



SACU CUSTOMS POLICY



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1. BACKGROUND

The decade up till 2005 has witnessed unprecedented growth in international trade as countries increasingly view international trade as the key driver for economic growth and development. In the face of such growth however, most Customs Administrations have not transformed their operating environments to cope with the increased needs for traders and travellers. As a consequence Customs has increasingly been faced with contradictory challenges such as the dilemma of emphasising revenue collection as against facilitating trade. Advances in technology development in the area of commerce and communication; globalisation; developments in transport; and regional integration initiatives have all contributed to the changing environment in which customs operates.

In the process, the role of Customs has moved beyond traditional considerations of revenue collection. The changing face of global business necessitates that Customs play a greater role in reducing the transaction costs faced by traders thereby facilitating trade across borders. Post 9/11, the critical role of customs in ensuring the security of the international supply chain is also increasingly being emphasised by traders, governments and international organisations. However, the security role required of customs requires tighter regulatory control, often at the expense of trade facilitation. Modern customs authorities therefore need to balance the objective of facilitating trade with their roles as societal protectors and revenue agents of the state. In addition, new business practices and the proliferation of trade agreements have placed increasing pressure on Customs to develop specialized understanding and skills of business processes and requirements in order to manage the complex trade rules.

The Preamble of the 2002 SACU Agreement recognises that the Customs Union concluded on 11 December 1969 no longer adequately catered for the needs of a Customs Union in the 21st century and therefore calls for its alignment with current developments in international trade. In order to ensure that SACU takes into account the needs of a modern Customs Union it is necessary to develop a

common regional view of the role of customs and the service required from Customs Administrations in the 21st Century.

SACU Customs Policy Framework provides guiding principles for regional customs cooperation and modernisation efforts; identifies regional cooperation and modernisation priorities; sets out the policy direction for cooperation in these priority areas; provides an implementation plan for cooperation and modernization efforts in the priority areas; and outlines the institutional structures necessary to support this.

2. CURRENT CUSTOMS POLICY CHALLENGES

In the Southern African region, there are many regional economic communities which have fairly similar objectives with those defined in the SACU programmes and projects. These are being pursued to deepen regional integration and to improve trade between their Member States. Southern African Development Community (SADC), Common Market of the Eastern and Southern Africa (COMESA) and East African Community (EAC) are examples of these regional groupings. There is an overlap in membership which translates into challenges in resources utilisation in different countries. With challenges of the dwindling world economy, many countries can hardly cope with many requirements. These policy challenges require that the SACU Customs Development Programme built on the successes of the other regional initiatives rather than to set up new projects from scratch. This is possible with a more collaborative effort between these various entities. The SACU customs development programme therefore builds on the successes and achievement in other areas as part of the regional integration and resource utilisation to avoid unnecessary duplication.

3. REGIONAL CUSTOMS OBJECTIVES

On the basis of the 2002 SACU Agreement, Member States' international obligations, international best practice and the demands of modern trade, the following regional customs priority areas, which form the pillars of a regional

customs policy framework, were approved by the SACU Council of Ministers and are herein defined:

3.1. Trade Facilitation

The facilitation of legitimate trade is essential to reducing transaction costs faced by business and contributes to the competitiveness of businesses in Member States. Trade facilitation therefore remains a key objective for regional Customs. In order to promote the facilitation of legitimate trade, both within SACU and with third parties, Member States recognise the need to develop customs procedures which meet the demands of the national governments; the 2002 SACU Agreement; the trade public; international obligations; and international best practice. Trade facilitation mandate requires that a greater harmonisation of cross border procedures with SACU and other regional economic communities be simplified and enhanced.

3.2. Protection of regional Economic interests

Customs revenue remains an important source of revenue for Member States and the role of Customs as revenue agents of the state therefore remains critical. Within SACU, Customs revenues collected by Member States are pooled and subsequently shared on the basis of the revenue sharing formula as contained in Annex 1 of 2002 SACU Agreement. Cooperation between Customs authorities is therefore critical to ensure the accuracy of trade data utilised for determining Member States revenue shares.

