse. Records of goods kept at bonded warehouses are kept on the warehouse declaration.

For temporary customs storage, the cargo declaration or other commercial documents (which may include the bill of lading or packing list) can be accepted, provided all the goods mentioned are stored.

If scheduled goods are not delivered to a warehouse, the operator must immediately report the matter to ERCA so that proper measures can be taken. Conversely, when goods are found “in excess of entry”, i.e. in excess of the respective goods declaration, cargo manifest or transit documents, the operator of temporary customs storage or a bonded customs warehouse must promptly report the excess to the ERCA branch where the goods declaration was submitted. Duties and taxes for the excess goods will have to be paid without delay.

Time limits for storage of goods depend on the type of warehouse:

- For goods imported by sea or land transport and stored in temporary customs storage, the time limit for completing

⁴⁵ The Directive is up for review but it is the currently applicable one.

⁴⁶ A “customs port” is defined as a place that is designated by ERCA for unloading, storage and loading of import, export and transit goods for the purpose of enforcing customs laws, and includes dry ports.

customs procedures and removal from storage is 60 days from the date of storage. For goods imported by air transport, the corresponding time limit is 30 days;

- Commercial goods, excluding goods in a duty free shop, stored in a bonded customs warehouse shall undergo customs procedures and be removed within four months from the date of storage. For machinery, equipment and input to be used for producing goods for domestic consumption the corresponding time limit is one year;
- For duty free shops, at present there is no time limit. However, a time limit is going to be determined by regulation to be issued by the Council of Ministers.

ERCA may extend the time limit for temporary and bonded customs storage for good cause.⁴⁷ Good cause can be external factors that do not emanate from the person responsible for the goods. Furthermore, goods that have mistakenly been stored in temporary customs storage but should have gone to a bonded warehouse can be returned within twelve (12) working days.

Goods stored in customs warehouses must be handled with particular care for their preservation and with a focus on maintaining their form and nature. Goods that are constituted as hazardous and can affect other goods must be kept at specially designated warehouses. ERCA has the prerogative to take precautionary measures and may allow the owner, possessor or person having control over goods stored in temporary customs storage to make operations necessary for the preservation of the goods; such as repacking, breaking bulk or grouping of packages.

Goods which have nevertheless deteriorated, got spoiled or

⁴⁷ This is in line with the Revised Kyoto Convention which in Specific Annex A, Chapter Two, recommends extension of time for a valid reason for temporary warehouse storage. A valid reason for extension would be the absence of certain documents, such as licenses or permits, without which the goods declaration cannot be submitted.

damaged in a temporary customs storage or bonded warehouse by accident or force majeure will be treated as if they had been imported in their deteriorated, spoiled or damaged condition if this is proved to ERCA's satisfaction.

If the permit for a temporary customs storage or bonded warehouse is cancelled before the expiry of the time limit specified for the storage of goods, the goods shall be transferred to another temporary customs storage or bonded warehouse for the remaining time of storage. The expense for transferring goods to another customs warehouse will be borne by the owner of the storage whose permit has been cancelled.

7.4 Release and Removal of Goods from Customs Warehouses

Goods are released from temporary customs storage or bonded warehouses in any of the following situations:

- Released for home use upon payment of taxes and duty due thereon;
- Transferred to a factory under customs control;
- Transferred to another customs warehouse or released for transit;
- Released for export; or
- Released for sale in the duty free shop.

In addition, ERCA's Citizen's Charter states that a document showing the settlement of warehouse fees and a release letter showing the completion of customs procedures (could be either in hard copy or electronic) are required.

Once customs formalities have been completed, goods may not be kept for more than seven (7) working days in temporary customs storage or a bonded warehouse.

7.5 Transfer of Goods to a Government Customs Warehouse

Goods stored in a customs warehouse can be transferred to a Government customs warehouse under certain condition. In particular, the following will be transferred:

- Goods which are not removed from the warehouse within the specified time limits; and
- Goods contravening customs law.

Goods not removed within this time limit will be transferred to a Government customs warehouse. The operator of temporary customs storage takes the responsibility of such goods. He/she shall transfer the goods to:

- A Government customs warehouse; or
- any other storage place designated by ERCA (this will be considered as a Government customs warehouse with respect to such goods).

Where the operator fails to transfer the goods to the above destinations, ERCA may:

- Itself transfer the goods at the cost of the warehouse operator; or
- Decide that the goods remain in the warehouse or business premises dependent on certain conditions set by ERCA (the warehouse shall then be deemed to be a Government customs warehouse with respect to such goods).

Goods contravening customs law may also be transferred by ERCA to government customs warehouses; or be kept at the business premises where they are stored (this shall then be deemed to be a Government customs warehouse with respect to such goods). The documents required for putting such goods in a Government customs warehouse are:⁴⁸

⁴⁸ Also suggested by ERCA's Citizen's Charter.

- The forfeiture decision or the transfer order to the Government customs warehouse;
- A document indicating that the seized goods are contraband items (if they are contraband goods); or
- A duly completed Model 270⁴⁹ by customs stations for goods seized or forfeited due to contravention of customs law.⁵⁰

If the owner of goods transferred to the Government customs warehouse pays the taxes and duties and other costs before their disposal, he/she has the right to take the goods within seven (7) working days from the date of such payment. The documents needed for the release of the goods from the Government customs warehouse are:⁵¹

- For goods sold or released by court order, a document prepared by the relevant official;
- For goods for which customs procedures were completed after transfer to the Government warehouse, a goods release upon approval of the completion of customs procedure;
- Proof of payment of the customs warehouse fee; and
- Decision of a higher official to release the good upon completion of the customs procedure.

7.6 Goods Taken for Sample

Owners of the stored goods have the right to take samples. The quantity of a sample to be removed from a customs warehouse is determined depending on the purpose of the sample. The quantity of the sample must be sufficient to:

⁴⁹ Model 270 is a document issued by customs stations or control posts to persons who possessed illegal goods that were seized or forfeited. A copy of this document has to be presented with the good to be stored in government warehouse.

⁵⁰ Customs Procedures Manual, 2013, Chapter Three.

⁵¹ Customs Procedures Manual, 2012.

- ascertain the type and the material content of goods to classify them under the proper tariff headings;
- ascertain the type, quality and origin of goods for valuation purpose;
- satisfy a court or police order requiring the presentation of a sample for inspection;
- ascertain that the price indicated on the invoice is actually related to the specified item; or
- fulfill other purposes determined by ERCA's Director General.

Samples taken must normally be returned in the same quantity and condition once the purpose for which they are taken out is fulfilled. If it is not possible to return them because of their nature or by reason of their being used for analysis, the sample shall be deduced from the goods being warehoused for the purpose of assessment of duties, taxes and other charges.

7.7 Disposal of Abandoned Goods

Goods are considered abandoned when they are not collected by their owners in time (see section 7.3 above) from the warehouse. If the owner notifies the abandonment in writing before the expiry of the period of storage in temporary and bonded warehouses, they will be put on sale and their proceeds go to Government. The same applies for forfeited goods.

If there is no notification by the owner, the goods will be transferred to a Government customs warehouse and will be disposed by sale. If the goods don't have market value, ERCA will decide on them.

The owner of the goods may claim the proceeds from the sale of the goods after deduction for.

- Duties and taxes;
- Expenses incurred by ERCA in relation to the goods;

- The warehouse fee and transportation expenses; and
- Interest calculated at bank lending rate on the amounts referred to above.

However, the refund has to be claimed by the owner of the goods within six months from the date of sale of the goods. Otherwise the Government will consider it as surrendered.

8 Customs clearance

8.1 Introduction

The RKC establishes standards and recommends good customs practices for importation, exportation, temporary admission and special procedures.⁵²

The RKC defines customs clearance as “the accomplishment of the Customs formalities necessary to allow goods to enter home use, to be exported or to be placed under another Customs procedure” and release as “the action by the Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned.”⁵³

This part of the guide is about the customs clearance operation applicable on importation and exportation of cargo, travelers’ baggage and postal parcels, in accordance with the Customs Proclamation, related Councils of Ministers regulations and directives and customs procedure manuals.

8.2 Cargo Importation

According to Article 2(2) of the Customs Proclamation, “cargo” is any good imported or exported by any means of transport other than stores of means of transport (i.e. goods to be consumed during the journey, such as spare parts or food items) for commercial use and baggage of travelers.

Cargo import clearance procedure means the accomplishment of the customs formalities necessary to allow cargo to enter into the customs territory. The clearance procedure includes:

⁵² RKC, Specific Annexes B, C, G and J, respectively. In these Specific Annexes, the following customs regimes are included: re-importation in the same state; outright exportation; temporary admission; travelers; postal traffic; means of transport for commercial use; stores; and relief consignments.

⁵³ RKC, General Annex, Chapter 2.

- Submission of the goods declaration (see section 5 above);
- Acceptance or rejection of the goods declaration (see section 5.6 above);
- Checking the goods declaration against the documents produced (invoice, bill of lading, certificate of origin, permits, etc.)
- “Checking the goods declaration” is defined in the RKC as the action taken by Customs to satisfy themselves that the goods declaration is correctly made out and that the supporting documents submitted fulfill the prescribed conditions;
- Examination of the goods, if required Assessment and collection of duty and taxes; and
- Release of goods.

The following goods can be given priority in undergoing customs procedures, where the declarant applies to get the service before/ after the goods enter to customs territory:

- Medicines;
- Inflammatory goods;
- Radiation emitting goods;
- Seeds;
- Live animals and chicken;
- Organisms destined for laboratory and examination;
- Inputs for export goods;
- Chemicals that pollute the environment;
- Current newspapers and journals;
- Foodstuff and fruits;
- Export goods;
- Authorized economic operators and special customs service users;

- Goods and spare parts that are necessary for regular operation of company and urgently needed;
- Relief cargo; and
- Other goods that are specified by ERCA.

8.2.1 Examination of Goods

“Examination of goods” refers to the physical examination of goods by a customs officer to satisfy that the origin, country of export, nature, condition, quality, quantity, tariff classification and value of the goods are in accordance with the information furnished in the goods declaration. This includes the examination of goods on the basis of declarations by travelers.

The examination of goods by ERCA is needed to ensure that goods to be released are covered by a registered declaration. For this purpose, ERCA may take samples for examination and analysis. The declarant is entitled to be present when the goods are examined or samples are taken; provided, however, that if he fails to appear, ERCA can proceed to conduct the examination or to take the samples in the presence of the warehouse operator.

The examination of goods may take place at:

- Customs premises;
- Government offices and companies premises;
- Warehouse or project site;
- Industry zones; or
- Any place approved by the deputy manager of customs affairs at an ERCA branch.

According to the Goods Examination Directives No. No. 119/2008, the following are eligible for examination outside of customs premises:

- Eligible agencies and companies:

- Government agencies and government share companies; o Beneficiaries of export trade tax incentive schemes;
- Projects owned by federal and regional governments;
- Public or regional development associations; and
- Authorized Economic Operators.
- Eligible goods:
 - Manufacturing raw materials, chemicals and inflammatory goods;
 - Fuel and fuel products;
 - New vehicles, if imported in a quantity of twenty and above at a time by one importer; also three wheel vehicles 40 and above;
 - Fertilizer, relief cereal and other bulk cargos;
 - Mirrors of vehicles and buildings;
 - Export consignments;
 - Big factory machinery, investment goods and other goods not convenient for examination at a customs station;
 - Other goods can be allowed by the deputy branch manager.

The declarant must cover the costs incurred for the examination of goods, such as the cost of transport of the goods to the place where they are examined or samples are taken, the cost of taking samples and the cost of examination, as well as any expenses related thereto.

Where the declarant considers the result of a partial examination to be invalid as regards the remainder of the goods, he/she can request further examination of the goods and shall cover the expenses incurred by such examination.

8.2.2 Clearance of Goods Imported for Home Use

“Clearance for home use” is the Customs procedure which provides that imported goods enter into free circulation in the Customs territory upon the payment of any import duties and taxes chargeable and the accomplishment of all the necessary Customs formalities. “Goods in free circulation” means goods which may be disposed of without Customs restriction.

Imported goods that have completed the necessary customs formalities and have been released for free circulation are considered as domestic goods. Nevertheless, goods released for free circulation may lose this status if:

- the goods declaration for their release for free circulation is invalidated;
- they are imported for inward processing and treated under the duty draw back or voucher scheme;
- they have to be re-exported because they are defective or fail to meet the required standards; or
- they are re-exported or used only for the permitted purpose and subject to drawback system.

The following steps must be completed to obtain release for import cargo:

- Registration of the goods declaration. The goods declaration that needs to be used for clearance of direct imported goods for home use is IM-4;
- Assessment and payment of import duties and taxes, if required;
- Submission of the goods declaration;
- Checking the goods declaration and supporting documents;
- Acceptance or rejection of the goods declaration (when rejected, correct and submit the causes of rejection)

- Determination by ERCA of the risk level of the accepted goods declaration (green: automatic release of goods; yellow: verification of the goods declaration and supporting documents; red: physical examination and verification of the goods declaration and supporting documents; blue: automatic release of goods at the importer's own premises);
- Verification of the goods declaration and supporting documents – this may include, in certain cases, the verification of other legislative requirements administered by other regulatory agencies (e.g. veterinary, health, phytosanitary, etc.);
- Examination of the goods, if required
- Addressing any discrepancy as per the administrative/criminal laws and directives.

Goods declared will be released as soon as they are examined by ERCA. ERCA may also decide not to examine the goods, provided that:

- a) they are not subject to prohibition, or an offence has been committed in relation to them;
- b) the conditions of placing the goods under the customs procedure in question are fulfilled;
- c) in the case of restricted goods, the permit issued by the appropriate body pursuant to the relevant law is presented; and
- d) any applicable duties and taxes have been paid, or a security has been furnished.

ERCA may release goods upon receiving a guarantee from the importer to secure payment of the taxes and duties within a certain period of time; this period may not exceed 12 months.⁵⁴

⁵⁴ In this case, it is expected that the Ministry of Finance and Economic Cooperation will issue a directive.

Where samples are taken and technical documents and expert advice is required to determine duties and taxes, ERCA may release the goods against security before the results of such examination are known, provided that other agencies approved the release of goods, if any.

Goods can also be released prior to the completion of customs formalities under the following conditions:

- The declarant can subsequently accomplish all the custom formalities;
- The declarant produces a commercial or official document containing the main particulars of the concerned consignment and is acceptable to ERCA; and
- A security has been furnished, where required, to ensure that ERCA can collect any applicable duties and taxes.

Furthermore, an importer or his/her agent may submit a declaration with supporting documents prior to the arrival of the goods and may request for a pre-arrival clearance to be issued upon examination of the declaration and supporting documents. This is comparable to the normal clearance procedure except that the declaration is submitted earlier. Pre- arrival clearance is possible only when ERCA does not undertake a physical examination of the imported goods.

