

**SIMPLIFIED CUSTOMS PROCEDURES APPLICABLE
TO
AUTHORIZED ECONOMIC OPERATORS**

Directives Providing For Simplified Customs Procedures Applicable to Authorized Economic Operators No.65/2011

Preamble

Whereas, the contemporary increase in import and export trade activities in Ethiopia calls for the adoption of specialized customs facilitation procedures whereby the Ethiopian Revenues and customs Authority can provide importers with improved facilitation services on the basis of reliability and level of compliance;

Whereas, the Authority has, as a result, established a special customs facilitation scheme in which certain categories of importers are selected and classified as Authorized Economic Operators entitled for a privilege to take advantage of such special customs facilitation procedures;

Whereas, the implementations of such special customs facilitation procedures need to be backed by sanctions and penalties to be applicable where there are instances of abuse of the privileges granted;

Now therefore, the Ethiopian Revenues and Customs Authority has hereby issued these directives in accordance with Articles 14(2) and 112(2) of the customs proclamation.

PART ONE **General**

1. Short title

These Directives may be cited as “Directives Providing for Simplified Customs Procedures for Authorized Economic Operators No. 65 /2011.”

2. Definition

Unless the context requires otherwise;

- 1) “Authority” means the Ethiopian Revenues & Customs Authority.
- 2) “Company” means a company having an AEO status.
- 3) “AO7” means Simplified initial import declaration.
- 4) “IM4” means detailed final import declaration.

- 5) "Threatened Revenue" means the amount of customs duties and taxes that would have otherwise been foregone by the government due to the vices of the information provided by the importer or his/her agent.

3. Scope of application

These directives shall be applied only on some specified chain of imports of companies having the status of Authorized Economic Operators.

4. Simplified Customs Facilitations

Simplified Customs facilitation means:

- 1). controlling less at clearance level and in depth, when necessary, after the release of goods.
- 2). Allowing self assessment privileges to Authorized Economic Operators (AEO hereafter) with corresponding responsibilities to which they are put answerable in time of mis assessment and non compliance.
- 3). Clearing and promptly releasing of the goods of AEO in priority to other non AEO importers with regular follow up of their compliance.

5. Level of compliance and the privilege to priority control

- 1) No Company or importer shall be allowed to take advantage of the simplified customs facilitation schemes unless the level of its compliance is found to be above satisfactory; and the regular and normal customs procedures shall apply on such category of importers until their compliance reach at the required level and meet other formal requirements to be accredited as AEO.
- 2) Any Importer not yet admitted to AEO Status may at any time apply to benefit from the simplified customs facilitation scheme and conclude an agreement with the Authority up on satisfying the Authority of the level of its compliance, credibility, reliability, significance of its imports and maturity of its management system.

- 3) The normal and ordinary customs procedures shall as well apply to companies already accredited to AEO status which still maintained a mere minimum compliance level.
- 4) Notwithstanding sub article (3) of this article, all AEOs alike shall be given priority to other non AEO importers throughout or at any level of customs processes.

6. Acceptance of the declaration

For the purpose of simplified customs procedure, the customs declaration is deemed to have been accepted when the simplified import declaration is submitted to the Authority with copy documents.

7. Levels of compliance

After evaluating the degree of their compliance, the Authority provides the companies with certificates of:

- i) Bronze
- ii) Silver, or
- iii) Gold

According to which imports of the companies are facilitated for immediate clearance.

8. The normal and ordinary customs procedures

The imports of a company having an AEO status with minimum compliance level shall, among others, pass through the following customs processes:

- i) Declaration attached with original documents and self assessment
- ii) Physical inspection
- iii) Payment of taxes & duties
- iv) Leveling of risk band
- v) Examination of documents
- vi) Release of goods and of declaration.

9. Simplified customs procedures;

- (1) A company whose compliance level is satisfactory or more than satisfactory is allowed to clear its imported goods by simplified import procedure.

