

Post Clearance Audits and Customs Opportunities

Presentation by **PwC Limited**
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Program

Content	Responsibility	Time
Welcome remarks	Pamela Natamba	10:00 – 10:05
Overview of Customs and customs legislation	Harriet Nakaddu	10:05 – 10:25
Customs Clearance cycle and Post Clearance Audits	Nicholas Kabonge	10:25 – 10:45
Key opportunities	Juliet Najjinda	10:45 – 11:05
Q&A session	Harriet Nakaddu	11:05 – 11:30

Presenters



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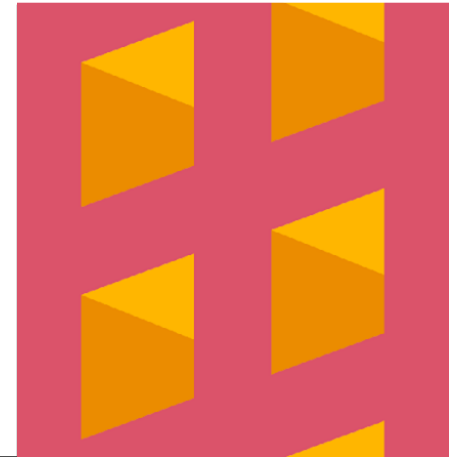
Welcome Remarks

Pamela Natamba
Partner, Tax
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Introduction to customs and Customs Legislation

Harriet Nakaddu
Senior Manager, Indirect Tax Services
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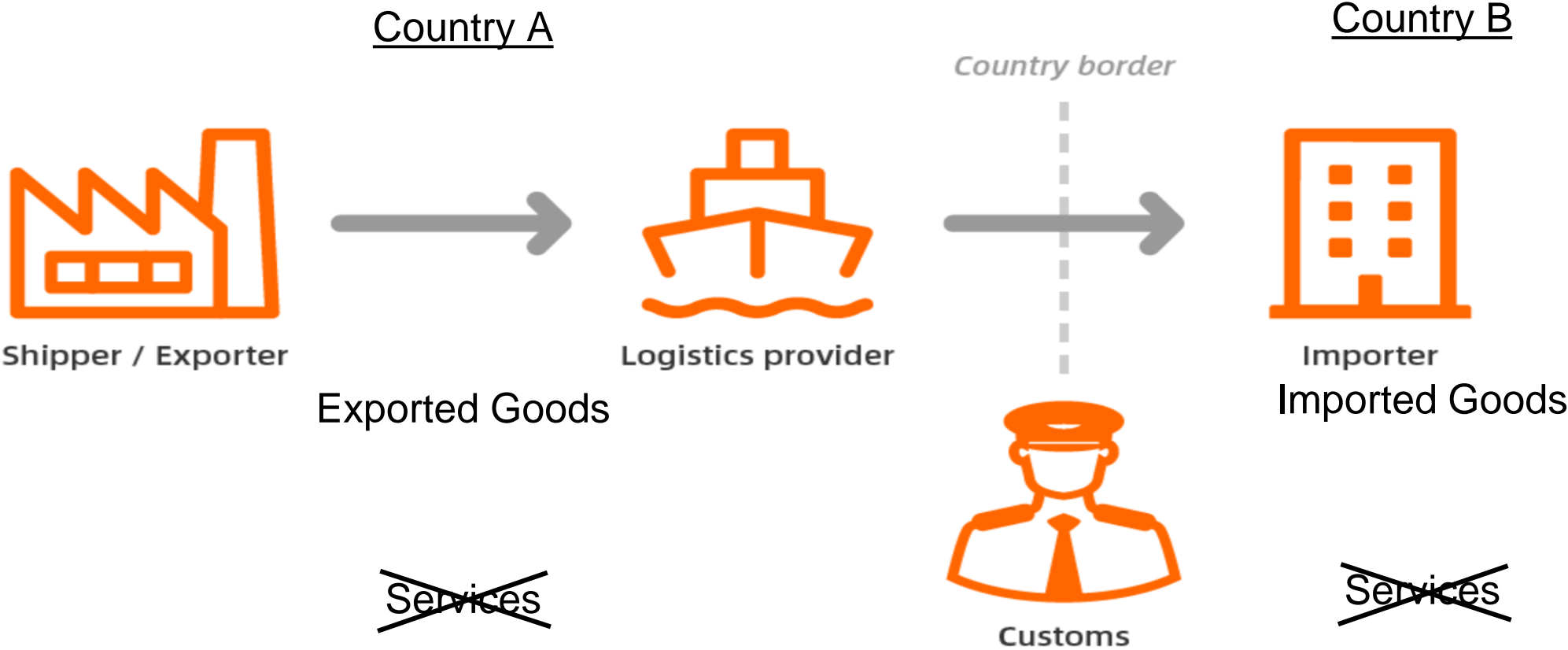