In cross-border trade transactions the clearance and release of goods at the point of entry often create a barrier to trade because of long delays. The modernization of customs procedures so as to expedite clearance and release, therefore, is an important trade facilitation tool. Accordingly, advance submission of information allows for a release with little or no delay upon arrival.⁵⁵

All the goods covered by a declaration will be released at the same time unless the conditions require otherwise.

55 The RKC refers to pre-lodgment and pre-registration in Chapter 3 of the General Annex.

Some specific provisions exist for the treatment of goods imported for home use, where the imported goods do not correspond with the intended purpose or have been delivered in a different quantity:

- If goods imported for home use cannot be used for the intended purpose due to defect, error of consignment, or incompleteness, upon a request by the importer ERCA may allow them to be re-exported and replaced within one year from the date of importation without additional payment of duties and taxes. If ERCA is convinced that the incompatible goods cannot be re-exported before the replacement goods are imported, it may allow the importation of the replacement goods without payment of duties and taxes. However, the condition for this is that the importer submits a guarantee for the re-export of the original goods within a certain period of time or, if such goods cannot be used for any other purpose, delivers them to ERCA.
- If goods imported for home use are delivered in a lower quantity stated in the goods declaration, ERCA may allow, if it has sufficient evidence, the remaining goods to be imported, or refund the amount of tax and duties paid on the remaining goods.

In general, goods imported and declared for home use can be re-exported under the following conditions:

- The goods declared for home use are not prohibited and their entry is not contrary to customs law;
- The importer requests to re-export the goods declared for home use before completing customs formalities; and
- 5% of the payable duties and taxes on the goods are paid.

8.2.3 Temporary Importation

Temporary importation takes place when goods enter a customs territory for a limited period of time and are then removed from the territory again, unchanged, and without any duty liability arising.

In Ethiopia, goods necessary for the following purposes may be imported temporarily:⁵⁶

- a. Trade promotion;
- b. Technology transfer;
- c. Tourism and cultural exchange;
- d. Construction works;
- e. Consultancy services; or
- f. Relief.

Spare parts and other consumable goods are not allowed to be imported temporarily.

The goods declaration used for clearance of temporary imported goods is IM-5.

ERCA may refuse to authorize the use of the temporary importation procedure where it is impossible to identify the goods. However, ERCA may nevertheless allow temporary importation where, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure.

Once ERCA has authorized temporary importation and received a security, goods may temporarily be admitted duty and tax free, subject to their re- export. Nevertheless, duties and taxes must be paid on the depreciated values of temporarily imported goods upon their re-export, based on the tariff currently applicable.

⁵⁶ Temporary importation pursuant to these reasons may also be granted to goods already placed under another customs procedure.

Temporarily imported goods can also be used locally by paying duty and tax when it is approved by the Ministry. Furthermore, ERCA may permit the transfer of temporarily imported goods for construction works or consultancy services, within the authorized period, to other duty free right holders with respect to similar goods.

The time limit for temporarily imported goods to stay in Ethiopia depends on the purpose of the temporary import, as follows:

- a. Goods for tourism, cultural exchange or technology transfer: six months;
- b. Goods for trade promotion and welfare services purposes: two months from the date of completion of the trade promotion or welfare service;
- c. Goods for construction works, consultancy services, and welfare services or as per a project agreement: these goods must be re-exported within the period specified in the project agreement or within three months after the completion of the project or welfare services. ERCA may extend the time limit if the importer provides an acceptable justification for why the goods cannot be re-exported within the specified time.

If temporarily imported goods are not re-exported within the specified time limit, the security provided will be transferred to the Government and the goods may, upon the completion of the appropriate customs formalities, remain in the country or be re-exported. If temporarily imported goods cannot be re-exported as a result of a seizure, other than a seizure made at the request of private persons, the requirement of re-exportation will be suspended for the duration of the seizure.

The temporary importation status may be terminated by declaring the goods for outright importation. In this case, the goods will be subject to compliance with the conditions and formalities applicable to the importation of goods.

8.2.4 Re-Importation

Re-importation is the importation into a customs territory of goods that had previously been exported from the territory.

Goods exported temporarily by completing customs formalities for the following reasons may be allowed to re-enter the country without payment of duties and taxes:

- vehicles, equipment and machinery taken out by a person for the purpose of carrying out his/her work abroad;
- goods exported for trade fairs, exhibitions or cultural shows; and
- defective goods that are re-exported.

Goods may be eligible for duty exemption only if returned from abroad within one year, unless a longer period is specified in a directive issued by Ministry.

The goods declaration used for clearance of re-imported goods is IM-6.

8.3 Cargo Exportation

8.3.1 Outright Exportation

Outright exportation is the customs procedure whereby goods in free circulation leave the customs territory and are intended to remain permanently outside it.⁵⁷

The following formalities must be completed for the outright exportation of cargo (goods):

- Registration of the goods declaration. The goods declaration used for clearance of outright exported goods is EX-1;
- Assessment and payment of export duties and taxes, if any;
- Verification of goods declaration and supporting documents – which includes the verification of other requirements

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administered by other regulatory agencies (e.g. veterinary, health, phytosanitary, etc.); and

- Examination of the goods, if required.

8.3.2 Temporary Exportation

Temporary exportation is the exportation of goods that the declarant specifies as intended for re-importation. To facilitate the re-importation at a later stage, Customs may take identification measures on the goods.

In Ethiopia, temporary exportation may be authorized for the following goods and purposes:

- vehicles, equipment and machinery taken out by a person for the purpose of carrying out his work abroad;
- goods exported for trade fair, exhibition or cultural show.

The goods declaration used for the clearance of temporarily exported goods is EX-2.

The temporary exportation procedure may be terminated by declaring the goods for outright exportation, subject to compliance with the conditions and formalities applicable to this.

8.3.3 Re-exportation

Re-exportation is the exportation from the customs territory of goods previously imported into that territory. There are often occasions where imported goods may have to be exported again. Such situations arise where the import goods are found defective after customs clearance or are not in accordance with specifications or requirements of the consignee. Goods are also often temporarily imported for the purposes described in section 8.2.3 and are then subject to re-exportation upon the completion of the intended objectives.

The following conditions shall be fulfilled to re-export goods imported and declared for home use:

- The goods are not prohibited, and their entry is not contrary to customs law; and
- The importer requests the customs office of entry to allow re- exportation before completing customs formalities upon payment of 5% of the duties and taxes to be paid on the goods.

For temporarily imported goods, re-exportation is allowed if the following conditions are met:

- Within the specified period (see section 8.2.3) the importer has submitted a request to the customs office of entry to allow the re- exportation; and
- Duties and taxes are paid on the depreciated values of temporarily imported goods upon their re-exportation based on the tariff currently applicable.

The goods declaration used for the clearance of goods to be re-exported is EX-3.

8.4 Travelers

A traveler is a person who enters or leaves Ethiopia, regardless of whether he/she is a domiciliary of Ethiopia. Every traveler entering Ethiopia has to pass through customs. A traveler may be permitted to make an oral declaration in respect of the goods he/she carries. However, a written or electronic declaration is required for goods constituting an importation or exportation of a commercial nature.

ERCA has adopted a two channels system for the purpose of customs clearance of travelers: the Green and the Red Channel. According to the Customs Proclamation,⁵⁸ travelers can make a clearance declaration in the form of bodily action by choosing the Green or the Red Channel depending on the nature of goods

⁵⁸ In current practice, ERCA streams flights either green or red, depending on the risk assessment.

being carried: the Green Channel is for passengers who have neither dutiable goods nor goods which are subject to import prohibitions or restrictions; while the Red Channel is for passengers having dutiable goods and/or goods which are subject to import prohibitions or restrictions.

8.4.1 Unaccompanied Baggage

Unaccompanied baggage, i.e. baggage arriving or leaving before or after the traveler, can be cleared under the procedure applicable to accompanied baggage or under another simplified customs procedure. Thus, according to Article 32(2) of the Customs Proclamation, any authorized person⁵⁹ may present unaccompanied baggage for clearance on behalf of the traveler.

8.4.2 Non-commercial Goods and Personal Effects

Non-commercial goods are goods intended for the personal or family use of the consignee or persons carrying them or that are clearly intended as gifts. Personal effects are articles that a traveler may require for personal use. The aggregate value or quantity of non-commercial goods or personal effects may not exceed the amounts laid down in Ministry directives.

Flat-rate duties and taxes are applied to non-commercial goods imported or exported by travelers.⁶⁰ The flat rate is applied on the goods in excess of the aggregate value or quantity prescribed by directive.

8.4.3 Transit Travelers

Transit travelers not leaving the transit area are not required to pass through any customs control. However, ERCA may maintain general surveillance of transit areas and take any action necessary when a customs offence is suspected.

⁵⁹ An authorized person can be a clearing agent or any person who has power of attorney.

⁶⁰ Not yet implemented.

8.5 Postal parcels

The movement of goods by post has been one of the most widely used methods to import or export small items like sample, gifts, etc. According to the Customs Proclamation, postal parcels imported and exported thus are subject to customs control. The RKC provides for specific customs procedures in respect of postal items.⁶¹

According to the Acts of the Universal Postal Union certain letter-post items are required to be accompanied by a customs declaration form CN22/CN23 as appropriate.⁶²

Any authorized postal services provider must report to the customs office by means of a manifest or in any other approved manner all goods arriving or departing through the postal system and to present such goods to a customs officer for clearance.

Any form completed by the sender, label affixed or supporting documents produced in respect of goods imported or to be exported through the postal system are considered as an acceptable declaration for the purpose of customs formalities provided that:

- a) the goods have a value not exceeding the value determined by ERCA;
- b) import or export does not require certification by a regulatory agency;⁶³ and
- c) the imported goods need not be placed under a different procedure other than the customs procedure applicable to goods for home use

If goods imported or to be exported through the postal system do not meet all of these three conditions, a separate goods declaration is required.

⁶¹ RKC, Specific Annex J, Chapter 2.

⁶² WCO, Glossary of International Customs Terms, 2011.

⁶³ Regulatory agencies and regulated import and export items are listed in section 1.3 of this guide.

The collection of duties and taxes for goods imported and exported through the postal system may be delegated by ERCA to postal service providers.

9 Simplified procedure

9.1 Introduction

ERCA applies a “Simplified Procedure” for the release of goods for free circulation based on limited declaration information by using a simplified declaration produced for this purpose. The trader, subsequently, submits a detailed declaration within the time limit prescribed by the law. The Simplified Procedure is governed under the terms of Articles 84-88 of the Customs Proclamation.

Only authorized persons are eligible to apply the Simplified Procedure. An authorized person is a person selected and registered upon fulfillment of ERCA's criteria. The following requirements have to be fulfilled to use the procedure:

- An authorization certificate issued by concerned authority;
- A security (General insurance bond); and
- A simplified declaration, electronically completed and submitted.

The beneficiaries of the Simplified Procedure are:

- Authorized manufacturers producing for export markets;
- Authorized manufacturers producing for the local market;
- Direct exporters; and
- Authorized Economic Operators (AEOs).

9.2 Types of Simplified Procedures

Different types of simplified procedures exist; these refer to the declaration of goods, clearance of goods, and self-assessment of duty and tax liabilities.

A simplified procedure for the declaration of goods may include the following:

- The release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration;
- Allowing a consolidated goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person; and
- Allowing the submission of a goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary goods declaration.

The simplified procedure for clearance of goods allows the clearance of goods at the declarant's business premises or another place authorized by ERCA.

Finally, under certain conditions ERCA allows the use of the authorized person's commercial records to self-assess duty and tax liabilities and, where appropriate, to ensure compliance with other customs requirements.

10 Inward and outward processing

10.1 Introduction

Inward and outward processing refer to the temporary importation and exportation, respectively, of goods for manufacturing or processing and the exportation and importation, respectively, of compensating products resulting thereof.

Inward and outward processing are governed under the terms of Articles 65-67 of the Customs Proclamation, and the Export Trade Duty Incentive Schemes Proclamation No. 768/2012. Importantly, authorization is required to import/export or receive inward/outward processing goods to be eligible for duty relief. Authorizations are issued by ERCA to the person processing the goods.

10.2 Inward Processing

Inward processing provides benefits to Ethiopian manufacturers in order to promote exports from Ethiopia and create a conducive environment for domestic products to become competitive in international commodity markets. It is based on the temporary importation of goods into Ethiopia for processing as per the export duty incentive schemes.

10.3 Outward Processing

Outward processing allows the temporary export of goods for manufacturing/processing and repairing abroad. Outward processing works based on temporary exportation procedures. Individuals, partnerships or corporate bodies established in Ethiopia can use it.

Compensating products resulting from the manufacturing or processing goods temporarily exported should be re-imported within a year from the date of the temporary export of the goods. However, ERCA may authorize an extension where necessary.

Outward processing can be terminated after temporary exportation by declaring the goods for outright exportation subject to compliance with the conditions and formalities applicable to the exportation of goods.

11 Customs valuation

11.1 Introduction

“Customs valuation” refers to methods used by customs authorities to allocate a value to imported goods for the purpose of determining the correct import duty.⁶⁴ ERCA normally charges customs duty and tax as a percentage of the duty paying value of goods, which is the sum of the amounts paid for the imported or exported good up to the point of entry into or exit from the customs territory, i.e. the cost of the good, insurance, freight and other charges. For the determination of the correct duty amount, ERCA thus needs to determine the value of goods.

One of the cardinal authorities on customs valuation that is widely accepted is the WTO Agreement on Implementation of Article VII [Customs Valuation], which establishes a fair, uniform and neutral system for the valuation of goods that precludes the use of arbitrary or fictitious customs values. Although Ethiopia is not yet a WTO member, the Ethiopian customs valuation methods, which are laid out in Articles 89- 100 of the Customs Proclamation and in the Customs Duty Paying Value Determination Directive No. 111/2015, have been designed in line with the WTO Agreement.

ERCA recognizes six (6) different customs valuation methods. The default method (Method 1) is the transaction value method. Alternative valuation methods are:

- Method 2: Transaction value of identical goods;
- Method 3: Transaction value of similar goods; Method 4: Deductive value;
- Method 5: Computed value;
- Method 6: Fallback method.

64 Dictionary of Trade Policy Terms, Fourth Edition, July 2003.

The application of methods is strictly hierarchical. In any case, the default method constitutes the starting point. Only if it is impossible to apply in the specific case, the Method 2 will be tried, and so on.

For the application of each method, evidence for the value of the good must be produced and any documents and information about an importation required by a customs officer must be provided.

The specific type of evidence depends on the method used and is described in the following sections.

If there is a disagreement regarding the amount of duty charged at the time of entry to free circulation of the goods or with a post clearance finding, an appeal can be submitted against the decision. See section 18 for further details.

