



TRADER INFORMATION REGARDING CUSTOMS TARIFF CLASSIFICATION OF GOODS

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TARIFF CLASSIFICATION OF GOODS

1. IDENTIFICATION OF GOODS AND CLASSIFICATION FOR CUSTOMS PURPOSES

1.1. INTRODUCTION

One of the areas of requirements when goods are declared to Customs for cross border purposes or for manufacturing under customs control is proper identification and tariff classification of goods. This means that a correct description and a corresponding commodity (tariff) code should be assigned to the goods in question on the declaration document called Bill of entry (SAD form) and this information is mandatory.

While this information about the description and commodity code accounts for only two fields (boxes) on the Bill of Entry, its importance is often under rated as evidenced by various complaints from the trading commodity when Customs insists on the accurate provision of this information.

The purpose of this booklet is to provide a basic understanding of the importance, requirements, and LRA services related to identification and classification of goods, to all traders who may export goods, import goods or manufacture goods under Customs control.

This booklet shall respond to the following questions which are often asked in relation to identification and classification of goods:

- What are customs requirements in regard to the classification of goods?
- Why is it necessary to identify and classify goods for customs purposes?
- What does identification of goods for classification purposes entail?
- What does classification of goods entail?
- What are the risks if goods are not correctly identified and classified?
- What are the responsibilities of the importer and exporter in relation to identification and classification of goods?
- What are the responsibilities of Customs in relation to identification and classification of goods?
- Which rights do the importer and exporter have in relation to classification of goods?
- Which services does Lesotho Revenue Authority (Customs) provide for importers and exporters in relation to tariff classification of goods?

1.2. CUSTOMS REQUIREMENTS IN RELATION TO CLASSIFICATION OF GOODS

- a) When an importer or exporter submits a bill of entry to lodge a declaration of goods for purpose of importing or exporting them, such a declaration must include:
 - i. A correct and accurate description of the goods in question;
 - ii. A correct and accurate commodity code (also known as a tariff code);
 - iii. This helps to determine the correct charges and other measures which are prescribed by law to be applying to that commodity description and commodity code e.g.
 - a. customs duty payable,
 - b. excise duty payable,
 - c. anti-dumping duty payable,
 - d. rebate of duties if any,
 - e. refund of duty if any
 - f. import permit number if required (for restricted goods)
 - g. other measures e.g. prohibitions

1.3. WHY IS IT NECESSARY TO IDENTIFY AND CLASSIFY GOODS FOR CUSTOMS PURPOSES?

- a) The Customs and Excise Act 1982 provides laws for the levying of customs and excise duties, the prohibition and control of the importation, export or manufacture of certain goods and for matters incidental thereto and connected therewith;
- b) The Act is supported by other laws relating to agriculture, trade, health and social security among others;
- c) Treatment of goods under the Act is not necessarily the same because of different legal provisions that apply because of the nature of goods e.g. prohibited goods to protect national economic interests, health of Basotho, environment, dangerous weapons etc.
- d) Treatment can include answering the following questions:
 - i. What is the rate of customs, excise or anti-dumping duties applicable to the goods in question?
 - ii. Do the goods in question qualify for preferential tariff or customs duty treatment?
 - iii. Do the goods in question qualify for a rebate, refund or other type of exemption from payment of customs and excise duties?
 - iv. Are the goods in question prohibited or restricted by law?
- e) In order for goods to be subjected to their appropriate treatment under the relevant law, they must be:
 - i. Identified as to what they are
 - ii. Classified according to the nomenclature in Schedule no.1 to the Act based on an international nomenclature for classification of goods for customs purposes known as the "Harmonised System" or HS (*An international*

nomenclature for the classification of goods developed under the World Customs Organisation);

- iii. Subjected to the treatment prescribed by law as applying to that particular group of goods.