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Overview of customs

Introduction

What is customs duty



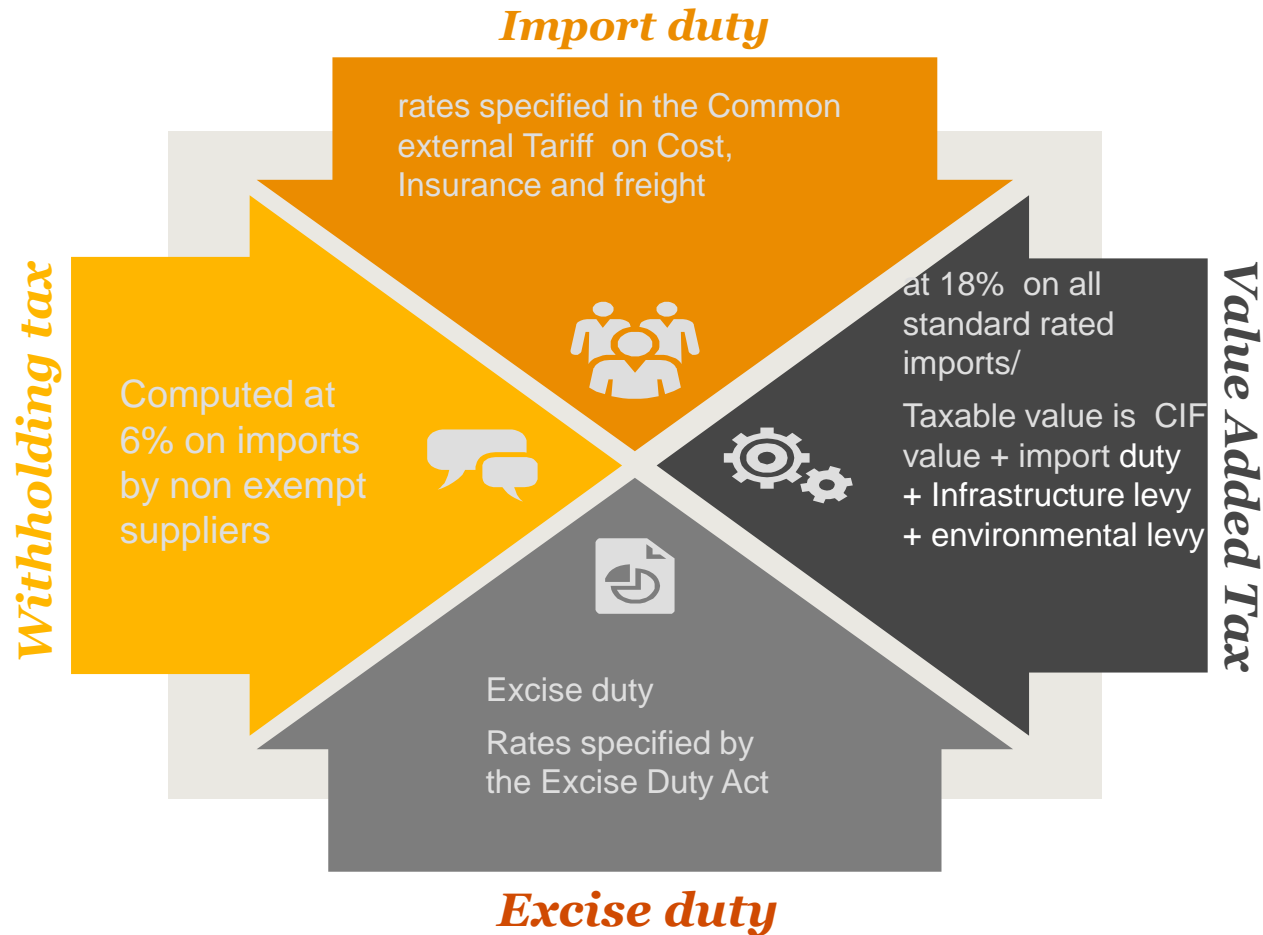
Application of customs



- Customs duties - taxes levied on imports or exports
- A customs territory – country or trade area, trade bloc
- A trade bloc is a type of intergovernmental agreement, often part of a regional intergovernmental organization, where barriers to trade are reduced or eliminated among the participating states e.g EAC
- A free trade area is a grouping of countries within which tariffs and non-tariff trade barriers between the members are generally abolished but with no common trade policy toward non-members AfCFTA



Components of customs duty



- Examples
- - Import duty- the CET
- VAT - the VAT Act
- Excise duty – Excise Duty Act
- WHT – Income Tax Act

Other levies

- Infrastructure levy-1.5% of CIF
- Environmental levy – depends on year of manufacture of the motor vehicles and earth moving equipment.

Benefits of customs duty



- source of revenue
- protection of domestic economy
 - dumping
 - smuggling

Excludes

- anti-dumping duties;
- anti-subsidy duties; and
- retaliatory taxes which are not listed in the tariffs.

Back ground to the Customs procedures in Uganda



Back ground to the Customs procedures in Uganda



- Uganda is part of a single customs territory
- The East African Community (EAC) - Customs Union
- Idea of a Single Customs Collection point started in 1900 at Mombasa.
- Involved – changing from a single customs territory (i.e., country) to a trade area / bloc
- Comprising of two or more customs territories
- Member states agree to apply a common external tariff or other regulations of commerce with other territories, the non member states
- E.g The customs territories agree to apply a Common Internal Tariff (of 25% on all Steel imports and a 0% on all Coffee exports)



Enablers of collaboration amongst member states

- Interconnectivity of customs systems to facilitate seamless flow of information between customs stations
- A tax payment system to manage transfers of revenues between EAC Partner States
- Legislation to govern international trade of the member states

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Customs Legislation

East African Community (EAC) - Customs Union



The EAC Customs Union

- EAC Customs Union Protocol concluded and signed in March 2004
- The Customs Union effective from start of 2005 with 5 year transitional period
- 7 Member states
- Determine the product offering strategies and tax credits and incentives that align with ESG motivated changes to value chain