11.2 Description of the Valuation Methods

11.2.1 Transaction Value Method (Method 1)

The transaction value of imported goods is the price that is actually paid or payable for the goods when sold for export to Ethiopia, and adjusted where necessary, as set forth in Article 99 of the Customs Proclamation, provided, however, that:

- a) There are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions imposed by law or by particular decisions issued based on such law, a limit in the geographical area in which the goods may be resold or limits that may not substantially affect the value of the goods.
- b) The sale or price of the goods is not subject to some conditions or restrictions for which a value cannot be determined.
- c) No part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer may accrue directly or indirectly to the seller.
- d) Where the buyer and seller are related, the transaction value

shall be considered as the basis for valuation of duty if it is accepted by the Authority.

Accordingly, there are three key elements of the transaction value that include sale, price actually paid or payable; and the goods sold for export to Ethiopia.

If there is no sale of the good or the transaction value cannot be determined, the transaction value method cannot be used and Method 2 must be tried.

If ERCA has doubts about the stated transaction value, more information is requested. If those doubts persist, ERCA notifies the declarant of the grounds for those doubts before making a final decision about the acceptability of the declared value. Then, ERCA uses the other alternative valuation methods for determination of the duty payable value.

The legal reasons for ERCA to reject the transaction value may arise from the following:

- The goods are not properly described;
- ERCA has doubts about the validity of the documents; Other costs are not properly included;
- The stated value of the goods is more than 10% lower than the value of identical or similar goods as per the customs valuation database and the declarant provides no justifications about the truthfulness of the declared value; or
- The buyer and the seller are related.

A buyer and a seller are deemed to be related if:

- One of them is an officer or director of the other's business;
- They are legally recognized partners in business;
- They have an employer-employee relationship;
- One of them directly or indirectly owns, controls or holds 5%

or more of the other's business;

- One of them directly or indirectly controls the other;
- Both of them are directly or indirectly controlled by a third party; Both of them directly or indirectly control a third party; or
- They are related by consanguinity or affinity up to the second degree.

Where an examination of circumstances surrounding a sale between a related buyer and seller shows that the relationship does not influence the price, the transaction value is accepted. The examination is undertaken by ERCA's Valuation Directorate at headquarters based on information collected from

the importer. As per the Valuation Directive No.111/2015, ERCA may ask the importer to fill and submit a Questionnaire which is specially designed for a related party's transaction.

Costs to Be Included in Transaction Value

The following expenses incurred by the buyer and not included in the price actually paid or payable for the goods must be included in the transaction value:

- a) Commission or brokerage charges except buying commission;
- b) The cost of packages that are treated as an integral part, for customs purposes, of the goods;
- c) The cost of packing, whether for labor or materials;
- d) The transport, loading, unloading, handling and insurance costs associated with the transport of the goods to the port of entry;
- e) Notwithstanding the above, where goods are transported by air, one-third of cost paid for air transport.

Other costs to be added to the price paid or payable are the following:

- The cost apportioned as appropriate and where supplied directly or indirectly by the buyer free of charge or at reduced costs for use in the production and sale for export of the imported goods, to the extent that such cost has not been included in the price actually paid or payable;
- Royalties for intellectual property rights and license fees related to the goods that the buyer is required to pay; and
- The value of any part of the proceeds of any subsequent resale, disposal or use of the goods that accrues directly or indirectly to the seller.

The additional costs can be included to customs duty paying value as follows:

- a) The costs associated with the transport of the goods to the port of entry are included based on the declarant payment documents;
- b) When the declarant is unable to produce these documents or the payment documents are not accepted by customs, the additional cost determined by the transport payment made to the goods imported at the same time from the same country;
- c) The transportation cost from the port to the customs territory is calculated by taking the proportion of the transport payment made from the port to destination of goods.
- d) If the royalty payment is calculated after the goods imported, the customs valuation decision can be delayed until the goods arrive.
- e) When the royalty payment is not included to the duty paying value once, it can be decided by the branch customs valuation and tariff classification section on how to distribute the payments.

Where the additions to the price actually paid or payable cannot be decided on the basis of objective and quantifiable data, ERCA can take a decision based on data from the concerned government offices or the private sector.

Where the additions to the price actually paid or payable cannot be decided based on the above scenario, they can be calculated as follows:

- a) The costs associated with the transport of the goods to the port of entry are calculated as 5% of the declared and accepted FOB value.
- b) The loading, unloading, and handling costs associated with the transport of the goods to the port of entry are calculated as 5% of the declared and accepted FOB value.
- c) The insurance costs associated with the transport of the goods to the port of entry are calculated as 2% of the declared and accepted FOB value.
- d) a) and c) also apply to the goods transported by air.

Charges Not to Be Included in Transaction Value

Provided that they are shown separately from the price actually paid or payable, the following are not to be included in the transaction value:

- Charges for construction, upgrading, erection, maintenance or technical assistance, which have been undertaken or are to be undertaken after the importation of industrial plants, machinery or equipment;
- Charges for the transport of goods after their entry into the customs territory;
- Charges for interest under a financial arrangement entered into by the buyer and relating to the purchase of imported goods;
- Buying commissions; and

- Duties, taxes and other charges paid in Ethiopia related to importation of the goods.

Other charges not to be included to the price paid or payable are the following:

- Charges for the right to reproduce the imported goods; and
- Payments made by the buyer for the right to distribute or resell the imported goods if such payment is not a condition of the sale for export to Ethiopia.

Deductions from Transaction Value

The following should be deducted from the transaction value of imported goods:

- Costs for damages en route;
- Costs for damages sustained in the customs warehouse; and
- The value of dangerous goods destroyed or otherwise disposed.

These costs can be deducted when the declarant applies the declaration together with supporting documents about the damage occurred and accepted by ERCA.

Production of Additional Information and Evidence

If ERCA doubts the accuracy of particulars of a declaration, it may require the declarant to produce further information or evidence showing that the declared transaction value represents the amount actually paid or payable for the imported goods. Examples of such evidence could include the following:

- a) Evidence and documents that show, sales between buyer and seller;
- b) Detailed evidence or document that shows, payment made

in cash or in kind directly or indirectly by the declarant in relation to the goods imported;

c) Transportation and insurance cost paid up to port of loading the goods;

d) Transportation and insurance cost paid from port of loading up to the first entry to Ethiopia.

e) Evidence and documents that show commission payments;

f) Packing and handling costs;

g) Inputs and services supplied by the buyer to the seller;

h) Royalties for intellectual property rights and license fees related to the goods;

i) Payments made from income of any subsequent resale;

j) Charges for technical assistance, which have been undertaken or

are to be undertaken after the importation of goods;

k) Charges for the transport of goods after their entry into the customs territory;

l) Charges for interest under a financial arrangement entered into by the buyer and relating to the purchase of imported goods;

m) the transaction value in sales between unrelated buyers and sellers of identical or similar goods for export to Ethiopia during the same period.

If ERCA, after receiving further information, still has reasonable doubts about the accuracy of the declared value, or in the absence of a response by the declarant, it may be deemed that the dutiable value of the imported goods cannot be determined under Method 1, and the reasons for such decision shall be provided in writing to the declarant.

11.2.2 Transaction Value of Identical Goods Method (Method 2)

Where the transaction value of imported goods cannot be determined on the basis of Method 1, it is determined by taking the transaction value of identical goods sold for export to Ethiopia at the same commercial level, in substantially the same quantity. "Identical goods" are goods produced in the same country as those being valued. They must also be the same in all respects, such as physical characteristics, quality and reputation, and be imported within ninety (90) days of the goods to be valued.

If it is impossible to get same commercial level and quantity, the transaction value is determined as follows:

- The transaction value of identical goods sold at the same commercial level, but sold in different quantities;
- The transaction value of identical goods sold at a different commercial level, but sold at the same quantity;
- The transaction value of identical goods sold at a different commercial level or in different quantities by making adjustments to take account of differences attributable to the commercial level or to the quantity.

Where of the transaction value includes costs referred to in Article 96(1) of the Customs Proclamation, the adjustment shall take into account the differences in transport, loading, unloading, handling and insurance costs associated with the transport of the imported goods and that of the identical goods to the port of entry into the customs territory which may arise from differences in distance and means of transport.

If the transaction value of identical goods declared by the declarant is not accepted, ERCA may take the transaction value of identical goods from the organized customs valuation database.

The evidence to be produced for using the transaction value of identical goods includes the following:

- a) Detailed reasons to value the good based on this method;
- b) Evidence that shows the unit price of identical goods sold for export to Ethiopia at the same commercial level, in substantially the same quantity, and imported within ninety (90) days of the goods to be valued;
- c) Evidence that shows, the identical goods are imported to Ethiopia about the same time as the goods being valued;
- d) Evidence that shows, manufacturer's price list of identical goods.

Where the transaction value of identical goods cannot be determined,

Method 3 will be used to determine the customs value.

11.2.3 Transaction Value of Similar Goods Method (Method 3)

Where the transaction value of imported goods cannot be determined on the basis of Method 1 or 2, it is determined by taking the transaction value of similar goods sold for export to Ethiopia at the same commercial level and in substantially the same quantity. "Similar goods" are goods that differ in some respects from the goods being valued, but they:

- Are produced in the same country;
- Can carry out the same tasks; and
- Are commercially interchangeable.

Where similar goods are not made by the producer of the goods to be valued, similar goods produced by a different producer that are imported within ninety (90) days may be used.

If it is impossible to get same commercial level and quantity, the transaction value is determined as follows:

- a) The transaction value of similar goods sold at the same commercial level, but sold in different quantities;
- b) The transaction value of similar goods sold at a different commercial level, but sold at the same quantity;
- c) The transaction value of similar goods sold at a different commercial level or in different quantities can be used, by making adjustments to take account of differences attributable to the commercial level or to the quantity.

Where the transaction value includes costs referred to in Article 96(1) of the Customs Proclamation, the adjustment shall take in to account the differences in transport, loading, unloading, handling and insurance costs associated with the transport of the imported goods and that of the similar goods to the port of entry into the customs territory which may arise from differences in distance and means of transport.

If the transaction value of similar goods declared by the declarant is not accepted, the authority may decide the transaction value of similar goods from the organized customs valuation data base.

The evidence to be produced to use the transaction value of similar goods includes the following:

- a) Detailed reasons to value the good based on this method;
- b) Evidence that shows the unit price of similar goods sold for export to Ethiopia at the same commercial level, in substantially the same quantity, and imported within ninety (90) days of the goods to be valued;
- c) Evidence that shows, the similar goods are imported to Ethiopia about the same time as the goods being valued;
- d) Evidence that shows, manufacturer's price list of similar goods.

Where the transaction value of similar goods cannot be determined, Method 4 is used.

11.2.4 Deductive Value Method (Method 4)

Where the transaction value of imported goods cannot be determined on the basis methods 1 to 3, it is determined by using the unit price of identical or similar goods imported within ninety (90) days that are sold in Ethiopia in their original state in the greatest aggregate quantity to persons who are not related to the seller and reducing some costs.

For the purpose of this method seller is the declarant and buyer is the whole seller or retailer or consumer who buys the goods from the declarant.

The costs that are deducted from sale price are the following:

- The commission usually payable or the profit and general expense equal to that usually reflected in sales within Ethiopia of such goods;
- The usual charges for the transport, insurance and other related costs to be incurred within Ethiopia for the goods; and
- Import duties, taxes and other charges payable with respect to the goods.

In cases where the imported goods, identical or similar imported goods are not sold in their original state, the transaction value is determined by deducting the additional value resulting from the subsequent processing of the goods.

The conditions to determine the value based on this method are:

- a) There is no relationship between the buyer and seller, or the declarant produces evidence showing that the relationship did not influence the price;
- b) In relation with the goods sold, there is no lesser amount of

payment or gift;

c) Evidence is provided showing the unit price of goods sold with high quantity.

The formula to calculate the customs value then is the following:

a) Where the imported good is sold without undergoing further processing, the formula is:

$$\text{DPV} = (\text{Customs value CIF in ETB}) = \text{DMP} - (\text{PFM} + \text{EXP} + \text{DTX})$$

$$\text{FOB price (in USD)} = \text{DPV}(\text{CIF in USD}) - \text{IF}$$

b) Where the imported good is sold with undergoing further processing, the formula is:

$$\text{DPV} = (\text{Customs value CIF in ETB}) = \text{DMP} - (\text{PFM} + \text{EXP} + \text{DTX} + \text{ADD})$$

$$\text{FOB price (in USD)} = \text{DPV}(\text{CIF in USD}) - \text{IF} \text{ Where:}$$

$$\text{DPV} = (\text{Duty Paying Value or Customs Value})$$

$$\text{DMP} = (\text{Domestic Market Selling Unit Price})$$

$$\text{PFM} = (\text{Commission or Profit from sale})$$

$$\text{EXP} = (\text{Domestic General Expenses})$$

$$\text{DTX} = (\text{Total Customs Duties and Taxes})$$

$$\text{ADD} = (\text{Additional value resulting from the subsequent processing of the goods})$$

$$\text{IF} = (\text{Insurance, freight and other costs paid up to the entry point of Ethiopia})$$

The evidence that must be produced to determine the value of goods based on Method 4 includes the following:

- a) Detailed reasons to value the good based on this method;
- b) The relationship between the seller and local buyer, and the impact

- of their relationship on the selling price;
- c) Documents that describe the conditions of sale;
- d) Price list of the declarant;
- e) Sales contract or invoice.

If the transaction value of goods cannot be determined on the basis of Method 4, Method 5 is used.

11.2.5 Computed Value Method (Method 5)

The computed value method is based on the cost of production of the goods and must be used if the transaction value of imported goods cannot be determined by methods 1 to 4. The computed value consists of the sum of the following:

The cost of manufacturing or processing of the goods;

- An amount representing the general expenses and profit equal to that usually reflected in the sale of goods of the same class or kind by producers in the country of export; and
- The transport, loading, unloading, handling and insurance costs associated with the transport of the goods to the port of entry.

The evidence to be produced to determine the value of goods based on computed value includes the following:

- a) Detailed reasons to value the good based on this method;
- b) The goods are produced and sent by the exporter;
- c) The cost of manufacturing or processing of the goods;
- d) An amount representing the general expenses and profit equal to that usually reflected in the sale of goods of the same class or kind by the producers in the country of export;
- e) The transport, loading, unloading, handling and insurance costs associated with the transport of the goods to the port of entry.

f) Other costs in relation with the goods.

Experience has shown that this method is difficult to apply and therefore rarely used. For further advice, contact the Customs Valuation and Tariff Classification Program and Development Directorate.

11.2.6 Fallback Method (Method 6)

This method can be applied only if all other methods have failed. Under the fallback method, the customs duty paying value is determined based on data available in Ethiopia as follows:

- Where the transaction value of imported goods cannot be determined on the basis of methods 1 to 5, it is determined by taking the transaction value of identical or similar goods sold for export to Ethiopia at the same commercial level and in substantially the same quantity imported within one hundred eighty (180) days;
- Where the identical or similar goods are not produced in the same country as those being valued, the customs value is determined by taking the transaction value of identical or similar goods produced in a country with the same level of economic development; or
- The value is determined by the deductive and computed value method.

