



EAST AFRICAN COMMUNITY

**PROCEDURE MANUAL
FOR APPLICATION OF THE
DUTY REMISSION REGULATIONS**

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PREFACE

This Manual is an East African Community publication which sets out guidelines on operationalisation of the duty remission scheme as set out in the EAC Customs Duty Remission Regulations, 2008 made under the EAC Customs Management Act, 2004, and the Protocol on the Establishment of the EAC Customs Union. The manual spells out in detail the duties of the Duty Remission Committees, the processing of applications for duty remission and administration of duty remission.

It has become necessary to develop this manual to enable uniform interpretation and application of the Duty Remission Regulations, and therefore offer uniform treatment to beneficiaries of the Duty remission Scheme.

The manual is an operational instrument as well as a reference document for the Customs and the Duty Remission Committees to ease interpretation of the law and enable them perform their functions consistently.

OBJECTIVE

The objective of this manual is to provide guidelines to facilitate uniform and objective application of the East African Community Duty Remission Regulations.

PART I

DUTY REMISSION COMMITTEES

1. National Duty Remission Committees shall be formed in every Partner State in accordance with the provisions of Regulation 4 of the Duty Remission Regulations.

2. The Committee shall comprise of the representatives of the following institutions;
 - i) The ministry responsible for Finance;
 - ii) The ministry responsible for Trade and Industry;
 - iii) The body representative of Manufacturers;
 - iv) The Customs; and
 - v) Anybody or institution the Commissioner may deem fit to appoint.
3. The Commissioner shall forward to the Secretariat, the composition of the national Duty Remission Committee.
4. Without prejudice to the power of the Committee to formulate its own procedures for the conduct of its business, the procedures so formulated shall be, to the greatest extent possible, be guided by these procedures.
5. The Committee shall meet as frequently as necessary
6. The representative from Customs will be the secretary to the Committee and responsible for custody of the records of the Committee.
7. The quorum for Committee meetings shall be as provided in the Regulations
8. The Committee shall consider duty remission issues including recommendation of new applications, renewals, appeals as may be required under the regulations and any other issues as the Commissioner may consider necessary.

PART 2—PROCESSING OF APPLICATIONS

9. All applications for duty remission shall be submitted to the Commissioner who shall verify the accuracy of the submitted information, and may call for any additional information before submitting the application to the Committee for consideration.

10. A new application shall be accompanied by the Tax Compliance Certificate where applicable, a Certificate of Incorporation, VAT Registration Certificate and identification certificate for tax purposes (PIN/ TIN/ UIN) and any other documents as may be required by the Committee.
11. (1) The Committee after the receipt of the application may arrange to visit the premises of the applicant, especially those who are applying for the first time to verify the following;
 - i. Evidence that the applicant manufactures or intends to manufacture the goods for which the duty remission on raw materials is being sought. Some examples of such evidence may include the presence of appropriate machinery, labor, manufacturing/production premises, storage facilities, licenses, contracts etc;
 - ii. Evidence that the applicant maintains proper records;
 - iii. Evidence that the applicant has capacity to manufacture the goods for which remission is being sought ;
 - iv. Any other information that may be necessary to assist the Committee make a decision on the application.

The above notwithstanding, the Committee may visit premises of applicants who have previously benefited from the duty remission scheme and are requesting for renewal or any other variation.

12. The Committee shall convene to deliberate on the applications forwarded to it by the Commissioner and the report of the visit within two weeks of receipt of application.
13. In considering an application for duty remission, the Committee shall take into account:
 - a) the demonstrated compliance history of an applicant where applicable and;
 - b) the existence of local industry producing the goods for which the remission is being sought.

14. The Committee shall reject an application forwarded to it for consideration by the Commissioner if the applicant:
 - (i) Is non tax compliant
 - (ii) Has failed to account for goods imported by him or her under any duty remission scheme.
 - (iii) Is guilty of an offence under the EAC Customs Management Act or any other relevant tax laws of a Partner State.
 - (iv) Enjoys similar incentives under another scheme.
15. The Committee shall not recommend approval of remission of duty for manufacture of goods:
 - (i) Which are prohibited by the customs law or any other written law.
 - (ii) Where there is no demonstrable capacity to manufacture the goods for which remission is being sought.
16. Where the Committee does not recommend for gazettelement for the purposes of remission of duty under these regulations, the Commissioner shall communicate the decision to the applicant within seven working days of making that decision giving reasons for its rejection.
17. The Commissioner after receiving the recommendations from the Committee shall submit the approved manufacturers and the respective quantities of goods to the EAC Secretariat for gazettelement.

PART III—ADMINISTRATION OF DUTY REMISSION

18. Upon gazettelement of the goods, the Customs procedures will apply and Customs shall ensure that Customs Procedures as laid out in the Customs Procedure manual are adhered to.
19. A Partner State may institute administrative measures to control the importation of goods imported under the duty remission scheme which shall be communicated to other Partner States through the EAC Secretariat.

20. An applicant shall provide all necessary information required by the Committee to process the application.

PART IV—MONITORING AND CONTROL.

21. The manufacturer shall;
- (i) maintain proper records for verification as may be required from time to time.
 - (ii) give the committee full access to production, import, export and related records,;
 - (iii) within any limitations provided in the national legislation, properly archive records for later production to the Committee;
 - (iv) To the extent possible, employ adequate information technology security measures which will protect information against access by unauthorised persons.
 - (v) Make quarterly returns of utilization of goods imported under these regulations such records should indicate stock of raw materials, work in progress , finished goods at hand and goods exported.
22. (1) Without prejudice to the right of the Commissioner or the Committee to audit the correctness of records submitted, all returns submitted to the Commissioner under this manual should be accurate.
- (2) The Commissioner may appoint a competent person to conduct a customs audit for the purposes of processing an application for remission of duty.