EAC Members as at 29 March 2022



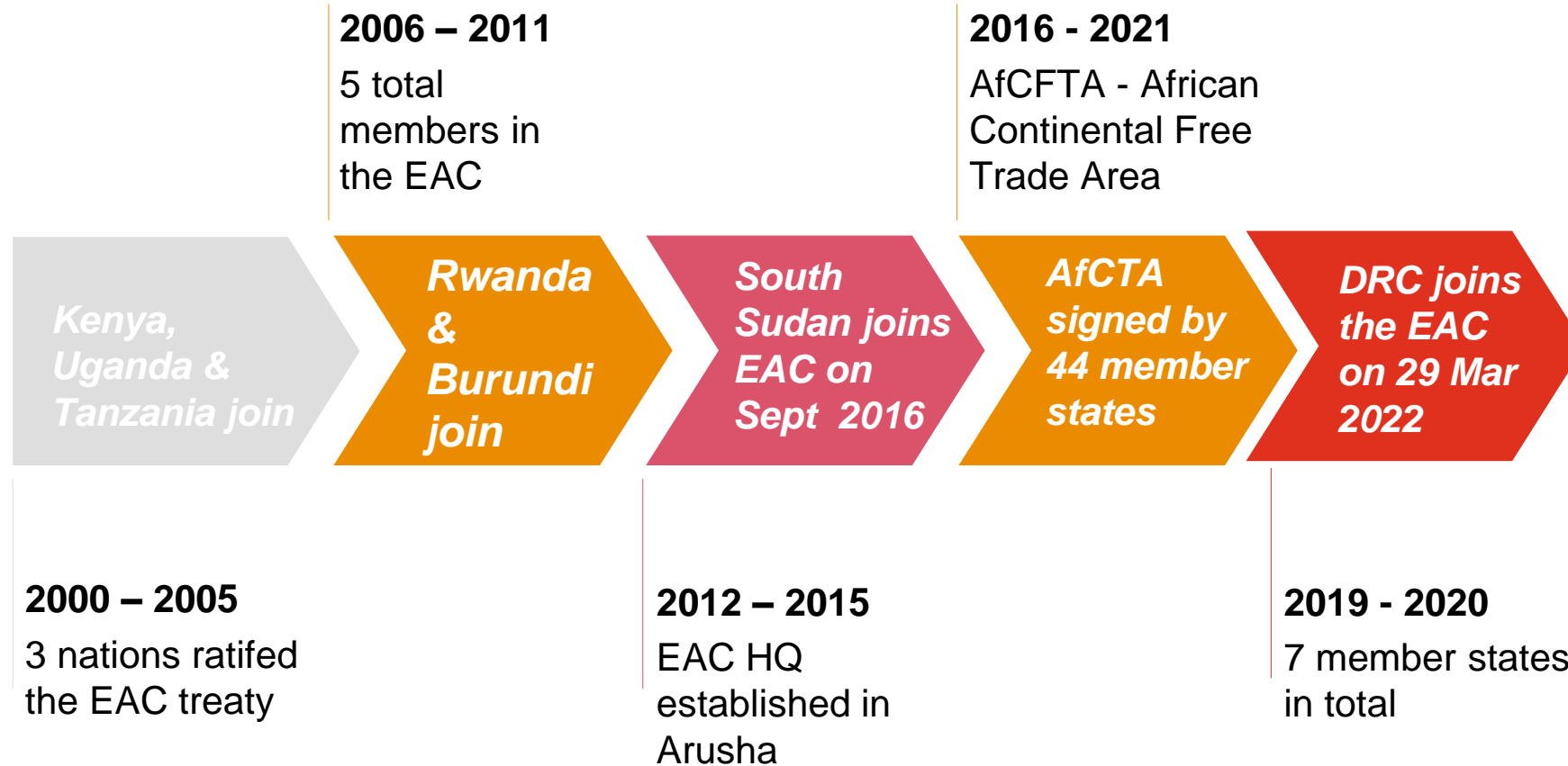
Customs legislation

- East African Community Customs Management Act, 2004 R.E 2012 ('EACCMA')
- East African Community Customs Management Regulations, 2010 ('EACCMA')
- EAC Common External Tariff (CET) Handbook, 2017 version
- EAC Customs Union (Rules of Origin) Rules
- Gazettes
- Customs Post Clearance Audit Manual

Supplements to Customs legislation

- Income Tax Act CAP 340
- Value Added Tax Act, Cap 349
- Excise Duty Act, 2014
- Infrastructure levy
- Environmental levy

The EAC Road map



Customs clearance – Single Customs Territory



- The authorisation of goods to enter or leave a customs territory
- preparation of documents
- electronic submissions
- Determining and payment of taxes / levies.
- EAC adopted the Single Customs Territory (SCT) for clearance of goods.
- ASYCUDA world system.