Details of the fallback method of deductive value and computed value are provided in the Customs Duty Paying Value Directive No. 111/2015.

The evidence to be produced to determine the value of goods based on the fallback method are the following:

- a) Detailed reasons to value the good based on this method; and
- b) Documents and information to value the goods.

11.3 Ethiopian Customs Valuation System and Database

A customs valuation database is a risk assessment tool that may be used by a customs administration, along with other risk tools, to assess potential risk regarding the truth or accuracy of the declared customs value for imported goods. The Ethiopian customs valuation system (ECVS) is an automated customs valuation database system and contemporaneous price reference database. It provides an estimate of the price of a given item and thereby provides decision support for checking undervaluation and overvaluation.

The Valuation Detail Declaration (VDD; also see Annex 4) is an electronic form to be filled by the declarant for all goods, except for personal effects and some items that are excluded by their customs procedure code. It contains a declaration of facts regarding the declarant and goods, and information required for valuation, including information about the relationship between the importer and the foreign seller, conditions or restrictions attached to the sale, and discounts.

The VDD is presented to customs as follows:

- a) The declarant fills in detailed information about the imported goods in order to determine the customs value;
- b) The declarant submits the goods declaration with the VDD to ERCA;

If the declarant is unable to fill in the VDD due to systems failure or power shortage or other problems, a manual VDD must be completed;

- d) When the problem is solved, the data that was inserted manually must immediately be converted to the customs electronic VDD. Failure to convert manual data into the electronic VDD is punishable by law.

The following data must be filled in valuation detail declaration:

a) Detailed information about the transaction, such as:

- The name and detailed information about the parties that are involved in the transaction, including the declarant's name;
- Information about the goods transaction;
- The relationship between the seller and the buyer;
- The invoice price, the currency, type of INCOTERMS used;
- The payments that are made directly or indirectly in relation with the goods;
- The payments that are payable or paid in relation with the right to use the goods;
- Other expenses in relation with the transaction; and
- The valuation method used.

b) Detailed descriptions and information that are necessary to determine the value of goods:

- Full description of the goods;
- The name of manufacturer and country of origin;
- Additional information about the goods (e.g. brand, model number, part number, quantity, etc.);
- The type of inputs used to produce the goods (percentage of mixtures etc.);
- Detailed description about the use of the goods;
- In case of medicines or chemicals, a document showing detailed technical specifications;
- In case of vehicles, the name of the manufacturer, type, model number, manufacturing year, engine number, chassis number, cylinder power, and ownership certificate for used vehicles(if required);

- For vehicle spare parts, name of spare part, type of the vehicle, name of the manufacturer, part number (if original spare part), the manufacturer's part number and reference number (if not an original spare part);
- For electronics, machineries and accessories, a detailed manual or technical catalogue;
- Any other detailed descriptions and information that are necessary to determine the value of the goods.

11.4 Exchange Rate

Any foreign currency amount to be taken in to account in valuation must be converted into Ethiopian birr. This also applies, for example, to costs for freight or insurance.

For conversion, the official exchange rate declared by the National Bank of Ethiopia for the day when the goods declaration is registered must be used. Official exchange rates are released every Wednesday and are valid for a week, starting on Thursday.

Details of customs exchange rates are available at ERCA's Information Technology Development Directorate and customs branch offices, as well as the NBE.

11.5 Rights and Responsibilities of the Declarant

Without prejudice to other responsibilities elsewhere, the particular responsibilities of the declarant are the following:

- a) The declarant shall provide proper customs declaration, VDD and supporting documents;
- b) In relation with valuation detail declaration, the declarant shall ensure that:
 - The details of valuation information are correct and valid;
 - Any formats from the authority shall be filled properly;

- He/she is responsible for any information on the declaration and must be signed;

c) Ensure the goods declaration is filled properly and the supporting documents are correct and valid.

Conversely, in case of grievance the declarant has the following rights:

- a) The right to get written decision from the authority; T
- b) he right to get goods release by furnishing:
 - Insurance guarantee for manufacturers;
 - Guarantee letter for government;
 - Cash deposit or bank guarantee for the rest.
- c) The right to appeal on customs decisions

11.6 Valuation of Special Goods

Specific rules apply to a number of special goods. These are as follows:

- Samples, Gifts, Donations: Free goods are valued by using Method 1 or 2. Alternatively, a value from the supplier, prepared for customs purposes, may be presented at the time of importation.
- Vehicles: New vehicles are valued through the standard approach (valuation methods 1 to 6). Imported used vehicles are valued through customs record value by using the identical/similar goods method in relation to manufacturing year, model and horse power/ cc/. The duty paying value of a used car is calculated as follows:

Depreciation of a used vehicle is calculated as follows:

Step	Years of vehicle use starting from manufacturing date	Depreciation by percentage (from FOB price)
1	Below one year (< 1 year)	0%
2	From one year to below two years (1 year <= 2 years)	10%
3	From two years to below three years (2 years <= 3 years)	20%
4	Three years and more	30%

Customs value of used vehicle = (FOB price of new vehicle – depreciation) + (the sum of transportation, insurance, etc.)

Whenever a vehicle stays in a new condition for more than a year, no depreciation will be applied, and the duty paying value is calculated as for a new vehicle.

- **Used Goods imported for home use:** A used good is one that gives service after production, except used clothes. The customs value of imported used goods is mostly determined by the fallback method, but the identical/similar goods methods are also used by deducting the depreciation amount and adding transport, insurance and other costs. The depreciation amount is calculated by deducting 30% from the FOB value.
- **Temporarily imported goods:** temporary importation means that goods enter a customs territory for a limited period of time and are then removed from the territory again, unchanged, and without any duty liability arising, but at the time of removing the goods from customs territory (re-

exportation), duty and tax is paid on the depreciated value as per the directive issued by the Ministry.

- Duty free imported goods: Duty and tax exempted imported goods may be re-exported or transferred to a person who enjoys similar privileges without payment of duties and taxes or transferred to any person upon payment of duties and taxes. The duties and taxes are calculated at the value of goods and tariff rates prevailing during the time of disposal.

12 Tariff classification

12.1 Introduction

The Ethiopian import tariff is based on the internationally accepted Harmonized Commodity Description and Coding System (Harmonized System, HS). The legal framework for the application of the HS is the International Convention on the Harmonized Commodity Description and Coding System and Ethiopia's Ratification Proclamation No. 67/1993. At present, tariff classification in Ethiopia is governed under the terms of Article 102 of the Customs Proclamation.

All customs tariff revisions and amendments since 1993 have been done based on the HS. The current version of the national tariff book is in accordance with the 2012 version of the HS.

"Tariff classification" is the process of determining the particular tariff heading or sub heading of a commodity. Classification is done on the basis of the following:

- Description of the commodity;
- Composition and other technical specification;
- Manner of presentation (e.g., packing for retail sale); Degree of manufacture; and
- Function or use.

The declarant is legally responsible for goods' correct tariff classification. Tariff classification is important to ensure that the declarant:

1. Pays the correct amount of duty and tax;
2. Receives any manufacturers tariff advantage;
3. Contributes to the accuracy of import and export trade statistics;
4. Declares the origin of goods; and

5. Contributes to the control of restricted/prohibited/goods.

The most important function of tariff classification is its role in determining the duties and taxes to be applied. These are payable at the rates specified by the customs tariff regulation for the specific tariff line assigned to the good. However, where the classification of goods and drawing up of goods declaration becomes difficult due to a consignment containing goods falling under different tariff classifications, the Ministry may, at the request of the person presenting the declaration, allow that the customs duty for the entire consignment be charged on the basis of the tariff classification of the goods which are subject to the highest rate of customs duty.

If classification is done incorrectly:

- A penalty may be applied at customs entry;
- Arrears plus interest, of duties and taxes that have been incurred over the previous five (5) years may be charged; and
- Goods may be delayed and/or seized.

12.2 Tariff Classification in Practice

The process of classifying goods involves the following stages:

- Find those headings that appear to describe the goods;
- Check the section notes for each heading;
- Check the chapter notes for each heading;
- Read the explanatory notes for all of the above; and
- Apply the General Rules for the Interpretation of the Nomenclatures (GIRs).

The six GIRs are:

- GIR1 General rule
- GIR 2(a) Incomplete or unfinished; unassembled or disassembled

- GIR 2(b) Mixtures or combinations
- GIR 3 Two or more headings
- GIR 3(a) Most specific
- GIR 3(b) Essential character

These must be applied to goods from the outset, and in sequential order.

GIR 3(c) Last in numerical order

GIR 4 Most akin

GIR 5(a) Special containers

GIR 5(b) Packing materials and containers

GIR 6 subheading texts, notes and GIR 1 to 5

Help for goods classification is offered by the Customs Valuation and Tariff Classification Program and Development Directorate. Also, the following WCO publications⁶⁵ are helpful in the process of classifying goods, all the more so as documents prepared by the WCO in relation to the classification of goods are taken as conclusive evidence by ERCA:

- The Explanatory Notes;
- The Compendium of Classification Opinions;
- The Alphabetical Index; and
- The HS Commodity Data Base (CD-ROM)

12.3 Binding Information Regarding Tariff Classification

Binding information regarding tariff classification is a written classification decision by ERCA, given on request, which is legally binding on all customs branch offices within the customs territory. Such binding information is intended to ensure the correct tariff

⁶⁵ These publications can be ordered from the WCO, e.g. at <http://wcoomdpublishations.org/>.

classification but is not a legal requirement. Binding information regarding tariff classification decisions are made under the terms of Article 103(1)-(4) of the Customs Proclamation.

Binding information can be beneficial for the following reasons:

- It provides certainty that the declarant declares the correct commodity code for goods;
- It helps ensure legal obligations are met in respect of correct tariff classification, ensuring that liabilities for duties and taxes are known in advance
- It alerts to any import or export licensing requirements; and
- It contributes to the quality of import and export statistics.

Although binding information decisions are normally valid for one (1) year, they may be revoked in the following circumstances:

- The binding tariff classification information was requested after the goods had been imported or after a foreign currency permit had been obtained;
- The composition of the goods subsequently changes;
- Inaccurate or incomplete information was provided in the application;
- Regulations or directives changed and the information no longer conforms to the applicable regulations or directives;
- The importer notifies the cancelation of the decision; or
- The binding information decision is made by an unauthorized person.

To obtain binding information, a declarant must complete and submit an application form “Application to Obtain Binding Tariff Classification Information from the Ethiopian Revenues and Customs Authority”. A separate application form must be completed for each type of good for which a binding information decision is

requested. The decision covers all future consignments of identical goods. Completed application forms should be sent, together with a representative sample and/or technical literature, to ERCA's Customs Valuation and Tariff Classification Program and Development Directorate.

Although binding information is supplied free of charge, the following costs may be passed on to the requester:

- Laboratory analysis of a sample;
- Expert advice about a sample; or
- Returning a sample (samples may be collected after the decision process is finalized, as per Article 159 of the Customs Proclamation).

ERCA normally provides binding information decisions within thirty (30) working days from the date of application. However, the period might be extended for an additional thirty (30) working days due to the following reasons:

- If the Directorate believes that additional time is required;
- If the applicant does not respond to queries within ten (10) working days; or
- If the laboratory analysis takes more than thirty (30) working days.

Furthermore, ERCA can refuse an application for binding information decisions if:

- The prerequisites are not properly fulfilled;
- The necessary goods information is not supplied;
- The goods are prohibited;
- The Directorate believes that the classification of goods is simple and clear; or
- It is difficult to classify the goods.

ERCA's decision is notified on a legal document indicating the correct commodity code for the goods and the start date for the period of validity of the information. An electronic copy of the binding information regarding the tariff classification will be sent to all customs branch offices.

Once the declarant has received the decision, the original and a copy of it must be submitted to the concerned customs branch together with the customs declaration.

13 Origin of goods

13.1 Introduction

Determining the origin of goods is important for the application of the customs tariff, quantitative restrictions, or of any other measure related to trade. The RKC, which also guides Ethiopia's regime for the origin of goods, defines the country of origin of goods as the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the customs tariff, tariff preference or of any other measure related to trade. The RKC furthermore establishes standards and recommended practices regarding rules of origin, documentary evidence of origin and control of documentary evidence of origin respectively.⁶⁶

Customs administers both non-preferential and preferential rules of origin:

- Non-preferential rules of origin refer to most favored nation (MFN) trade and are also used to apply trade policy measures such as anti-dumping or countervailing duties, safeguards measures, tariff quotas and quantitative measures, origin marking or "made in" labeling, trade statistics and government procurements. Non-preferential origin confers an "economic" nationality on goods but does not confer any benefit on them. Non-preferential rules of origin are covered under the WTO agreements.
- Preferential rules of origin refer to trade under free or preferential trade agreements, such as COMESA or bilateral agreements, and unilateral preferential trade arrangements, such as AGOA, GSP, Everything But Arms (EBA), etc. A

⁶⁶ RKC, Specific Annex K, Chapters One to Three.

condition for a good to benefit from any preferences accorded under such agreements is to prove that its origin is in a benefitting country.

In Ethiopia, the origin of goods is governed under the terms of Articles 104-108 of the Customs Proclamation.

13.2 Non preferential rule of origin in Ethiopia

If goods have been wholly produced in one country, then this is the country of origin. Where two or more countries are involved in a good's production, the origin of the product is the country in which the last substantial manufacturing or transformation process of economic value took place.

Different criteria may be applied for determining the country of origin:

- Change of tariff classification, whereby origin is conferred to a good if, as a result of the manufacturing operations in the country the tariff classification changes (e.g. from cotton yarn to fabric);
- The ad valorem percentage criterion, according to which a certain minimum of value has to be added to a good in a country in order to confer origin; and
- The criterion of manufacturing or processing operation, which establishes requirements for specific goods which must be complied with in order to confer origin.

Certain operations are however not normally taken into consideration when determining the origin of imported goods. These include:

- Operations carried out to ensure that the goods are preserved in good condition during transport or storage;
- Operations carried out to facilitate the transportation of goods;
- Operations carried out to package or prepare the goods for

sale;

- Simple operations on goods such as ventilation, spreading out, drying, cooling, crushing, etc.;
- Simple assembly of parts to constitute a complete product; and
- Any combination of the above.

The above operations do not confer origin, even if they are accompanied by a change in the tariff classification.

A declarant must submit documents proving the country of origin of goods, such as a certificate of origin. Where there are doubts about the authenticity of documents produced, ERCA may require additional proof in respect of the country of origin of goods.

13.3 Origin Marking

“Origin marking” refers to the affixing the name of the country of origin of imported goods, in English, on each good and the package. If there is no origin marking, goods are returned to the exporting country.