3.3. Border Controls and the Protection of Society

The ever expanding mandate of Customs and the need for Customs to strike a balance between facilitating trade and ensuring societal protection through regulatory control is essential. Closer cooperation between Customs administrations to ensure the facilitation of trade whilst at the same time ensuring

the protection of economic and societal interests and the attainment of regional Customs reform and modernization is paramount. This requires that a common approach toward customs enforcement and risk management techniques in the region needs to be established.

4. REGIONAL CUSTOMS POLICIES

The Customs Policy Framework seeks to give effect to the common strategic objectives by facilitating the development of a harmonised set of customs policies and procedures in SACU. In this regard a comprehensive regional customs policy incorporating the priority areas of legislation; risk management; trade partnerships; standard operating procedures; and IT connectivity have been developed to achieve the broad objectives of reducing costs to legitimate trade, maximizing revenue collections, protecting society and providing accurate statistical data/information as set out by the Customs Policy Framework.

5. REGIONAL PRIORITIES FOR CUSTOMS INTERVENTION

Five areas of intervention have been identified by SACU with the aim of enhancing regional Customs cooperation. The SACU policy development is underpinned by five areas that have been identified as priorities in enhancing regional Customs Cooperation between SACU countries. Implementation of these initiatives will contribute towards the roll out of SACU harmonised regional policies and subsequently give effect to the implementation of the 2002 SACU Agreement.

Programme plan is in place and include the following initiatives:

- i. Cooperation on Information Technology Interconnectivity
- ii. Cooperation in Customs Enforcement
- iii. Cooperation in improving Border Efficiencies
- iv. Cooperation in trade Partnerships
- v. Cooperation on Legislation

6. GOVERNANCE

The governance of the SACU Customs modernisation programme is aligned to the existing SACU structures with the addition of the Steering Committee. The Steering Committee comprises of the five Commissioners of Customs Administrations from the five Member States of SACU, the World Customs Organisation (WCO) and the SACU Secretariat has already been established. There is however a need for representation of the Private Sector in the Steering Committee in order to ensure that the programme adequately addresses the needs of all stakeholders. The key role of the Steering Committee is to provide strategic direction to the programme in line with SACU Customs agenda and priorities of individual Member States. Most importantly the establishment of a monitoring and evaluation framework that will underpin the implementation of Regional Customs Policy and the modernisation programme is essential.

6.1 Governance Framework

The implementation of the SACU Customs Policy and modernisation programme shall be the collective responsibility of the SACU Member States, particularly Customs Administrations; the SACU Secretariat; the business community and other government agencies involved in cross border trade.

a. National Customs Administrations:

The successful implementation of the Regional Customs policy requires that SACU Customs Administrations take full ownership and provide the required leadership to the programme and in implementation of the policies. The Customs Administrations of SACU Member States will be responsible for implementation and operationalisation of the regional Customs Policy at the national level. The Administrations will also be responsible for initiating changes in policy where necessary to ensure effectiveness of the policy at all times.

b. SACU Secretariat :

The SACU Secretariat with RPM shall be responsible for coordination of policy customs implementation, monitoring and evaluation at regional level. The SACU Secretariat shall be the repository of all Customs Policy documentation.

c. The SACU Council of Ministers

The SACU Council of Ministers shall be responsible for providing policy direction and ensuring that the policy is aligned to the needs of the region and individual member states. The Council shall determine changes in SACU regional Customs policy.

d. The SACU Commission

The SACU Commission shall advise the Council of Ministers on required changes in policy in order to ensure alignment of policy with the needs of SACU as a region and for individual Member States.

e. Customs Technical Liaison Committee

SACU Customs Technical Liaison Committee and RPM shall be responsible for developing Risk Management Procedures and Guidelines at the regional level. The CTLC shall contribute to the development of a regional framework for coordination, information sharing and monitoring of regional risk management activities.