Benefits of a single customs territory

- Reduced cost of doing business i.e., eliminates duplication of processes
- Reduced administrative costs and regulatory requirements
- Creation of a mechanism for prevention of smuggling at a regional level
- Reduced risks associated with non-compliance on the transit of goods
- Benefits of economies of scale and optimal use of resources in clearance of goods in the EAC
- Eliminates all non-tariff barriers to trade and other charges of equivalent effect amongst members states




ASYCUDA World System

The system is premised on a risk selectivity module which, gauges on the captured taxpayer profiles.

This can route entries for clearance through any of the four lanes of clearance of the goods from the Central Business centre (CBC). These include;

- **Blue lane** -Very compliant, No risk assessment, goods are cleared subject to PCAs e.g Authorised Economic Operators (AEOs)
- **Green lane**- No inspection, only risk assessment. This is subject to Post Clearance Audits (PCAs)
- **Yellow lane**- Only documents are checked and no physical inspection
- **Red lane** – here the goods are stopped for physical examination of the goods
- **Orange lane** - New risk selectivity lane not yet adopted by the EAC

 *A modernized and credible Customs administration that is among the world's best.*


Bureau of Customs' SELECTIVITY LANES

Action	Green	Yellow	Orange	Red
Assessment	✓	✓	✓	✓
Document Check	✗	✓	✓	✓
Non-intrusive Examination (X-ray)	✗	✗	✓	✓
Physical Examination	✗	✗	Upon scanning, the image is found to be suspicious ✓ Upon scanning, the image is NOT found to be suspicious ✗	Whether the scanned image is found to be normal or suspicious, it will undergo physical examination. ✓
	Low-risk	Medium-Risk	Medium to High-Risk	High-Risk

The New Selectivity Channel: Orange Lane

The Orange Lane would select cargoes ranging from medium to high risk, including but not limited to the shipments covered by existing policies and regulations for mandatory x-ray scanning and random selection by the Selectivity System.

Professionalism Integrity Accountability





Customs Clearance Cycle and Post Clearance Audits

Presentation by Nicholas Kabonge
Manager, Indirect Tax Services

PwC Uganda



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Customs clearance cycle and Documentation

Customs clearance cycle



Requisite documentation for Customs

Essential documentation in Customs transactions is as follows:

- Proforma invoice
- Commercial invoice (mandatory)
- Insurance certificates (where applicable)
- Freight invoices (where applicable)
- Sales Contract/Agreement (where applicable)
- Certificate of Origin (for preferential rate, it is mandatory)
Shipment documents (Bill of Lading, Airway Bill, Railway Consignment Note)
- Certificate of Origin (for preferential rate, it is mandatory)
- Packing lists (mandatory)
- Payment advices and receipts



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Post Clearance Audits(PCA's)

Why Post Clearance Audits?

A Post Clearance Audit (PCA) is an audit carried out after the importer has received delivery of the goods.

The aim of the audit is to check compliance with all customs regulations post – event; through examination/ verification of the importer's records and systems.

PCAs generally cover the following areas:

- Tariff classification
- Foreign currency
- Claims for concessionary duty rates
- Valuation
- Application of exemptions
- Country of origin / export

Introduction of PCAs was envisaged to deliver the following benefits:

- **Reduced release time** – Reduce time taken while goods are in Customs' custody
- **Saving storage fees** - Expedited clearance process means reduction of storage, warehouse and insurance costs
- Facilitating qualification for Authorized Economic Operator Schemes
- Encourages self assessment
- Reduces litigation costs

Basis of conduction PCAs

- **Section 236 of EACCMA** provides that the Commissioner shall have the powers to:
- Verify accuracy of declarations through examination of records and any other data related to the goods
- Question any person involved in the business or any person in possession of data relevant to entry of goods
- Inspect the premises of the owner of the goods or any other place of the person involved in operations
- Physically examine the imported goods, where possible obtains a sample of the goods



Requirement to maintain proper records

Section 235 of EACCMA provides that a proper officer of Customs may within 5 years of importation, exportation, transfer or manufacture of goods require the owner:

- To produce any documentation in relation to the goods.
- To answer any question in relation to the goods
- To make any declarations in relation to the goods as the proper officer may deem fit.