13.4 Preferential Rules of Origin of Goods

In Ethiopia, special customs tariff rates are applicable to goods produced in and imported from COMESA member countries. The COMESA tariff rate has 10% deduction from regular rates. Zero customs tariff rates are applied to goods imported from Sudan. To benefit from these preferences, a good’s origin in a COMESA member country, Sudan or Djibouti must be proven.

With regard to Ethiopia’s exports, goods produced in Ethiopia benefit from special treatment by a range of unilateral preference regimes in different trading partners, such as AGOA in the United States, Everything But Arms in the European Union, and General Systems of Preferences (GSPs) of other countries, such as Duty Free Tariff Preference (DFTP) of India or the duty free treatments granted

by China and South Korea.. To benefit from these preferences, origin of the goods in Ethiopia must be proven; normally this is done by obtaining a certificate of origin. Preferential certificates of origin, except for COMESA, are issued by ERCA, whereas COMESA and non-preferential certificates of origin are issued by ECCSA.⁶⁷

13.5 Calculation of Duties and Taxes

Once a good has been classified into a tariff line, the importer determined the tariff rate to be applied to be paid as per the Ethiopian tariff book. The tariff book is a publication by the Ministry of Finance and Economic Cooperation (Ministry), which lists the import and export tariff rates which are applied in Ethiopia on goods exports and imports. The tariff book is based on the International Convention on the HS Code.

Ethiopian tariff structure

The tariff book is structured as follows:

- **First schedule tariff:** import tariff at basic rates;
- **Second schedule tariff:** special privileges granted to business organizations involved in activities, such as producing goods and services. The second schedule consists of two parts, A and B.
- **Special customs tariff rates:** applicable to goods produced in and imported from member countries of COMESA (preferential rate).

Ethiopia distinguishes the following types of duties and taxes which are relevant for imports and exports:

- Customs duties are normally calculated as a percentage of the duty- paying value, also known as cost, insurance, freight (CIF)

⁶⁷ See <http://www.ethiopianchamber.com/issuance-of-certificate-of-origin.aspx>.

value. This is the sum of the transaction value (cost of goods), cost of transporting the good from the original port of loading to the port of entry in Ethiopia, transport insurance, and other charges, such as loading and unloading charges, port charges, etc. The duty rate ranges from 0% to 35% depending on the type of imported goods.

- Excise taxes are charged on selective goods, such as luxury goods, basic goods for which demand is little affected by price changes, goods that are hazardous to health, etc. They are computed on the basis of the CIF value plus the amount of the customs duty payable. The rate of the excise tax varies depending on the type of imported goods, from 10% to 100%.
- Value added tax (VAT) is levied at a flat percentage rate of 15% on the sum of CIF value, customs duty, and excise tax. Some types of goods, services, and imports are exempted from VAT.
- A surtax of 10% is levied on all goods imported to Ethiopia with some exceptions, such as fertilizers, petroleum, and lubricants. The amount payable is calculated on the sum of CIF value, customs duty, excise tax, and VAT.
- Withholding taxes are collected on goods imported for commercial use. The collected amount, 3% of the CIF, is creditable against the taxpayer's income tax liability for the year. Thus, it is not a tax in itself, but rather a (partial) guarantee on the payment of income taxes.

Calculation of duty and taxes

Duties are calculated as follows:

Customs duty = [Duty-paying value * Customs duty rate]

Excise tax = [(Duty-paying value + Customs duty) * Excise tax rate]

Value added tax = [(Duty-paying value + Customs duty + Excise tax) * 15%]

Surtax = [(Duty-paying value + Customs duty + Excise tax + Value added

tax) * 10%]

Withholding tax = [(Duty-paying value) * 3%]

For example, assume that Item "A" has a duty paying value of Birr 200,000.00, a customs duty of 35%, excise tax 60%, value added tax 15%, sur tax 10% and withholding tax 3%. The duty and taxes are calculated as follows:

Customs duty= [200,000.00 * 35%] = Birr 70,000.00;

Excise tax = [(200,000.00 + 70,000.00) * 60%] = Birr 162,000.00;

Value added tax= [(200,000.00 + 70,000.00 + 162,000.00)] * 15%= Birr 64,800.00;

Sur tax = [(200,000.00 + 70,000.00 + 162,000.00 + 64,800.00)] * 10%= Birr 49,680.00;

and

Withholding tax= [200,000.00 * 3%]= Birr 6,000.00

Total duty and tax is the sum of customs duty, excise tax, value added tax, sur tax and withholding tax, i.e. Birr 352,480.00.

14 Payment of customs duties, taxes and service charges

14.1 Introduction

According to Article 5 of the Ethiopian Revenues and Customs Authority Establishment Proclamation No. 587/2008, one of ERCA's establishment objectives is to collect timely and effectively tax revenues generated by the economy. In order to achieve this objective, Articles 109-115 of the Customs Proclamation clearly prescribe how the payment of customs duties, taxes and service charges are to be effected. Accordingly this part of the guide is devoted to provide information about obligation, assessment, correction, refund and other issues related to the payment of customs duties, taxes and service charges.

14.2 Obligation and Liability to Pay Duties and Taxes

Unless otherwise provided by law or treaty or decided by the government, duties and taxes shall be payable for any imported or exported goods. The declarant is liable for payment of the duties and taxes imposed on the goods, as well as penalties and interests incurred due to default thereof. Where a customs clearing agent commits an error resulting in the non- payment of duties and taxes, he/she shall be jointly and severally liable with the declarant for the payment of the unpaid duties and taxes, as well as penalties and interests incurred due to default thereof.

14.3 Applicable Dates for Assessment and Payment of Duties and Taxes

Unless otherwise provided by law, the law in force on the date of acceptance of the goods declaration or the date of correction under Article 93 of the Customs Proclamation is enforced for the assessment of duties and taxes on import or export goods. Where it

is not possible to determine the date of submission or acceptance of the goods declaration, the duties and taxes shall be assessed on the basis of the law in force on the date determined by ERCA.

Unless the amount of the duties and taxes indicated on the goods declaration is different from the amount obtained through calculation, duties and taxes are paid immediately when informed of such amount by the customs officer.⁶⁸

14.4 Assessment of Duties and Taxes on the Basis of Advance Information

Duties and taxes may be assessed on the basis of advance information submitted to ERCA by the declarant before the goods enter the customs port. The duties and taxes assessed on the basis of advance information remain valid even if the amount of duties and taxes is greater than the amount obtained from the assessment made after the goods enter the customs port.

The assessed duties and taxes made on the basis of advance information are valid if the goods enter the customs port within three months.

14.5 Correction of Errors

Where ERCA finds an error in the assessment of duties and taxes, it will correct the error without prejudice to the legal liability of the person causing the error.

14.6 Mode of Payment

The payment of duties and taxes shall be in cash or any other legal means of payment.

⁶⁸ Note, however, that under current practice duty and tax payments have to be made before the submission of a declaration with ERCA.

14.7 Refund of Duties and Taxes

A refund of duties and taxes may be claimed for the following reasons:

- Overcharged duties and taxes;
- Invalidated goods declaration;
- Deteriorated, spoiled, damaged, destroyed goods; or
- Short-landed goods.

For overcharged duties and taxes a refund will be granted if the overcharge is a result of an incorrect commodity classification, tariff setting, valuation, or other calculation mistakes. A claim for refund of duties and taxes will be considered only if it is submitted within one year after the goods have been imported or exported.

For an invalidated goods declaration, duties and taxes will be refunded where a goods declaration is cancelled after duties and taxes have been paid and an application is submitted by the person concerned within the prescribed period.

14.8 Service Charges

The following service charges must be paid with respect to importation, exportation and licensing:

- **Warehouse licensing and renewal fee:** According to the Customs Warehouse License Issuance Council of Ministers Regulations No. 24/1997, license and renewal fees for customs warehouses will be paid as follows:
 - Birr 1,250 licensing fee for General Customs Warehouse (renewal Birr 500); and
 - Birr 1,250 licensing fee for private Customs Warehouse (renewal Birr 500).

- **Scanning fee:** All goods subject to examination with a scanning machine are charged 0.07% of duty paying value for scanning.

15 Post clearance audit and deferred payment

15.1 Introduction

Post-clearance audit is an audit based customs control performed subsequent to the release of the cargo. Such audits verify the accuracy and authenticity of declarations and control traders' commercial data, business systems, records, and books. They can take place at the trader's premises, and may take into account individual transactions("transaction-based" audits) or cover imports and/or exports undertaken over a certain period of time("company based" audits).

Ethiopia's post-clearance audits regime is guided by the RKC, which has established standards for Customs to applying audit based control.⁶⁹

15.2 Post-Clearance Audit

ERCA may undertake post-clearance audits after the release of goods to verify the accuracy of goods declarations through the examination of the books, records, business systems and other relevant customs commercial data held by persons directly or indirectly involved in the import or export of the goods.

If the findings of post-clearance audit reveal that customs laws or regulations have been breached there may be civil or criminal liability, or both.

The post-clearance audit may be carried out at:

- ERCA's premises;
- The premises of the person who is directly or indirectly involved in the business operations of the import or export of the goods; or

⁶⁹ RKC, General Annex, Chapter Six.

- The premises of any other person in possession of the data and documents subject to the inspection.

There are three types of post-clearance audit; namely:

- **Desk Review:** the review of a single customs program without an on-site audit. This option is designed to look at and test a single/ number of areas of non-compliance but where the client has either a limited number of transactions or few records. In these circumstances, a premises visit would not add significant value.
- **Limited Scope Audit:** an audit of a single customs program. This option is designed to look at and test a single area of non-compliance at the client's premises but may also take place without an on-site audit.
- **Comprehensive Audit:** an on-site audit of multiple customs programs to determine a client's compliance within a specific commodity area. This option is used for audits of large and small clients, when all aspects of the client's customs activities are to be audited.

A post clearance audit may be carried out within five years from the date a goods declaration has been accepted. Thus, documents should be safely kept by traders for such eventuality.

15.3 Deferred Payment

If the post-clearance audit reveals that duty and tax were not paid or were paid in a lesser amount than payable, ERCA may collect the outstanding amount from the declarant within five years from the date of default of such payment.

Furthermore, where the payment was deferred due to the fault of the declarant, a penalty of 10% and bank interest thereof, calculated at the highest current lending interest rate applied by commercial banks, will be paid in addition to the duties and taxes.

ERCA may exonerate the declarant from penalty except the payment of the duties and taxes with interest where the declarant discloses and consents to pay the deferred amount following the written notification of ERCA's audit schedule.

Upon a sufficiently justified request by the person responsible for the payment of the deferred amount of the duties and taxes, ERCA may allow the payment to be effected in installments, together with interest thereon.

If the debtor fails to settle the deferred amount of duties and taxes together with the penalty and interest claimed, the seizure procedure prescribed under the Tax Administration Proclamation⁷⁰ will be applicable to the property of a debtor.

70 See Article 41 of the Tax Administration Proclamation No. 983/2016.

16 Securities to guarantee payment of duties and taxes

16.1 Furnishing of Security

ERCA may require the provision of security to guarantee the payment of duties and taxes or compliance with the requirements related to a duty and tax exemption privilege.

16.2 Reasons for Requiring Security

ERCA may require the furnishing of security for the following reasons:

- to release goods without the completion of customs formalities when additional time is required to produce complete documents necessary for the completion of customs procedures;
- to ensure the re-exportation of temporarily imported goods without payment of duties and taxes or, in case of default, to ensure the payment of the duties and taxes;
- to ensure that transit goods exit through the approved customs route or arrive at the predetermined customs point of destination;
- to ensure the exportation of compensating products obtained from goods imported without payment of duties and taxes for inward processing or , in case of default, to ensure the payment of the duties and taxes;
- to release goods without payment of duties and taxes until the dispute between the importer and ERCA on classification or valuation of the goods imported are resolved; and
- to ensure payment of duties and taxes where deferred payment is allowed.

16.3 Form of Security

ERCA will accept the following forms of securities:

- cash deposit;
- bank guarantee;
- insurance bond; and
- in case of public bodies, a written undertaking.

In this regard, ERCA requires only one security to be furnished in respect of one payment of duties, taxes, and service charges. However, at the request of the debtor ERCA may also permit a comprehensive security to be furnished to cover payments arising from two or more customs operations. ERCA may authorize the furnishing of the security by a person other than the debtor.

The person required to furnish a security is allowed to choose any acceptable form of security. However, ERCA may reject a security where it is incompatible with the applicable customs procedure.

16.4 Amount of Security

The amount of security to be furnished shall not be less than the amount of duties, taxes and service charges.

In cases where the amount of duties, taxes and service charges cannot be established with certainty, the amount of security will be equal to the maximum amount estimated by ERCA.

If the security furnished does not cover the debt due to any cause, the debtor will be required to furnish an additional security or replace the original security with a new one.

16.5 Duration of Security

The duration of the security may vary according to its type and purpose and is decided by ERCA. In this regard, the following may serve as an example for the duration of securities:

- for transit operations, the security period will be limited to the transit time specified in section 6.4 above;
- for goods imported under voucher schemes, the time limit is three months;⁷¹
- for temporarily imported goods, the time limit is as specified in section 8.2.3 above; and
- for bonded warehouse licensing the time limit is one year, renewable annually.

ERCA will extinguish the security upon the full settlement of the debt and will also, when requested, issue evidence of having done so.

16.6 Role of Debtor and Guarantor

If the debtor fails to discharge his/her obligations, the guarantor will be requested to effect the payment immediately.

The guarantor and the debtor will be jointly and severally liable for the secured amount of debt, including interests and costs incurred.

If the guarantor fails to effect payment, ERCA may apply the procedure prescribed under the Tax Administration Proclamation to seize the property of the debtor or the guarantor for the payment of the debt.

⁷¹ Circular, reference no. 3.2.0/357, June 2006 EC.

17 Customs offences and penalties

17.1 Introduction

The RKC defines a customs offence as any breach, or attempted breach, of customs law. It furthermore establishes standards and recommended practices for the following terms and concepts:⁷²

- Field of application;
- Investigation and establishment of customs offences;
- Procedure to be followed when a customs offence is discovered;
- Seizure or detention of the goods or means of transport;
- Detention of persons;
- Administrative settlement of customs offences; and
- Right of appeal.

Rules on customs offences and penalties are guided by the RKC. According to the Ethiopian Customs Proclamation, any breach, or attempted breach of the statutory and regulatory provisions relating to the import, export, movement, and storage of goods for the purpose of customs is an offence. There are three elements that need to be established to conclude an offence has been committed.

1. There must be an intention or negligence to motivate the offence/crime;
2. There must be an actual offence; and
3. The offence has to be legally stated as an offence in the statutes.

The Customs Proclamation distinguishes between two types of customs offences and penalties:

⁷² RKC, Specific Annex H, Chapter One.