1.4. WHAT DOES IDENTIFICATION OF GOODS ENTAIL?

- a) Identification of goods involves establishment of the characteristics of goods in such a way that it is possible to link it to a specific class (commodity code and description) of goods in schedule no.1 to the Customs and Excise Act e.g.
 - i. Motor vehicles for the transport of persons specially designed for travelling on snow;
 - ii. Knitted or crocheted men's or boy's shirts of cotton;
 - iii. Chlorine (organic chemical);
 - iv. Line pipes of stainless steel of a kind used for oil or gas pipelines.
- b) Identification means the product must be known in full what it is especially by looking for specific characteristics prescribed in schedule no.1 for the classification of goods. Some or all of the following questions need to be answered in identifying goods:
 - i. What is the product in question?
 - ii. What material or substance is it made up of?
 - iii. What is its function or use?
 - iv. In what form is it imported e.g. unassembled, assembled, complete, incomplete etc.
- c) Where it is not clear what the product is, scientific testing may be applied in order to make sure e.g. in the case of chemicals, textiles, metals etc. any product can be subjected to scientific testing if necessary;
- d) When a product is fully identified, it shall be possible to classify it in the nomenclature.

1.5. WHAT DOES CLASSIFICATION ENTAIL?

- a) Classification means finding a corresponding **description** in the nomenclature provided under schedule no.1, which has a unique **commodity code** also referred to as a tariff code. E.g:
 - i. **8703.10** -Motor vehicles for the transport of persons specially designed for travelling on snow; golf cars and similar vehicles;
 - ii. **6105.10** -Knitted or crocheted men's or boy's shirts of cotton;
 - iii. **2801.10** -Chlorine;
 - iv. **7304.11** -Line pipes of stainless steel of a kind used for oil or gas pipelines
- b) There are more than 7000 commodity codes in schedule no.1 which correspond to unique classes of goods;
- c) Classification must therefore be carefully done because for some products, it is possible to look like they are classifiable under two or more classes in the nomenclature e.g. mixtures, combinations and sets consisting of more than one materials, substances or components. Classes of goods are referred to as headings and sub-headings.

- d) There are rules that guide classification in this nomenclature:
 - i. The basic rule is to classify according to the descriptions provided in the headings and subheadings and relevant notes. The terms of these headings (descriptions) must therefore be known in order to classify goods;
 - ii. There are other rules relating to classification of:
 - a. Disassembled goods
 - b. Mixtures, combinations and sets of materials, substances and/or components;
 - c. Classification of packing materials or packing containers presented with the goods.
- e) Once a correct classification of goods has been established, it is then easy to know the following:
 - i. The customs, excise and anti-dumping duty applicable
 - ii. Whether the goods originate (in accordance with relevant rules of origin)¹ from a country that qualifies for preferential tariff or customs duty treatment
 - iii. Whether the goods originate (in accordance with the general non preferential rules for the origin of goods) in a country imports of which are not prohibited to enter Lesotho
 - iv. Whether the goods in question qualify for a rebate, refund or other type of exemption from payment of customs and excise duties
 - v. Whether the goods in question prohibited or restricted by law
 - vi. Other measures applicable

1.6. WHAT ARE THE RISKS IF GOODS ARE NOT CORRECTLY IDENTIFIED AND CLASSIFIED?

- a) Revenue could be lost or over collected
- b) False declaration including that of goods characteristics and their classification is an offence under the Act;
- c) Restricted goods might find their way into the country to the threat of lives and economic objectives in other cases e.g. fake medicaments and drugs, vegetables, eggs, milk
- d) Prohibited dangerous substances might find their way into Lesotho to the threat or lives e.g. weapons
- e) Customs duties might be charged where they are not supposed to be collected
- f) It is fraud if misclassification is intentional and it is a punishable offence under the Customs and Excise Act;
- g) Preferential duties may be charged where they should not be charged leading to revenue losses and unfair competition among other things.

¹ See the origin booklet for further understanding about rules of origin

1.7. WHAT ARE THE IMPORTER'S OR EXPORTER'S RESPONSIBILITIES IN REGARD TO IDENTIFICATION AND CLASSIFICATION OF GOODS FOR CUSTOMS PURPOSES?