Audit triggers

A number of issues could trigger an audit. These may include the following:

- 1 Previous audits with considerable risk;
- 2 Volume and value of client's transactions (indicator of level of risk);
- 3 Fluctuations in declared values;
- 4 Comparison with values of identical or similar goods;
- 5 Importers under duty remission schemes;
- 6 Reputation of clearing agents; and
- 7 Related party transactions;

Common Mistakes picked up from PCAs

The common errors under PCAs include the following:

- Under declaration of value to Customs;
- Misuse of exemptions under 5th Schedule to the EACCMA;
- Incorrect classification of goods;
- Incorrect application of foreign currency exchange rates;
- Misstatement of origin of the goods;
- Computing import duty on air freight;
- Customs documentation retained by a Clearing agent and not handed over to the Principal (importer);
- Failure to remit taxes assessed by Customs;
- Failure to obtain pre-importation rulings from the URA;
- Failure to file required forms to terminate VAT deferment on plant and machinery



Offences, penalties, forfeitures and seizures

Offences under Customs legislation	Penalties applicable
Bribing an officer	Imprisonment for a term not exceeding 3 years
Removing or defacing Customs seal	Imprisonment for a term not exceeding 3 years or a fine not exceeding \$2500 or both
Making or using false documents	Imprisonment for a term not exceeding 3 years or a fine not exceeding \$10,000 per entry
Offences for which no penalty is provided	Fine not exceeding \$5000 or the court may impose a fine not exceeding 3 times the value of the goods
Importation/ exportation of concealed goods	50% of the value of goods involved





Key opportunities in customs

Presentation by **Juliet Najjinda**
Manager, Indirect Tax services
PwC Uganda



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Key opportunities in customs



Customs opportunities

There are a number of customs opportunities that tax payers can take advantage of to ease customs procedures or to obtain customs exemption

- 1 Authorised Economic Operator (“AEO”) program
- 2 Pre-importation customs rulings
- 3 VAT deferment
- 4 Temporary importation regime
- 5 Dispute resolution
- 6 Tax exemptions under the East African Community Customs Management Act

Authorised Economic Operator (AEO)

Overview of AEO program

- An initiative aimed at enhancing trade through simplifying customs procedures and reducing customs clearance times
- Enhances the relationship between businesses and the Customs Administrations by implementing preferential treatment to businesses that are established to be compliant through a structured assessment of risk (accreditation).
- Interested taxpayers required to apply to URA for accreditation
- Applicants should demonstrate a record of tax compliance, financial solvency, availability of systems and security safeguards etc



What are the benefits of AEO status

- Customs preferential treatment e.g. first priority for clearance of goods;
- Reduced inspection of imports- either blue or green channel inspection.
- Verification at owner's premises for delicate cargo;
- Obtaining withholding tax exemption status
- Facilitation with regards to Customs controls related to security and safety

Who can apply for AEO status

- 
- ✓ Exporters
 - ✓ Importers
 - ✓ Transporters
 - ✓ Freight forwarders

- ✓ Customs agents
- ✓ Bonded warehouse owners
- ✓ Manufacturers

- *An applicant **MUST** be a legal entity incorporated or registered with in the EAC.*
- *Natural persons may be eligible for accreditation subject to volume of importation and history of customs compliance.*
- *An importer may apply to URA for accreditation. The application is followed up by inspections by URA to verify the information declared in the application*
- *An independent assessment on URA reported a reduction of Clearance time for AEOs from 4 days to 1 day*

Pre-importation rulings: Customs rulings

When should importers obtain pre-importation rulings

- ✓ Importers can apply to the URA for a customs ruling on the classification of their goods.
- ✓ For machinery and equipment being imported in a knocked down state.
- ✓ URA will seek to classify the different components as separate parts so that duty is payable on the parts if a ruling is not obtained
- ✓ Equipment that qualifies for various customs duty exemptions and VAT deferment