- Customs offences and administrative penalties under Chapter 1 refer to the frequently occurring minor irregularities in trade and customs operations. The penalties are designed to rectify and punish offences with a minimal disruption of trade, as long and costly criminal proceedings would be disproportionate burdens on trade and on the flow of customs operations; and Customs criminal offences and penalties under Chapter 2⁷³ are higher offences that mostly carry imprisonment for those convicted. The general principles embodied in the Criminal Code of 2004 are applicable for the criminal offences,⁷⁴ unless the Customs Proclamation expressly provides otherwise.

17.2 Customs Offences and Administrative Penalties⁷⁵

According to the Administrative Penalties for Customs Offences and Forfeiture of Goods Implementation Directive No. 112/2008 EC, the responsible customs department will decide on administrative cases and appeals against them within seven (7) days after all relevant evidence and documents have been presented. The decision will be in writing and will be handed over to the relevant person together with the penalty notification papers. The offender has the right to appeal to ERCA's complaint review section established at the head office within 15 days of the decision (see section 18 below), but if he/she fails to do so, payment of the fine is required.

Important customs offences and corresponding penalties are the following ones:

⁷³ Chapter 2 does not include offences committed by customs officer in executing his/her duties.

⁷⁴ As per Article 3 of the Criminal Code of 2004.

⁷⁵ The administrative penalties are imposed and executed by the authority while enforcement is carried out by impeding the release of the goods which are related to the offence until the fine is paid.

- **Importing, exporting or trying to export restricted goods without approval and also failing to get such authorization** within one month is punishable with a fine⁷⁶ no less than Birr 10,000 and no more than Birr 50,000 (for a first offence the penalty is Birr 10,000, for a second offence Birr 25,000 and for a third offence and more, Birr 50,000).⁷⁷ If the penalty is on an import good, it shall be re-exported by the importer **within the one month**, as referred in the previous paragraph, while export goods shall be prevented from being exported.
- **A traveler found in possession of goods that exceed, in quantity or value, the limits specified by law**⁷⁸ is penalized by a fine equivalent to twice the amount of such duty and tax. This fine is on top of the duty and tax due from the exceeding items.
- **Importing and exporting without paying duties/taxes, not correctly stating in a declaration, or paying understated duty or taxes** will be subject to a fine equivalent to twice the amount of such duty and tax, on top of the settlement of the duty and tax payable. However, if the remaining duties and taxes payable are not more than 10% of the total duty and tax payable, the penalty will be waived for the importer. If concealed items account for more than 50% of the value of the goods described in the declaration, the matter will be criminally investigated under Article 169 of the Customs Proclamation.⁷⁹
- **Removing or disconnecting customs seals or removing, defacing, canceling or altering labels affixed on goods or**

⁷⁶ Fine is a penalty in money or sum imposed as punishment.

⁷⁷ As per Article 4/1 of Administrative Penalties for Customs Offences and Forfeiture of Goods Implementation Directive No. 112/2008 EC.

⁷⁸ The limits are going to be set by law or by the directives of the Ministry of Finance and Economic Cooperation.

⁷⁹ As per Article 5/4 of Administrative Penalties for Customs Offences and Forfeiture of Goods Implementation Directive No. 112/2008 EC. In this connection, this penalty is also relevant for duty free imports.

their package and packages or breaking bundles of goods

carries the sanction of a fine of no less than Birr 10,000 and no more than Birr 50,000 (Directive No. 112/2008 EC): for a first offence Birr 10,000, for a second offence Birr 25,000, and for a third offence and more, Birr 50,000. However, prior notification of the situation or production of proof for compelling circumstances (accidents & force majeure) will be excused. This offence also carries criminal liability, if it was committed with the intent to remove, mix up, damage or steal the goods or if done to procure undue advantage to oneself or another person or if done to cause damage to any person. The penalty is rigorous imprisonment for no less than five years and no more than ten years, and a fine no less than Birr 50,000 and no more than Birr 200,000. If use of force or an organized group is involved, the rigorous imprisonment extends from ten to fifteen years.

- **Not returning samples or damaging them** results in a fine equivalent to twice the amount of such duty and tax and is in addition to the cost of the value of the goods and duty and tax payable on the goods. If it is not possible to return samples due to their nature or due to their being used for analysis, they can be considered as returned.
- A **carrier** will be fined no less than Birr 2,000 and no more than Birr 5,000 if he/she **neglects duties** in the following ways:
 - a) fails to submit travelers or cargo manifest in the proper time;
 - b) allows an unauthorized person into the means of transport;
 - or
 - c) delays the departure of the means of transport

(for 12 hours⁸⁰) from the customs port (designated place for unloading, storage and loading of import, export and transit goods) without informing and getting approval from the customs officer.

The schedule for fines for offences under (a) is the following:

- for a first offence, Birr 3,000;
- for a second offence, Birr 4,000; and
- for a third offence and more, Birr 5,000.

The schedule for fines for offences under (b) is the following:

- for a first offence, Birr 2,000;
- for a second offence, Birr 3,500; and
- for a third offence and more, Birr 5,000.

The schedule for fines for offences under (c) is the following:

- for a first offence, Birr 2,500;
- for a second offence, Birr 4,000; and
- for a third offence and more, Birr 5,000.

If two of the offences (a) to (c) above are committed concurrently, this will result in a penalty of Birr 3,500 for a first offence, Birr 4,000 for the second, and Birr 5,000 for the third and after. If all three offences are committed concurrently, this will result in a fine of Birr 4,000 for a first offence and Birr 5,000 for the second and after.

In addition, loading, unloading or attempting to load

⁸⁰ The 12 hours limit addition is found in the directive.

or unload goods in the absence of a customs officer carries a fine of no less than Birr 7,000 and no more than Birr 10,000. The schedule for the fines for this offence is the following:

- for a first offence, Birr 8,000, and for a first attempt, Birr 7,000;
 - for a second offence, Birr 9,000 and for a second attempt, Birr 8,500; and
 - for a third offence or attempt and after, Birr 10,000.
- A permit holder who fails to fulfill warehouse permit conditions will be sanctioned according to the administrative measures set in Directive No. 112/2008 EC. Fines vary from under Birr 50,000 to Birr 100,000 and are divided into measures imposed for not fulfilling the requirements generally and those focused on properly performing duties. The penalty for not fulfilling the requirements generally is, for first time offenders, Birr 50,000, while repetitive and concurrent violation carries a penalty ranging from Birr 70,000 to 100,000. As far as poor or improper performance of duties is concerned, the sanction is Birr 70,000 for first time offenders and Birr 100,000 thereafter.

Additional administrative measures are also indicated as possible penalties to be legislated in a future directive. Meanwhile, Arts 10 and 11 of the Customs Warehouse License Issuance Council of Ministers Regulations No. 24/1997⁸¹ specify the cancellation of a warehouse license as a penalty for some of the violations mentioned above.

- **Failure to observe customs procedures applicable to the transit of goods**, while engaging in the transit of goods, entails a fine of no less than Birr 5,000 and no more than Birr 20,000.

⁸¹ This regulation is currently applicable but is under review.

Directive No. 112/2008 EC breaks this offence into three categories:

- The violation by a carrier of permitted transit channels (including entry and exit points), as well as packaging and timing;
- The lack of fulfilling preconditions by a declarant and carrier, not packaging those export items that needed to be so when in transit; and
- The failure of a declarant or carrier to notify ERCA in writing in case of accidents and force majeure for a good in transit.

The schedules for the fines are Birr 5,000 for first offence, 10,000 for second offence and 20,000 for third and more offences. For concurrent violation, the penalty is Birr 20,000.

- **Using duty free goods or goods imported on the basis of a reduced duty and tax for purposes other than those for which the duty relief was intended or passing them on to another person; for transferring goods intended for personal use to people outside the family; for receiving, using, damaging or placing such goods under the service of others** carries a fine equivalent to 50% of the duty and tax payable assuming that the goods are imported at the time of seizure, in addition to settlement of the duty and tax. The duty and tax for the first and second offences mentioned are borne by the beneficiary of the duty free privilege or the person to whom the goods are transferred. In the case of the third offence mentioned, the person who committed the crime and the duty free privilege beneficiary will be liable. However, if the person found in possession of the good pays the duty and tax as well as the penalty, customs might furnish them with a declaration or a document referring to this fact.

- Using temporarily imported goods without payment of duties and taxes is an offence subject to a fine equivalent to 50% of the duties and taxes payable without affecting the forfeiture of the guarantee and the goods shall be re-exported. If the goods are not re-exported within two months of the completion of the specified period, unless the period is extended, the security provided for them shall be relinquished to the Government and the goods may, upon the completion of the appropriate customs formalities, either remain in the country or be re-exported.
- Failure to comply with **other prohibitions or obligations prescribed (other than those identified elsewhere in the law)** carries a fine not exceeding Birr 10,000:⁸² Birr 5,000 for first offences, Birr 7,000 for second offences, and Birr 10,000 for the third offences and more. Concurrent commission of these offenses carries a penalty of Birr 10,000.

17.3 Customs Criminal Offences and Penalties⁸³

Important customs criminal offences and corresponding penalties are the following ones:

- **Obstructing or hindering the duties of a customs officer⁸⁴** entails a penalty of simple imprisonment⁸⁵ for no less than six months and no more than one year and a fine no less than Birr 5,000 and no more than Birr 10,000. If force is used or when the offence is committed by an organized group, the penalty shall be from one to five years rigorous imprisonment.⁸⁶

82 The Criminal Code of the Federal Democratic Republic of Ethiopia 2004 sets the lowest floor for a fine to be ten Birr but for a juridical person it is one hundred up to five hundred thousand Birr.

83 The authority is vested with the power to investigate and prosecute these criminal offences.

84 This includes the offence in relation to documents, warehouse, and means of transport, business premises or a dwelling house.

85 As per Article 106/1 of the Criminal Code of 2004, simple imprisonment is a sentence applicable to crimes of a not very serious nature committed by persons who are not a serious danger to society.

86 As per Article 108/1 of the Criminal Code of 2004, rigorous imprisonment, contrary to simple imprisonment, envisages a crime of a grave nature committed by criminals who are particularly dangerous to society. Besides, it is intended also to provide for a strict confinement of the criminal and for special protection to society.

- A person who, with intent to cause damage to ERCA or to procure undue advantage for himself or for any other person, **falsifies or counterfeits forms, seals, identity cards, emblem, customs seals, uniforms (of ERCA), etc. or attempts to use these items** is penalized with rigorous imprisonment for no less than five years and no more than ten years and with a fine of no less than Birr 5,000 and no more than Birr 10,000. Moreover, the distribution or usage (including the attempted usage) of counterfeit uniforms to gain advantage or cause damage carries a penalty of rigorous imprisonment for no less than three years and no more than five years and a fine of not less than Birr 5,000 and not exceeding Birr 10,000.
- **Importing and exporting (or attempting to export) prohibited or restricted goods or goods subject to clearance, or smuggling or taking goods out of their legal route, or illegally importing duly exported goods** are punishable with rigorous imprisonment for no less than five years and no more than ten years and fined no less than Birr 50,000 and no more than Birr 200,000.⁸⁷ The use of force or offence by an organized group increases the rigorous imprisonment from ten years to fifteen years. Furthermore, anyone who transports, stores, possesses, offers for sale or buys these goods shall be punishable with rigorous imprisonment of no less than three years and no more than five years and fined no less than Birr 50,000 and no more than Birr 100,000.
- **Importing or exporting prohibited goods, or attempting to do so**, carries a penalty of rigorous imprisonment of no less than five years and no more than ten years and a fine of no less than Birr 50,000 and no more than Birr 200,000.

⁸⁷ Goods for illegal export seized within the customs frontier strip, defined as a 15 kilometers wide part of the customs territory from the customs boundary line of Ethiopia, will be considered as contraband goods.

- Anyone who **attempts to illegally import or export goods by concealing them in legal imports or exports** is punishable with rigorous imprisonment of no less than five years and no more than ten years and a fine of no less than Birr 50,000 and no more than Birr 100,000, if the value of concealed good accounts for more than 50% of the total declared value of the goods.
- A carrier who, in the absence of an unforeseeable occurrence (force majeure), **loads or unloads goods for import or export outside of a customs port (or attempts to do so)** is punishable with rigorous imprisonment for no less than five years and no more than ten years and with a fine of no less than Birr 7,000 and no more than Birr 15,000.
- **Using or allowing another person to use ERCA's electronic information exchange without authorization** carries a penalty of rigorous imprisonment for no less than three years and no more than five years and a fine of no less than Birr 5,000 and no more than Birr 20,000.

Legal persons⁸⁸ are also subject to criminal liability. A legal person who participates in committing a customs criminal offence is fined between Birr 100-500,000, depending on the sentence of the crime. This applies in particular where one of its officials or employees is a principal criminal, an instigator, or an accomplice in connection with the activity of the legal person, with the intent of promoting its interest by an unlawful means, by violating its legal duty, or by improperly using the legal person as a means.

On top of evidences allowed in line with the Criminal Procedure Code and other relevant legislations, the following are acceptable:

- Digital or electronic evidence;

⁸⁸ "Legal person" means a body which has governmental or non-governmental, public or private structure and includes any legally recognized institution or association set up for commercial, industrial, political, religious or any other purpose as per Article 34/4 of the Criminal Code of 2004.

- Evidence gathered by foreign law enforcement bodies;
- Evidence gathered by ERCA through customs controls and law enforcement; and
- Documents prepared by the WCO for goods classification.

18 Complaints and appeals

18.1 Introduction

Actors in customs procedures may not agree with the decision of the customs administration. In line with the principles of transparency and fair treatment, opportunities are accorded for submitting appeals/complaints on customs matters in order to have a decision reconsidered by a higher authority. These contribute to making customs decisions consistent with the law, while creating uniformity in the application of the law.

The complaints and appeal section of the Ethiopian Customs Proclamation echoes Chapter 10 of the General Annex to the RKC and the WTO Agreement on Trade Facilitation (Ministerial Decision of 7 December 2013).

18.2 Complaint Review Sections

ERCA has established complaint review sections at the levels of its branch offices and at its head office.

ERCA's branch offices complaint review sections have the powers and duties to review and decide on complaints submitted against the following:

- Decisions on the origin, valuation, description and tariff classification of goods;
- Decisions given following a post clearance audit under the Customs Proclamation; and
- Other administrative decisions given in respect of customs formalities.

ERCA's Complaint Review Section at the head office has the following powers and duties:

- Review and decide on appeals against decisions given at

branch office Complaints Review Sections;

- Review the rejection of objections to the forfeiture of goods or means of transport submit recommendations to the Director General of ERCA; and
- Review administrative penalties imposed and submit recommendations to the Director General of ERCA.

18.3 Complaint Handling Procedures

A complaint or an appeal to any complaint review sections shall be in writing and submitted within 15 days from the date of the written decision causing the grievance. It should be signed and submitted by the aggrieved person or his/her agent.