- (2) Simplified import procedure requires the company at first step to present;
 - i) A simplified import declaration (AO7).
 - ii) Copied documents.
 - iii) Cargo release letters from a bank or shipping lines (if necessary), and proceed to self assessment of the declaration and payment of taxes & duties.
- (3) The simplified import declaration is subject to risk band selectivity.
- (4) The simplified AO7 declaration shall automatically be routed to BLUE and goods shall be released forthwith without further scrutiny of documents or examination of the cargo whatever is the risk band.
- (5) Within 30 days, after the release of goods, the declarant should lodge detailed import declaration (IM4) including the presentation of original documents and shall proceed for self assessment of the declaration and payment of additional duties & taxes, if any.
- (6) The Customs Officer, if necessary, checks whether additional payments of duties and taxes has been effectively made and registered in the system.
- (7) Where all checks are satisfactory, the officer triggers the risk selectivity on IM4 declaration of which whatever results shall automatically be routed to blue for immediate release of the IM4 declaration.
- (8) After the appropriate customs officer checks the consistency between the copied and original documents, the customs system triggers the regularization function in ASICUDA++ between the simplified AO7 declaration and detailed IM4 import declaration and updated report on any potential discrepancy is delivered.
- (9) The detailed simplified customs procedures are as described in the AEO procedures guide line to be enforced in accordance with these directives.

10. Compliance Management

The Authority shall develop and employ compliance based risk management system and every import activities of the companies must be recorded at every stage of the customs process.

PART TWO
Administrative sanctions

11. Grave infringements

- 1) Customs infringements may be classified as grave or minor infringements.
- 2) Grave infringements are criminal acts involving violation of laws with mense rea of importers and cause tremendous revenue loss.
- 3) Grave infringements include;
 - i) Contraband
 - ii) Fraud
 - iii) Smuggling
 - iv) Under invoicing (Intentional acquisition of double invoices one with forgery).
 - v) Other intentional or gross negligent acts causing government revenue loss.

12. Minor infringements

- 1) Minor infringements are mere mistakes involving no mense rea of the importers and causing minimal government revenue loss.
- 2) Among others minor infringements include the following;
 - i) Providing inaccurate or inconsistent information.
 - ii) Misdeclaration or misrepresentation of facts.
 - iii) Misclassification of goods.
 - iv) Misassessment of values.
- 3) No minor infringement remains minor when it is proved to have been committed intentionally & it shall be considered as grave infringement as such.

13. Presumption of intention

- 1) For the purpose of taking administrative measures, an act of importing undeclared or misdeclared goods with properly declared ones is presumed to be intentional smuggling where the amount of value of the undeclared or misdeclared goods is substantially large.

- 2) For the purpose of sub article (1) of this article, the amount or value of the undeclared or misdeclared goods is said to be substantially large when it is more than 500,000 birr or 25% of the value of the total imported goods, whichever is greater.
- 3) Misdeclaration is an act of improper, or wrong declaration which misleads or misinforms officers of the Authority with regard to;
 - i) Descriptions of goods.
 - ii) Amount or size of goods.
 - iii) Country of origin
 - iv) Value of goods
 - v) The scope and chain of supply
 - vi) Tariff classification of goods
 - vii) Customs Procedure Code (CPC)
- 4) When a minor infringement is committed more than twice by the same company, the Authority may classify the mistakes as intentional mistakes as the circumstances allow, and may treat the case under Article 19 of these Directives.

14. Compliance Audit & Supervision

- 1) After each sanction provided under article 15 is administered, the Authority shall conduct Compliance Audit and Supervision on the import business of the company in default.
- 2) The next level of sanctions, as their order indicates, shall be imposed and reinforced depending on the outcome of the compliance Audit and supervision.

15. Levels of Sanctions

Administrative sanctions are classified in to the following five levels.

- i) Warning and recommendation to improve compliance.
- ii) Minimum penalty & recommendation to improve compliance.
- iii) Penalty and suspension of the privileges for 3 months.
- iv) Penalty and suspension of the privileges for one year.
- v) Penalty and definitive suspension.