f. Business Community both Nationally and Regionally

Involvement of all stakeholders is key to ensuring that the policies and the programmes take into consideration the views of interested parties. The Business Community shall play a major role at formulation, implementation and evaluation of Regional Customs Policy through regional and national customs consultation and

other communication mechanisms. The role of the business is to provide Customs Administrations with the assurance that the policy is effective and does actually provide its intended benefits; securing supply chain, minimize revenue loss and eases the burden of compliance to legitimate trade.

g. International Organizations and Development Partners

International organizations and development partners will play a role in the provision of technical assistance in the areas of development and review of the policy as well as providing useful research information to assist in the monitoring and evaluation of the impact of the policy, effectiveness and the achievement of desired long term goals of the policy.

7. REGIONAL POLICY ON TRADE PARTNERSHIPS

1. TRADE PARTNERSHIPS (TP) IN SACU

Trade Partnerships is one of the SACU instruments that have been identified by SACU Council of Ministers as a valuable tool for the achievement of the objective of trade facilitation within SACU and as a useful tool to encourage voluntary compliance by traders. SACU seeks to adopt a Trade Partnership policy that supports implementation of an Authorized Economic Operator (AEO) programme that rewards compliance; facilitate legitimate trade; and promotes mutual recognition both between Member States and with third parties. An AEO is defined as: “a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. Authorised Economic Operators can include, inter alia, manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors”.

The key benefit of the programme is to establish customs to business partnerships both nationally and regionally. Getting all national programmes mutually recognized, such that AEO accreditations in one Member State have the same value across the Customs Union is essential. As a result secure supply chains can be established, as all parts of the chain from origin to destination are deemed to be safe, albeit under different AEO programmes. This would greatly facilitate intra-SACU trade. As SACU negotiates trade agreements as a bloc the programme also has the potential for mutual recognition with trade partners, thereby facilitating trade internationally.

2. POLICY OBJECTIVE

The goal of this policy is to establish and strengthen partnerships between Customs authorities, the trading Community as well as other government agencies involved in the trade supply chain that promote mutually beneficial outcomes thereby developing a regional trade facilitation framework that enhances customs to business relations as well as customs to other government agencies in line with the WCO SAFE Framework of Standards.

3. SCOPE AND APPLICATION

This policy shall apply to all Customs Administrations in establishing Customs to Business forums based on the SACU trade partnerships model. The policy will equally apply as customs establishes partnerships with other government agencies for a full integrated trade facilitation programme. The Policy will also apply to all traders registered within SACU Member States under the SACU AEO Programme and to those traders registered in SACU trading partners where mutual recognition exists between SACU and such parties. The policy shall apply to all goods, entities; persons transport operators and freight forwarders, customs brokers, manufactures, importers and exporters registered in any of the SACU Member States who have been accorded or seek to be accorded the regional Preferred Trader status or regional Authorised Economic Operator.

4. POLICY PRINCIPLES AND OBJECTIVES

The following core principles and objectives will guide the development and implementation of the SACU Policy on Trade Partnerships:

- a. Provision of an appropriate legislation that support the AEO programme;
- b. Establishment of mutual recognition within SACU and with third parties;
- c. Development of intelligence based risk management methodologies and audit capabilities;

- d. Establishment of a standardised SACU Authorized Economic Operator accreditation system for all classes of traders;
- e. Establishment of regional stakeholder forum;
- f. Continuous capacity building of traders and Customs Officials;
- g. Continuous engagement between Customs and the Business Community;
- h. Establishment and/or strengthening the national customs to business forum;
- i. Strengthen Customs to Customs partnership in SACU; and
- j. Strengthening partnerships between Customs and Other Governmental Agencies in the region.

8. SACU POLICY ON CUSTOMS RISK MANAGEMENT

1. RISK MANAGEMENT POLICY BACKGROUND

Risk Management as defined by the World Customs Organisation is “the systematic application of management procedures and practices providing Customs with the necessary information to address movements of consignments which present a risk”. This definition focuses risk management of Customs Administrations to their fundamental task of controlling the movements of consignments across national frontiers and ensures compliance with national laws.