According to Articles 14-16 of the Directive to Determine the Working Modalities of the Customs Complaints Review Sections No. 107/2007 EC, applications to the Complaints Review Sections are only admissible if the complainant:

- Produces the complaint or appeal within fifteen (15) days of the department head's or by director's (in case of forfeitures) rendering of the final administrative decision, administrative penalty, or forfeiture decisions on goods or means of transportation; and
- Submits a guarantee that is equal to the contested duty and tax for the release of the good if he/she wants the release of the good. In case of exporters and producers or if it involves post audit clearance, an insurance bond is allowed.

The specifics which must be indicated in the contents of the complaint or appeal include the following:

- Clarity on the facts and reasons;
- Particulars relating to the applicant, declaration (its number) and the decision appealed (with its date) and by whom the decision was given;

- Relevant documents including evidence on the guarantee furnished;⁸⁹
- If the complaint/appeal relates to tariff matters, the material of which the good is made; the purpose of the good; if the good is not assembled completely, the remaining percentage; an explanation of the difference of the tariff provisions; and a reference to tariff provisions/articles and regulations.

The Complaint Review Section at the branch level communicates its decision in writing⁹⁰ to the complainant in thirty (30) days, unless documents and evidence requirements are not fulfilled. In any case, evidence requests need to be fulfilled within two months; otherwise the Section will decide in the next 10 days. However, if the evidence needed are gathered before the two months limit, the Section will decide in the next ten (10) days. The Section also notifies its decision to the complainant within three (3) working days of making them.

The Complaint Review Section at headquarters follows the same time lines when entertaining appeals against decisions taken by branch office Complaints Review Sections.

For matters that require the decision of the General Manager,⁹¹ the Complaint Review Section at headquarters will normally pass on recommendations to the Director General in thirty (30) days, and the latter then has to take a decision in seven (7) working days. The decision will include a statement about the right of appeal if there is total or partial rejection of the complaint and needs to be notified to the complainant by the Section in three (3) working days from the decision of the General Manager. Evidentiary time lines referred above also work for these particular matters. In case of failure to

89 The RKC (Chapter 10, Standard no. 10.9) waives the general need to attach documents in appeals cases where Customs already has all the relevant evidence and documents. Thus, it alleviates the burden of the complainant if production of evidence should be for those documents not available in the system.

90 Article 154(3) of the Customs Proclamation does not demand reasons and justification for the section's decisions but Article 10 of the Directive to Determine the Working Modalities of the Customs Complaints Review Sections No. 107/2007 EC requires that reasons for the decision be given.

91 This refers to matters under Article 153(2)(b) and (c) of the Customs Proclamation.

deliver decisions in the mentioned time limits, it will not block the complainant from exercising his/her other rights.

18.4 Appeal Procedures

A complainant who is not satisfied with the decision of ERCA's Complaint Review Section or the Director General may take an appeal to the Tax Appeal Commission within one month from the date of such a decision.

The Tax Appeal Commission will not entertain the appeal unless the disputed duties and taxes are paid.

If there is dissatisfaction with the decision of the Tax Appeal Commission on the ground of error of law, an appeal can be made to the Federal High Court⁹² within one month from the date of the decision. The Federal High Court will make a determination on the question of law and return the case to the Commission.⁹³ However, payment of the duty or tax determined by the Tax Appeal Commission is a prerequisite to get a hearing. An appeal to the next court of appeal (the Federal Supreme Court) from the decision of the high court may be made within thirty (30) days of the decision of the lower court.

⁹² This reflects the judicial review suggested in Article 4(1)(1.1)(b) of the WTO Agreement on Trade Facilitation as well as Article 2/Standard 10/6 of the RKC.

⁹³ As per Article 57 of the Tax Administration Proclamation No. 983/2016, which explains the appeal procedure.

19 Miscellaneous issues

19.1 Tax Incentives

A tax incentive is a privilege given by the Government to encourage and expand investment, especially in the manufacturing sector, to strengthen domestic production capacity, to motivate investors engaged in export trade and, thereby to accelerate the economic development of the country and improve its people's living standards.

The main laws that cover tax incentives are the Investment Proclamation No. 769/2012 and Regulation No. 270/2012 on investment incentives and investment areas reserved for domestic investors. The main law that covers export trade tax incentive is Proclamation No. 768/2012. Furthermore, tax reduction or zero rates, the Second Schedule Directive, is issued by the Ministry Directive No. 45/2008EC as amended on sene 23, 2008 EC.

19.1.1 Investment Tax Incentives

An investment is expenditure of capital in cash, in kind, or both to establish a new enterprise or to expand or upgrade one that already exists. An investment incentive is a duty relief on the goods imported by an investor as per Council of Ministers Regulation No. 270/2012. Two types of investment tax incentives are distinguished: exemption from income tax and exemption from customs duty.

Anybody who invests in Ethiopia is eligible to use Investment Tax Incentives as per Council of Ministers Regulation No. 270/2012 on investment incentives. The following items can be imported duty free (exempted from customs duty and tax):

- Capital goods;
- Construction materials;
- Motor vehicles; and

- Spare part whose value is not greater than 15% of the total value of the capital goods to be imported within five (5) years from the date of the investment project's commissioning.

Capital goods or construction materials, or motor vehicles imported duty free can be transferred to persons with similar duty free privileges. This transfer may also be made to persons having no similar duty-free privileges upon effecting payment of the appropriate customs duty. In addition, the exempted goods can be re-exported.

If duty and tax free imported goods are lost or damaged, the duty and tax right holder is required to report this to ERCA.

19.1.2 Export Trade Tax Incentive

An export trade incentive is a measure to promote exports from Ethiopia and create a conducive environment for domestic products to become competitive in international commodity markets. The following types of export trade tax incentives exist and eligible beneficiaries are distinguished:

	Export trade tax	Meaning	Beneficiaries
1	The duty draw-back scheme	“Duty draw-back” is duty paid on raw materials and accessories used in the production of commodities and refunded to the payer upon exportation of the processed commodity.	Producer exporters, indirect producer exporters, raw material suppliers, and exporters.
2	The voucher scheme	“Voucher book” is a document printed by ERCA to be used for recording the balance of duty- payable on raw materials imported for use in the production of goods for the external market.	Producer exporters, indirect producer exporters, and raw material suppliers.
3	The bonded export factory scheme	“Bonded export factory” is a factory under the control of ERCA that produces goods exclusively for export, using raw materials imported duty free.	Persons who have engaged exclusively in the production of export commodities, obtained a certificate of eligibility from MoI, and have a manufacturing plant that meets ERCA standards.
4	The bonded export manufacturing warehouse scheme	“Bonded export manufacturing warehouse” is a warehouse under joint control of ERCA and the factory concerned, where raw materials imported duty free for use in the production of goods destined exclusively for export, as well as goods produced using such raw materials, are stored.	Producers who are engaged exclusively in production of export commodity, have obtained a certificate of eligibility from MoI, and have a manufacturing warehouse that meets ERCA standards.

5	The bonded input supplies warehouse scheme	“Bonded input supplies warehouse” is a warehouse under the joint control of ERCA and the supplier concerned, where raw materials and accessories imported duty free by a licensed supplier are stored until such time as they are sold to producers.	Persons who have obtained certificate of eligibility from Mol and have a warehouse meeting ERCA standards.
6	The industrial zone scheme	“Industrial zone” is an area set aside for industry that is equipped with the necessary infrastructural facilities and enjoys policy incentives.	Industries set up within an industrial zone and that meet the criteria of eligibility set by Mol.

19.2 Tax Reduction or Zero Rate

Tax reduction or zero rates are listed in the second schedule of the Ethiopian tariff book. Their aim is to encourage business organizations involved in activities such as producing goods and services by granting them special privileges.

Producers or manufacturers are eligible to use tax reduction or zero rates as per Directive No. 45/2008 E.C issued by the Ministry. The conditions to be fulfilled to be eligible for second schedule “A” as per the Directive are:

- Application letter;
- Business license for current manufacturers, and investment license for newly established producers;
- Production capacity, production plan and raw materials plan;
- General description of the company;
- The past two years usage of raw materials, product quantity

and sales performance for current manufacturers; and

- Input/output coefficient to produce a single unit, and wastage amount.

The conditions to be fulfilled to update the authorization certificate as per the Directive are:

- Application letter;
- Business license;
- Production capacity, production plan and raw materials plan; General description of the company;
- The past two years usage of raw materials, product quantity and sales performance; and
- Input output coefficient to produce single unit and wastage amount.

19.3 Foreign Exchange Permit and Franco-Valuta

A **“foreign exchange permit”** provides a method for the settlement of payments through a bank that is engaged in import or export business in Ethiopia. This is the normal procedure to be applied for imports and exports. Conversely, **“franco-valuta”** refers to the importation of goods without the use of bank method of payment. This method can only be applied under certain conditions.

Goods are allowed to be imported on franco-valuta basis⁹⁴ under the following circumstances:

- For official use of diplomatic and consular missions, international organizations and donor agencies;
- For personal and household use of officers and employees of diplomatic and consular missions, international organizations and donor agencies;

⁹⁴ Council of Ministers Revised Regulation on the Importation of Goods on Franco-Valuta Basis Regulation No. 88/2003.

- By budgeted Ethiopian Government institutions and civic associations related to and supporting their function that receive gifts, aid, and donations from abroad;
- Gifts or donations that are intended solely and exclusively for religious, educational, medical, or professional organizations and institutions and that are not to be sold;
- Personal and household goods, excluding motor vehicles, imported from abroad as gifts or donations for family relatives and friend; Gifts or donations to a researcher's research activity;
- Personal and household effects, excluding motor vehicles, imported by persons upon first arrival and intending to take up residence in Ethiopia;
- Personal and household effects, as well as goods and equipment necessary for their livelihood, that are imported by Ethiopians and foreign nationals of Ethiopian origin who have stayed abroad for various reasons;
- Goods for investment activities, including capital goods and adequate raw materials, needed up to the commissioning stage and for personal use by Ethiopian and foreign nationals of Ethiopian origin investors who are permanently residing abroad and have a license from the appropriate government office;
- Awards obtained by and sent to individuals and organizations for outstanding achievement and cups, medal, and other trophies imported for presentation only and not to be sold;
- Inputs, such as labels, seeds, packages, and the like for goods to be exported;
- Gifts, trade samples, and advertising materials not imported as merchandise;
- Repeatedly used containers, boxes, tins, bottles, jars, and

other packages imported full of any articles liable to a specific duty rate and being ordinary packages for the goods contained therein; Goods specialized for use by disabled and handicapped people, imported by individuals and not to be sold;

- Goods for the replacement of short landed or defective goods accorded by the supplier to the importer under the terms of warranty;
- Extremely vital and urgently needed goods for the normal operation of an institution or health of a person, without which its function would be obstructed respectively his/her survival may be imperiled; Personal effects of travelers; and
- Goods introduced into the country temporarily and subject to re- export.

Detailed information is contained in the revised Regulation on the Importation of Goods on Franco-Valuta Basis (Council of Ministers Regulation No. 88/2003) and Ethiopian Revenue and Customs Authority Directive No. 66/2012.

19.4 Other Obligations Related to Customs Operations

19.4.1 Obligation to Provide Information

Any person who has information about untaxed or under taxed goods in contravention of customs law or about prohibited, restricted, or contraband goods is required to immediately inform the nearest customs office or law enforcement body. ERCA will not disclose information supplied or the identity of the informant. Persons who provide information and support to ERCA or other law enforcement bodies will be rewarded in accordance with directives issued by the Ministry, if it leads to seizure of the goods.

19.4.2 Retaining Information

A person responsible to pay duties and taxes and, thus, possessing any documents or information necessary for customs formalities is required to retain them for a period of five years. The period is counted from the day on which:

- Goods imported for home use are released for free circulation upon the completion of customs formalities;
- A goods declaration is accepted for export goods; or
- Customs formalities are completed in case of goods imported temporarily on duty free basis.

Glossary of terms

Abandoned goods: Goods that are not collected by their owner within the period prescribed by law completing customs procedures.

Ad-valorem duties and taxes: Duties and taxes which are calculated on the basis of value.

Authorized Economic Operator: an operator involved in international trade that has been pre-approved by a national customs administration as complying with supply chain security standards and customs requirements. A model program that many customs administrations are pursuing as a means to both secure and facilitate global trade, while at the same time providing incentives that benefit both Customs and traders that have decided to work in partnership. In Ethiopia, currently more than 30 companies are authorized economic operators.

Carrier: The person actually transporting goods or responsible for the operation and control of the means of transport.

CN22/23: The special declaration forms for postal items as described in the Acts of the Universal Postal Union currently in force.

Container: A receptacle which is either flat or open or fully or partially enclosed for containing goods and suitable for repeated use, and specially designed to facilitate the carriage of goods by one or more modes of transport.

Customs clearing agent: A person issued with a customs clearing agent license, including an employee of a declarant issued, by ERCA, with a certificate of professional competence in respect of customs clearance.

Customs procedure: All customs operations which carried out by the persons concerned and by ERCA in order to comply with customs law.

Customs station: Any place designated as customs office at the port of entry or exit of goods, transit routes or customs area for the control of import and export goods or for the accomplishment of customs formalities and collection of duties and taxes.

Customs territory: The territory of Ethiopia.

Customs value: A value of goods used as the basis for assessing the amount of duty and taxes, actually paid or payable i.e., the sum of cost, freight, insurance and other expenses as appraised by Customs based on the valuation methods of the Customs Proclamation and valuation directive provisions.

Declarant: Any person who makes a goods declaration or in whose name such a declaration is made.

Duty: A charge levied and collected on any imported or exported goods in accordance with the Customs Tariff Regulations issued pursuant to the Customs Proclamation and the International Convention on the Harmonized Commodity Description and Coding System.

Goods: Any kind of corporeal chattels and other incorporeal chattels deemed to be corporeal chattels by law including natural forces and resources of an economic value which are employed in use, including money.

Letter-post items: Letters, postcards, printed papers, literature for the blind and small packets described as letter-post items in the Acts of the Universal Postal Union currently in force.

Prohibited goods: Goods of which the importation, exportation or transit is prohibited by Ethiopian law or international agreements ratified by Ethiopia.

Release of goods: A procedure whereby goods under customs control are released for the purposes declared.

Restricted goods: Goods for which the importation, exportation or transit is restricted unless it is permitted by the competent authority

in accordance with legal procedures.

Risk management: A management system by which different risk bands are categorized on the basis of their risk levels in light of fair customs service provision and control with respect to goods brought to or taken out of the customs territory.

Seizure: Taking possession of goods or documents in relation with the enforcement of customs law.

Tax: A payment collected in accordance with the existing tax laws on imported and exported goods.

Transit route: Any route designated by ERCA for the movement of import or export goods under customs control.