PART V—CONFIDENTIALITY OF RECORDS

23. (1) The Committee , shall ensure that entrusted information is protected against misuse and unauthorized alteration.
- (2) For the purposes of this paragraph the Committee shall;
- (i) Ensure the confidentiality of commercial and security sensitive information and that information provided is used solely for the purposes for which it was provided;

- (ii) Ensure that all information provided to it is protected against the exchange, loss or introduction of erroneous information.

PART VI—APPEALS

- 24. An applicant has a right to appeal where the Committee rejects his application.
- 25. Where the applicant is dissatisfied with the decision of the Commissioner, he may submit appeal in the manner prescribed under the EAC Customs Management Act, 2004.

PART VII—THE ROLE OF THE COMMISSIONER.

- 26. The role of the commissioner shall be to:
 - i) Receive applications for gazettelement under the duty remission regulations and forward such applications to the Committee for processing.
 - ii) Ensure efficient operation of the duty remission Committee
 - iii) Review on appeal by an applicant, the decision of the Committee
 - iv) Ensure that documents presented by persons approved by the Committee for purposes of audit and inspection are verified on a risk based criteria.
 - v) Recommend to the Council de-gazettelement of the company that violated duty remission regulations.
 - vi) Suspend the company from utilizing the facility of the duty remissions scheme in accordance with the provisions of Section 235 (2) of the EAC Customs Management Act.

- vii) Demand for duties of the goods un accounted for or duties from goods that are used contrary to what they are intended for as per the duty remission regulations or Institute court proceedings against the company that have violated duty remission regulations take such measures as may be necessary in accordance with EAC Customs Management Act.
- viii) Where necessary, require investigation and inspection of any premises or documents to ensure proper use of goods imported under these regulations.
- ix) In collaboration with the Directorate of Customs, may sensitize stakeholders in the use of duty remission schemes

PART VIII—THE ROLE OF THE EAC SECRETARIAT

- 27. The EAC Secretariat shall coordinate the gazettelement of decisions of the Council.
- 28. The EAC Secretariat shall, prior to gazettelement of the approved applications submitted by the Commissioner check whether the applications are in conformity with the Act, Regulations and Council decisions.
- 29. The EAC Secretariat shall respond to any policy or legal issues raised by the Commissioner on administration of the duty remission scheme.
- 30. The EAC Secretariat shall conduct quality assurance surveys of national Duty Remission Committees to ensure uniform application of duty remission regulations by the Partner States.
- 31. The EAC Secretariat shall communicate to the Partner States, decisions of the Council relating to duty remission schemes.
- 32. The EAC Secretariat shall coordinate regional meetings of the national duty remission Committees to review application of the duty remission regulations.

PART IX—MISCELLANEOUS

33. Without prejudice to the duties prescribed in the Regulations, the Committee may recommend to the Commissioner amendments that they may consider necessary for smooth implementation of duty remission scheme, particularly to the operations, the policy, or the law.
34. The Commissioner shall forward the recommendations made under paragraph 33 to the EAC Secretariat for consideration by the Committee on Customs and the Council.

CHECKLIST FOR APPROVAL OF DUTY REMISSION

The following is an indicative list of items to be considered when processing for duty remission:

A. Organisational Characteristics

- 1) Identification:
 - i) Name of the company
 - ii) National registration number of the company,
 - iii) Tax identification number
 - iv) VAT Registration number
 - v) Address of the Head Office
- 2) What is its legal Structure
Limited Liability, Partnership, etc.

B. Nature of the Applicants Transactions

1. Is the Applicant a Manufacturer?
2. What is the installed and production capacity?

3. What are the main products manufactured by the company applying for duty remission?
4. Does he have enough storage facility for the goods for which remission is sought.
5. Are there local producers of the goods for which remission is being sought?
6. Is there a valid export order, is it supported by letter of credit etc?
7. Is there evidence of previous export? E.g export entries, payments for exports, landing certificates etc.

C. Internal Procedures

1. Does the applicant have a person responsible for duty remission?
2. Does the applicant have a documented procedure for accounting for materials and finished good and how can raw materials be linked with the finished goods?
3. What is the procedure for accounting for discrepancies, for example differences in quantities supplied, damaged goods, returned goods.
4. How are wastes accounted for?
5. Does the applicant use a licenced customs agent?
If so, who is the Agent?
6. Does the agent have outstanding queries with Customs?
7. What is the procedure in place in case of computer failure?
8. Does the applicant store the accompanying documents to the declaration?

9. Does the applicant have stock records?
11. Does the applicant have a direct link to customs automated systems and vice versa?if not, is it possible?
12. Is the applicant aware of the Customs procedures for duty remission?

D. Level of Compliance

1. Has the applicant ever been audited by customs?
2. Are there any suspicions of fraud or irregularities concerning the applicant?

If yes, what are they?

3. Have the partners or managers ever been convicted of fraud or irregularities?

If yes, what are the details?

4. Does the applicant have outstanding demands for unpaid tax?
5. Where applicable, does the firm have tax clearance/compliance certificate?
6. Has the applicant been granted remission before? and has the applicant accounted for outstanding bonds

If so, have all good imported in the past been accounted for?

7. Does the applicant have outstanding queries with Customs or in respect to other tax laws?