- ✓ Clarity on the treatment of the imported goods
- ✓ Opportunity to object to the treatment if not favourable
- ✓ Ruling is binding on the URA – if all information required is availed
- ✓ Financial planning for the business

Benefits of obtaining pre-importation rulings

VAT deferment on importation of plant and machinery

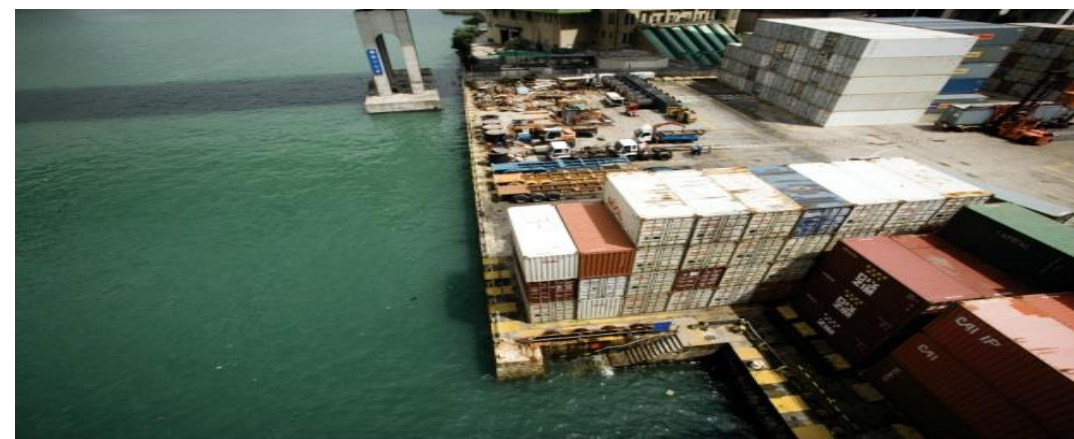
VAT deferment is a procedure which saves a VAT registered taxpayer from incurring VAT cash flow at the point of importing equipment.

It applies to plant and machinery under chapters 84 and 85 of the Common External Tariff for use in production of taxable supplies

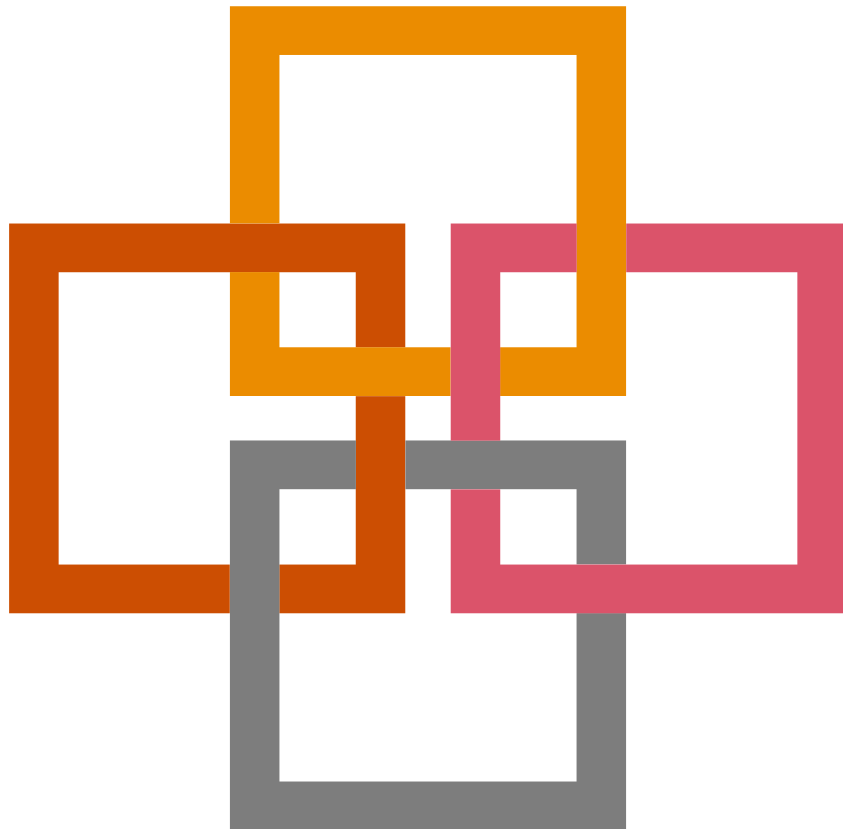
An application must be submitted with the customs bill of entry, invoices, packing lists, bill lading or airway bill.