16. Compliance Committee and Consultation With AEO

- 1) There shall be a compliance committee (here after “committee”) to be established by the Authority at branch level.
- 2) The Committee shall be composed of;
 - i) AEO Coordinator
 - ii) Enforcement process owners.
 - iii) PCA process owners
 - iv) Concerned operational branch managers
 - v) Customs procedure officers.
- 3) The AEO coordinator shall be the coordinator of the committee. He/she may prescribe the working procedures of the committee.
- 4) When it is reported that an AEO is not complying with up to the required level and yet there is no objective evidence to establish an intentional criminal act or grave infringement, the committee shall hold consultative meeting with the AEO representatives and discuss every weakness manifested on its import activities; and finally recommend the company in writing to improve compliance.
- 5) The committee shall communicate the output of consultation with AEO to the branch manager for execution of the suggested decisions.
- 6) The recommendation that the committee provides to the company in default shall clearly mention the weaknesses and mistakes to be improved.
- 7) The Committee has the power to impose and administer sanctions provided under these Directives.

17. Warning

- 1) Where minor infringements are detected after observations and evaluation of system or official reports, the committee shall give warning to the company in default after consultation.
- 2) The warning must be in writing and shall contain (describe) the faults committed by the company. The committee shall also fix a dead line in which the company must improve the reported mistakes.

- 3) The warning shall be applied only on minor infringements committed (by the company) for the first time. The committee shall make sure that the company is not repeatedly at fault and is willing to improve compliance.

18. Minimum Penalty

- 1) When a minor infringement is committed by an AEO for the second time, the AEO shall pay a minimum penalty of 200,000 birr or 100% (whichever is greater) of the revenue threatened by the vices of information the company provided.
- 2) No penalty shall be construed to relieve the defaulted company from the payment of the threatened taxes and duties Otherwise due to it.
- 3) The minimum penalty provided under sub article (1) of this article shall also apply to companies which have committed grave infringements for the first time.

19. Penalty and suspension from AEO Status

- 1) A company which has committed minor infringements for the third time or grave infringements for the second time shall pay penalty of 300,000 birr or 200% of the threatened revenue, whichever is greater, and be suspended from its AEO status for three consecutive months.
- 2) When a company commits minor infringements for the fourth time or grave infringements for the third time, the company at default shall pay 400,000 birr or 300% of the threatened revenue, whichever is greater, and shall be suspended from AEO status for one year.
- 3) Without prejudice to sub article (2) of this Article, the company which habitually and frequently commits infringements shall pay a penalty of 500,000 birr or 450% of the threatened revenue, whichever is greater, and shall be suspended from AEO status for an indefinite period of time.

20. Faults of individual employees or other failures of Companies

- (1) Companies benefiting from AEO status are responsible for the acts and faults of their individual employees.
- (2) No management, system or operational failure of the company is an excuse for administrative penalties imposed by the Authority in accordance with these directives.

21. Prosecution on infringements

No provision of these directives shall relieve a company from being prosecuted on criminal infringements it has committed.

22. Grievance Settlement Committee

- (1) The Authority shall establish a grievance settlement committee at the head quarter Level.
- (2) The Grievance settlement committee shall be composed of;
 - i) The Branch offices coordination Directorate Director.
 - ii) The Prosecution Directorate Director.
 - iii) The tax Audit procedures and program development Directorate Director
 - iv) The Information Technology Administration Development Directorate Director
 - v) Customs procedures and Program Development Directorate Director
- (3) The Grievance settlement committee may prescribe the working procedures of the committee.

23. Grievance

- (1) An aggrieved AEO has the right to present its grievance to the grievance settlement committee within 30 days from the day on which the cause of the grievance has occurred.
- (2) The company not satisfied by the decision of the grievance settlement committee may apply to the Director General within 10 days from the day on which it has received the decision of the grievance settlement committee.

24. Readmission to AEO Status

- (1) A Company which has been suspended for an indefinite period of time may reapply to recover an AEO status after three years of the final suspension.
- (2) Readmission to AEO status is only allowed up on sufficient demonstration of high degree of compliance.
- (3) The reapplication shall be presented to the compliance committee.

25. Specific application of the directives

The Specific application of these directives on Authorized Economic Operators shall prevail over that of any other directives which are generally providing for administrative sanctions on customs infringements.

26. Effective Date

These directives shall be effective as of the day on which it is signed by the Director General.