- a) The Customs and Excise Act requires every person entering goods for any purpose shall subscribe to a declaration in the prescribed form as to the correctness of the particulars and purpose of the form (section 40 of the Act);
- b) Among other things that a person must declare correctly and accurately, are the goods being entered i.e. their characteristics and their classification;
- c) The importer, exporter or manufacturer of any goods is responsible to provide a correct classification of their goods on the form known as the Bill of entry (SAD Form);
- d) They shall not expect the Customs Authority to fill the form of their behalf;
- e) If the importer or exporter is unable to classify goods, they may appoint a duly licensed Clearing Agent to classify goods on their behalf;
- f) They shall submit supporting evidence and any additional information required by Customs in relation to the goods characteristics and their classification.

1.8. WHAT ARE THE RESPONSIBILITIES OF CUSTOMS?

- a) When the importer or exporter has submitted the declaration including the classification of the goods (commodity code and description) and all the relevant treatment applicable to that class, Customs shall verify the particulars declared including the classification;
- b) If everything is correct in the opinion of Customs, complies with the law and all duties and taxes due have been paid, Customs shall effect clearance of and release of such goods;
- c) If there are inconsistencies, Customs shall follow up and make a decision based on the circumstances including:
 - i. Making its own determination of the correct classification and subsequent legal applications;
 - ii. Detention;
 - iii. Seizure;
 - iv. Penal Measures consistent with the Act
- d) Follow up audits and investigations including in the case of classification fraud

1.9. WHAT ARE THE RIGHTS OF THE IMPORTER OR EXPORTER?

- a) The right to excellent service in line with the LRA Taxpayer Charter
- b) The right to discuss with a Customs Officer matters pertaining to the classification and relevant issues ;
- c) The right to a written decision or determination about the classification of their goods
- d) The right to submit a written administrative appeal to a decision or determination by customs

- e) The right to appeal to the Revenue Tribunal if not satisfied with an administrative appeal
- f) The right to appeal to national courts of law if not satisfied with a tribunal decision

1.10. WHAT SERVICES DOES LRA OFFER IN RELATION TO THE CLASSIFICATION OF GOODS TO FACILITATE TRADE?

- a) Pre-entry information about the classification of goods
- b) Settlement of classification disputes internally
- c) Public rulings on classification matters
- d) Publication of classification related information

2. SPECIFIC GUIDELINES TO SERVICES PROVIDED BY LRA IN REGARD TO CLASSIFICATION OF GOODS

2.1. PRE-ENTRY CLASSIFICATION INFORMATION

- a) A person who wishes to obtain information about the classification goods for which they intend to import or export in the future, shall submit an application form for pre-entry information²;
- b) The applicant shall when requested to do so by an officer submit a sample of the goods (to the extent possible) for which pre-entry information is sought;
- c) The pre-entry information shall be communicated to the applicant within a period of 30 days but when it is not possible to communicate within such time, the Commissioner shall respond in writing indicating the time when the ruling can be issued;
- d) Pre-entry information provided in this nature is not binding on LRA at the time of importation

2.2. DISPUTE SETTLEMENT

- a) If the Customs Office at which goods are declared disagrees with the importer or exporter's classification and makes a decision to change it, the importer or exporter has a right to discuss with the officer in charge reach an understanding;
- b) If agreement cannot be reached on desk level discussion, the importer has a right to submit a written opinion about the classification of his goods;
- c) Customs shall then examine the issue further and issue a final ruling on the classification;
- d) If the importer or exporter is not happy with the ruling, he has the right to submit a written appeal letter referring to the ruling and stating his arguments to the Commissioner of Customs and Excise;
- e) The Commissioner will respond in writing to the appeal;
- f) If Importer or exporter is still not satisfied, they may submit a written appeal to the Revenue Tribunal which shall arrange for proceedings to resolve the matter and make a ruling;
- g) If importer or exporter is still not satisfied with the Tribunal Decision, they have a right to appeal to a competent court of law of Lesotho.

2.3. CLASSIFICATION RELATED INFORMATION PUBLISHED TO DATE

- a) Commodity codes and descriptions together with the applicable Customs and Excise Duties on imports are available on <http://www.lra.org.ls/tariffs.php>

² The form is available at all Customs offices and LRA advice centres