It is advisable to obtain URA's advance ruling for major imports

- Deferment applies to equipment that cost at least USD 4,000 expires within 30 days- in practice, it can be longer
- **Note – Spares are not deferrable**



Tax exemption under the Temporary importation regime

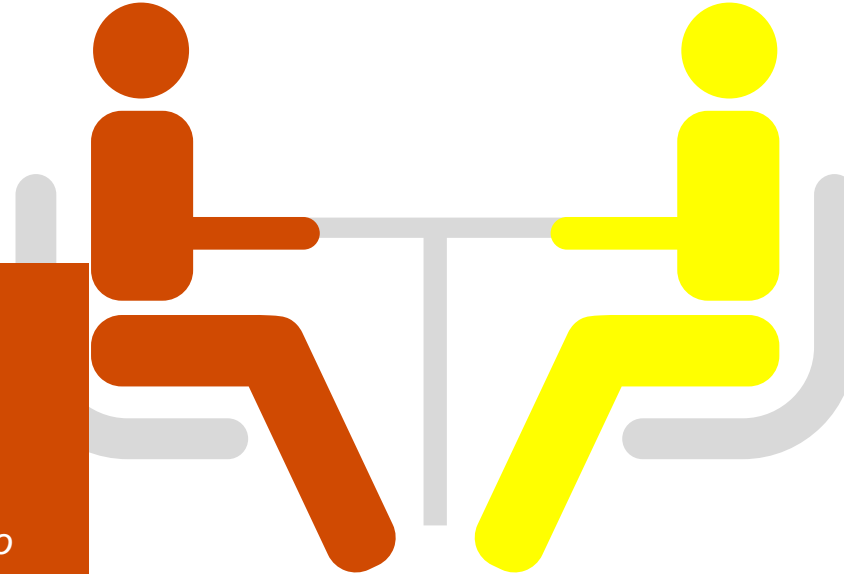


- Goods imported for a temporary use or purpose may be exempted from customs duty.
- The importer should apply to the Commissioner prior to importation providing:
 - Detailed inventory of goods to be imported;
 - Justification for temporary importation (government contract, repair, employment);
 - Duration of temporary importation;
- Temporary importation permission granted for an initial period of one year. (Renewable)
- Tax payer will be required to pay security equivalent which is discharged at the time when the goods are being re-exported
- Duty and penalties will be payable where a tax payer contravenes the temporary importation conditions e.g. through disposal, failure to re-export, alteration etc.

Other opportunities

Tax exemptions under the Fifth Schedule of the EAC Customs Management Act

- *Personal effects for returning residents*
- *Inputs for Agriculture, Aquaculture and horticulture , subject to Commissioner's approval*
- *Diapers, Urine bags and hygienic bags*
- *Hotel Equipment marked with the hotel logo imported by its use*
- *Items imported for use in licensed hospitals*
- *Industrial spare parts- imported as replacement parts used on industrial machinery classified in Chapters 84 and 85*



Dispute resolution

- *Engaging the Trade division of URA to seek guidance where a taxpayer is dissatisfied with the assessment given at the customs boarder post*
- *Opportunity to object to customs assessments where a tax payer may not be in agreement*
- *Appealing to the Commissioner customs on a decision issued by the customs audit team.*
- *Engagement of the Alternative Dispute Resolution framework*

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Q&A Session

Thank you

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