ANNEX 1: SAMPLE DECLARATION – IMPORT FORM
IM4

IMPORTATION / EXPORTATION

2 Exporter N° : <input type="checkbox"/>		1 DECLARATION IM 4		A OFFICE OF DESTINATION Office code : HQ	
8 Consignee		3 Forms 1 1		Customs Headquarter Manifest number : Registration Number : Date :	
		4 Lists XXXXXX			
		5 Items 1		6 Tot pack. XXXXX	
				7 Reference number 1996 /	
		9 Person resp. for financ settl. N° : XXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX			
		10 Count. last Consign.		12 Value details	
		11 Country		13 C.A.P. XXXXXX	
14 Declarant/Representative N° :		15 Country of export		17 C.D. code a XX b XX	
		16 Country of origin		17 Country of destination	
18 Ident. & nat. of active means of transport at arrival XXXXXX		19C D		20 Delivery terms XXXXXXXXXXXXXXXXXXXXXXXXXXXX	
21 Ident. & nat. of active means of transport at border XXXXXXXXXXXX		22 Cur. & total amount in value XX		24 Nature of X X Transc.	
23 Mode of transp. at border XX		26 Inland mode of transp. XXX		27 Place of discharge XX	
29 Office of entry		30 Location of goods		28 Financial and banking data Bank name : Branch : XXXXXXXXX File No: XXXXXXXXXXXXXXXX	
31 Packages and description of goods Marks and numbers - Containers No(s) - Number and kind Marks & n° : Number and kind : Containers No(s) : XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX		32 Item 1 No		33 Commodity code XXXX XXXX	
		34 C.O. code a b		35 Gr. mass kg 36 Prefer.	
		37 PROCEDURE		38 Nature of goods 39 Quota	
		40 Summary declaration/Previous Document			
		41 Suppl. units		42 Item price X	
		43 V.M. X		44 Adjustment 1.000	
44 Add info Doc./ prod. Certif & aut.		A.D. : XXXXXXXXXXXX / DQ: XXXXXXXXXX XXXXXXXXXXXXXXXXXXXX		46 Statistical value	
47 Calculation of taxes		48 Deferred payment		49 Identification of warehouse /	
50 Duties and Taxes		B ACCOUNTING DETAILS XXXXXXXXXXXXXXXX Mode of payment : CASH Assessment Number : Receipt Number : Guarantee : Total fees : Total duties : N.C.U.		53 Office of destination (and country) Code	
51 Int. office, trans. & city		52 Guaranty not valid for		54 Place and date Signature and name of declarant/represent.	
D CONTROL BY OFFICE OF DESTINATION Result :		Stamp :			
Signature:					

ANNEX 2: PERSONAL EFFECTS EXEMPTED FROM DUTY PAYMENTS

a) Persons upon first arrival to take up residence in Ethiopia

Baggage, the property of and accompanying said persons or landed at any customs station within a period of three (3) months of first arrival or such further period as Customs may allow:

- i. Necessary and appropriate wearing apparel, personal, jewelry and toilet requisites.
- ii. Articles for household use, such as furniture, carpets, pictures, glassware, carpets, pictures, glassware, linen, crockery, cutlery, plate and sewing machines, and such additional articles as binoculars, cameras, (including cinematographer cameras of 8, 9.5 and 16 mm), sports' equipment, portable typewriters and toys, which are demonstrated to the satisfaction of Customs to have been in the personal or household use of the passengers prior to importation and which are not intended for sale.
- iii. Two (2) liters of beverage, whether or not containing alcohol.
- iv. Cigars not exceeding one hundred (100) in number cigarettes not exceeding twenty (20) packets in number or tobacco not exceeding five hundred (500) grams.
- v. Instruments and tools for the professional use of the passenger.

b) Bona-fide tourists

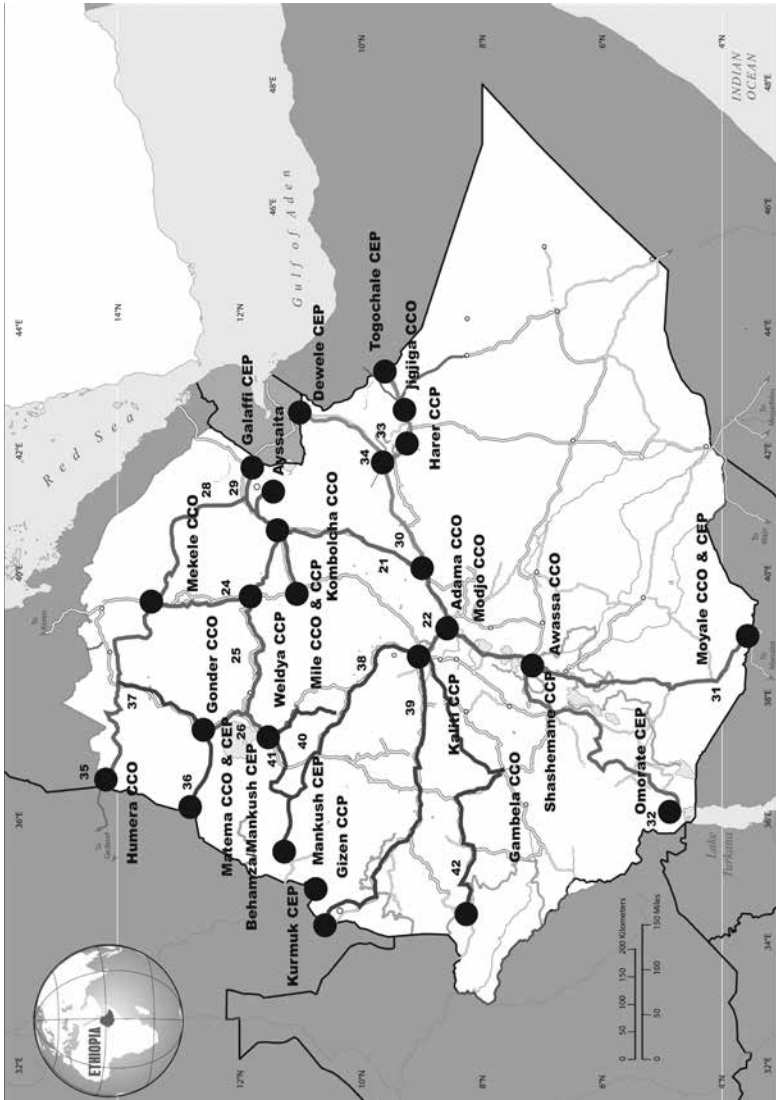
Baggage, the property of and accompanying said persons:

- i. Necessary and appropriate wearing apparel, personal jewelry and toilet requisites.
- ii. Two (2) liters of beverage , whether or not containing alcohol.

- iii. Cigars not exceeding one hundred (100) in number, cigarettes not exceeding twenty (20) packets in number and tobacco not exceeding five hundred (500) grams.

Customs may, subject to the taking of such safeguards as they may deem necessary to guard against the sale within Ethiopia of articles imported by a bona-fide tourist, allow the importation of any additional portable articles of baggage appropriate to the tourist or to the purpose of his/her visit.

ANNEX 3: MAP OF ETHIOPIAN CUSTOMS TRANSIT ROUTES



Code	Customs Transit Routes	Length (Km)
22	Galaffi - Mile - Awash - Modjo - Tuludimtu - Addis Ababa CTR	710
23	Dewelle - Dirdawa - Awash - Modjo - Awassa CTR	846
23	Galaffie - Mile - Awash - Modjo - Awassa CTR	833
24	Galaffie - Mile - Weldya - Mekele CTR	592
25	Galaffie - Mile - Weldya - Woreta - Gonder CTR	747
26	Galaffie - Mile - Weldya - Woreta - Bahirdar CTR	686
27	Galaffie - Mile - Bati - Kombolcha CTR	315
28	Galaffi - Afdera - Mekele CTR	446
29	Galaffi - Semera - Ayssaita CTR	202
30	Deweile - Dirdawa - Awash - Modjo - Addis Ababa CTR	723
31	Moyale - Awassa - Modjo - Addis Ababa/ Adama CTR	771
32	Omorate - Arbaminch - Shashemene - Awassa - Modjo - Addis Ababa	842
33	Togochale - Jigjiga - Harer - Awash - Modjo - Addis Ababa CTR	698
33	Togochale - Jigjiga - Harer - Awash - Modjo - Awassa CTR	821
34	Deweile - Dirdawa - Harer - Jigjiga CTR	355
35	Humera - Shire - Mekele CTR	680
36	Metema - Gonder - Woreta - Weldya - Kombolcha CTR	736
37	Metema - Gonder - Shire - Mekele CTR	777
38	Metema - Gonder - Bahirdar - Addis Ababa CTR	954
38	Humera - Gonder - Bahirdar - Addis Ababa CTR	991
39	Kurmuk/ Gizen - Asosa - Nekement - Addis Ababa CTR	780
40	Almehal/ Behamza/ Mankush - Chagni - Debre Markos - Addis Ababa CTR	681
41	Mankush - Bahirdar - Addis Ababa CTR	917
42	Methar/ Burbr/ Sare - Gambela - Jima - Addis Ababa CTR	744

Abbreviations

CEP	Customs Entry/ Exit Post
CCP	Customs Checking Post
CCO	Customs Clearing Office

ANNEX 4: ERCA VALUATION DETAIL DECLARATION



SAD: Find Declarations

Office

Year

Serie

Reg Number

*Mandatory	
SAD: General Information	
1. Nature of Transaction: (Check One)	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Sale Gift Hire/Rent Replacement Sample Other
2. Relationship between buyer and seller:	a. Are the buyer and the seller RELATED in the terms of the Customs Proclamation? <input type="checkbox"/> Yes <input type="checkbox"/> No Did the relationship influence the price of the imported goods? <input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is there any Condition or Restriction attached with the Sale as to the disposition or use of the goods by the buyer other than restrictions which	a. are imposed or required by law or the public authorities of Ethiopia b. limit the geographical areas in which the goods may be resold, and c. Do not substantially affect the value of the goods? <input type="checkbox"/> Yes <input type="checkbox"/> No

SAD: Additional Cost Element

Declaration Number: 2012AAC12211
 Registration Date: Thu Feb 23 00:00:00 EAT 2012
 Trader TIN: 0004108139AA03
 Trader Name: FEKADU BEYENE TULI
 Total Invoice: 61.33
 VDD Status: New

Is there any element not included in the invoice value BUT TO BE ADDED to the customs value as per the Proclamation?
 Please add if relevant and appropriate

Remove

ID #	Additional Cost Element	Rate	Amount	Currency	In local
------	-------------------------	------	--------	----------	----------

0 Additional Costs found.

Additional Elements: 1-Commission, except buying commission

Rate:

Amount:

Currency:

AED-United Arab Emirates Dirham

In Local Currency

Save

Conditional/Optional

SAD: Additional Cost Elements

If there any element not included in the invoice value BUT TO BE ADDED to the customs value as per the Proclamation? Please add if relevant and appropriate

ID	Additional Cost Element	Amount	Currency
1	Commission, except buying commission		
2	Brokerage		
3	Cost of Packing		
4	Cost of Containers and packing		
5	Materials, components, parts and similar items incorporated in the imported goods		
6	Tools, dies, moulds and similar items used in the production of the imported goods		
7	Materials consumed in the production of the imported goods		
8	Engineering, development, artwork, design work and plans and sketches undertaken elsewhere than in Ethiopia.		
9	Royalties and license fees		
10	Proceeds of any subsequent resale, disposal or use which accrue to the seller		
11	Dismantling, transport and handling charges at the country of export or other country		
12	Costs of delivery to the place of delivery		
13	Any other payment made, directly or indirectly to the seller or any other third person concerning this consignment		

Conditional/Optional			
SAD: Discounts			
Is there any discount? please mention the nature of discount			
ID	Discount Nature	Amount	Currency
1	Discount on Quantity		
2	Cash Discount		

File Edit View History Bookmarks Tools Help

Goods Detail Declaration Declaration of Fact Item Declaration of Fact

17217.0.48 - 101.101.101.101

Authority
Valuation Detail Declaration

Welcome: test@asbaweb

Edit Profile | Log Out

Customs Agent

Communication

Searching

Find SAD by Date

Find SAD

List of Declarations(SADs)

SAD Management

Selected Declaration(SAD)

Attachments

Traders Relationship

Discounts on SAD

Additional Costs on SAD

List of Items

Select

Item Management

View Selected Item

Item Description

Goods Detail Description

Declaration Number: 73144200 Item Number: 1

HS Code: 73144200 Commercial Description: HOLES FLOWER NETTING

Origin: NL Quantity(ASYCUDA):

Declared Quantity(VDO): 0 Unit of Quantity: KG

Net Mass: 13039 Item Total Price(ASYCUDA): 22911.33-EUR

Item Total Price(VDO): 0-EUR

Next

Item description is not provided for this item

Common Name

Length

Brand Or Makes

Width

Unit Price(Declared)

Quantity in (KG)

Currency: EUR

Save

File Edit View History Bookmarks Tools Help

Goods Detail Declaration Declaration of Fact Item Declaration of Fact

17217.0.48 - 101.101.101.101

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Item Management

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Item Description

Goods Detail Description

Declaration Number: 73144200 Item Number: 1

HS Code: 73144200 Commercial Description: HOLES FLOWER NETTING

Origin: NL Quantity(ASYCUDA):

Declared Quantity(VDO): 0 Unit of Quantity: KG

Net Mass: 13039 Item Total Price(ASYCUDA): 22911.33-EUR

Item Total Price(VDO): 0-EUR

Next

Item description is not provided for this item

Common Name

Length

Brand Or Makes

Width

Unit Price(Declared)

Quantity in (KG)

Currency: EUR

Save

Item Detail Description							
Declaration of Fact Item							
Declaration of Fact							
ID: 1717AAB-00-0000000000							
Share: 10 • units							
ID	Desc.	Unit Price(Declared)	Unit Price(Assessed)	Quantity	Total Amount	Currency	
1	TOSHIBA Used M11 TOSHIBA	110	110	50	5500	USD	
2	TOSHIBA Used I5 TOSHIBA	100	100	40	4000	USD	
3	TOSHIBA Used I5 TOSHIBA	100	100	10	1000	USD	
8	TOSHIBA Used 655 TOSHIBA	100	100	4	400	USD	
10	TOSHIBA Used 755 TOSHIBA	100	100	2	200	USD	
14	TOSHIBA Used L 505 TOSHIBA	100	100	4	400	USD	
15	TOSHIBA Used A 505 TOSHIBA	100	100	1	100	USD	
19	TOSHIBA Used L 855 TOSHIBA	100	100	1	100	USD	
20	TOSHIBA Used J 745 TOSHIBA	100	100	4	400	USD	

Item Detail Description							
Declaration of Fact Item							
Declaration of Fact							
ID: 1717AAB-00-0000000000							
Share: 10 • units							
ID	Desc.	Unit Price(Declared)	Unit Price(Assessed)	Quantity	Total Amount	Currency	
1	TOSHIBA Used M11 TOSHIBA	110	110	50	5500	USD	
2	TOSHIBA Used I5 TOSHIBA	100	100	40	4000	USD	
3	TOSHIBA Used I5 TOSHIBA	100	100	10	1000	USD	



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