Effective risk management in SACU will therefore require respective Customs Administrations to understand the nature of the risks in their work areas and cooperate regionally to systematically and continually manage those risks. This process will provide assurance on the effectiveness of customs control measures and will provide a platform for sharing risk information and cooperating in mitigating regional risks. At SACU level the Risk Management discipline provides that SACU Customs Administrations adopt similar approaches to management of common risks to common areas of interest to SACU Member States

2. POLICY OBJECTIVE

The objective of the SACU Risk Management Policy is to modernize regional Customs control in SACU by applying intelligence based risk management techniques to facilitate trade and promote compliance and security in line with international instruments, such as the Revised Kyoto Convention and SAFE Framework of Standards.

3. SCOPE AND APPLICATION

The SACU Regional Customs Risk Management policy applies to Customs Administrations in all SACU Member States in implementing regional risk

management processes including regional measures to mitigate risks in the movement of goods across internal and external SACU borders.

4. POLICY PRINCIPLES AND OBJECTIVES

The core principles underpinning Risk Management in the region include:

- 1.1 Establishing a legal basis for implementation of and cooperation in intelligence based Risk management in SACU;
- 1.2 Development of a Regional Risk Management approach to target priority risk sectors in SACU;
- 1.3 Enhancing Mutual Administrative Assistance between the SACU Customs Administrations to support Risk Management; and promote cooperation, communication and intelligence and risk information sharing amongst the SACU Customs administrations;
- 1.4 Establish mechanisms for cooperation in risk information sharing for customs enforcement;
- 1.5 Undertaking Joint customs enforcement operations and controls between Member States Customs Administrations; and
- 1.6 Development of a Regional Authorized Economic Operator (AEO) Programme in SACU.

9. SACU REGIONAL POLICY ON IT CONNECTIVITY

1. IT CONNECTIVITY POLICY BACKGROUND IN SACU

In its Customs policy framework, SACU has identified trade facilitation; protection of economic interests and; border controls and protection of society as the pillars of SACU regional customs policy. On the other hand, Customs revenue remains an important source of revenue for SACU Member States and the role of Customs as revenue agents of the state therefore remains critical. Within SACU, Customs revenues collected by Member States are pooled and subsequently shared on the basis of the revenue sharing formula as contained in Annex 1 of the 2002 SACU Agreement. This therefore, makes information and trade data critical factors in development and implementation of SACU customs policy. Cooperation between Customs authorities is therefore, critical to ensure the accuracy, reliability and timely production of trade data utilised for determining revenue shares that should accrue to the SACU Member States.

In order to facilitate trade; increase transparency; maximise revenue collection; and improve the quality of trade data collected, *Member States agree to pursue the automation and interconnectivity of their Customs Information Technology Systems to enable the timely electronic exchange of data between Customs administrations in respect of cross border movement of goods.* This interconnectivity will allow for the automated electronic transfer of trade information between the relevant Customs administrations thereby allowing risk assessment prior to arrival of goods and data matching where necessary, thus reducing the processing time at the border posts for low risk traders. IT Interconnectivity will also contribute to reliable and accurate trade data that would promote the equitable sharing of Customs revenue.

2 POLICY OBJECTIVE

The objective of IT Connectivity policy is to develop regional information technology systems interconnectivity in order to maintain high level of trade data

integrity and real time information sharing between SACU Member States. The policy also seeks to promote seamless regional IT processing that creates a coherent customs union processing of goods declarations.

3 SCOPE AND APPLICATION

The IT Connectivity policy shall apply to information exchange, connectivity parameters, in particular information for the assessment of import, export duties and information relating to the application of customs law and other laws relating to the cross border movement of goods. The policy shall also apply to the use and protection of information as required by the legislation of SACU Member States.

4 POLICY PRINCIPLES

The principles and objectives of the IT Connectivity policy include the following:

- Determination of the minimum IT connectivity parameters;
- Implementation of regional IT functionalities;
- Implementation of Customs to Customs interconnectivity;
- Promotion of Customs to Business interconnectivity;
- Promotion of Customs to Other Government Agencies interconnectivity;
- Maintenance of the systems connectivity;
- Development or review of the Customs Legislation to enable regional IT connectivity; and
- Development of appropriate transfer protocols and storage of data exchanged between Member States (Information security standards).

10. SACU REGIONAL POLICY ON CUSTOMS LEGISLATION

1. LEGISLATION POLICY BACKGROUND

SACU, through its 2002 Agreement recognizes obligations of Member States in terms of international trade arrangements and agreements. This therefore, demonstrates the willingness of SACU Member States to align policies and procedures with the requirements of their international obligations and international best practices. In response to the global challenges to customs administrations, SACU adopted a common approach to customs reform that entails common regional customs procedures, common policies as well as other trade management initiatives. Hence in order to enable implementation of this programme and to give effect to the requirements of the 2002 SACU Agreement, it is necessary for SACU to develop a sound legal framework that provide a basis for implementation of modern customs techniques, harmonized application of national and international customs and customs-related legislation in all SACU Member States.

Development of a harmonised legislation in SACU shall be based on the SACU legislation model/ framework identified by SACU council of Ministers. This will provide a basis for implementation of SACU common regional Customs Policies. The legislation is essential for the achievement of the 2002 SACU Agreement objectives and this is supported by the three pillars of SACU Customs policy namely trade facilitation, economic protection and; border control and protection of society. It is therefore essential that SACU countries take a common approach to developing their national legislation based on a common SACU policy.

2. POLICY OBJECTIVE

To assist Customs Administrations in developing customs legislation that meets the objectives of the 2002 SACU agreement, the national priorities and demands of the trade while supporting customs reform and modernisation using he international best practices.

3. SCOPE AND APPLICATION

The regional policy on legislation shall apply to the development, review, and application of customs legislation in accordance with SACU Agreement. The policy shall also apply to information sharing and mutual administrative assistance in customs matters.

4. POLICY PRINCIPLES

- Consistent with international instruments;
- Maintain similar legislative framework in SACU;
- Support customs reform and modernization;
- Transparent and consistent application in all SACU countries;
- Continuously build capacity in the development of Customs Legislation in SACU customs administrations; and
- Support the SACU customs enforcement initiatives.

11. SACU REGIONAL POLICY ON STANDARD OPERATING PROCEDURES (SOP)

1. STANDARD OPERATING PROCEDURES POLICY BACKGROUND

Article 23(2) of the 2002 SACU agreement requires Member States to “*take such measures as are necessary to facilitate the simplification and harmonization of trade documentation and procedures*”. The SACU regional policy on Customs Standard Operating Procedures (SOP) therefore seeks to give effect to the quoted provision of the 2002 SACU agreement. Further to this, the adoption of common policy on SOPs for SACU is a clear demonstration of movement towards deeper regional integration and the Customs Union’s maturity as a modern Customs Union.

The World Customs Organization’s Revised Convention on Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention) provides widely accepted international customs procedures and standards; therefore, adopting a common policy on procedures based on this instrument will present an opportunity to SACU Member States to apply best practice tools in their regional customs operations. The regional policy on SOPs provides the platform for consistency and increased predictability in compliance with Customs formalities in the SACU region, which in turn reduces the customs related costs to business and customs administrations of Member States.

2. POLICY OBJECTIVE

The objective of the SACU SOP Policy is to develop predictable, standard and harmonised Customs procedures that meet the demands of the national government, the SACU Agreement, traders and international obligations to give effect to the implementation of article 23(2) of the 2002 SACU Agreement.

3. SCOPE AND APPLICATION

This policy shall apply to all Customs procedures related to importation, exportation and transit for processing goods that are entering, leaving and in transit through SACU Member States.

4. POLICY PRINCIPLES

The SOP Policy will be guided by the following core principles and objectives;

- a. Streamlined business processes across SACU Member States for cross border movement of goods;
- b. Harmonized and simplified regional SOPs;
- c. Training and development of Staff;
- d. Continuous engagement with all stakeholders; and
- e. Supporting legislation.