

1. Introduction

This notice is intended to provide an overview of Customs procedures applicable in the Republic of Botswana. The document focuses on the types of rebates that are offered to manufacturers and other producers as well as concessions provided by the various trade agreements, which Botswana has entered into with other countries. The document also gives an outline of import and export clearance procedures.

The notes are not exhaustive and persons requiring additional information are advised to write to the BURS Public Relations Office at Private Bag 0013, Gaborone or Commissioner of Customs & Excise, BURS, Private Bag 0041, Gaborone. The BURS – Customs & Excise Division could also be contacted by telephone at the numbers shown on the back cover of this document.

2. Customs and Excise Clearance – General Overview

The Botswana Unified Revenue Service (BURS) Customs and Excise Division is mandated in terms of the Customs and Excise Duty Act, CAP 50.01 of the Laws of Botswana and other relevant legislations to implement the various provisions relating to imports and exports.

As a general rule any person who imports, exports or manufactures goods upon which customs and excise duties and Value Added Tax (VAT) are levied or which may be exempted from the payment of these taxes is required to declare the goods and pay the application duties and VAT in terms of the Customs and Excise Duty Act and Value Added Tax Act on the prescribed forms. Any failure to comply with the law renders the offender liable to fines and or imprisonment and the goods liable to forfeiture.

The Customs and Excise Duty Act also requires that any person who clears goods for customs purposes should engage a Customs Agent or employ persons who are competent to do so.

3. Customs and Excise Duties

Botswana is a member of the Southern African Customs Union (SACU) which also comprises the Kingdom of Lesotho, Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland. In general, goods imported into Botswana from other SACU member states are free from Customs duties. However most goods would attract Value Added Tax (VAT) unless they are either exempted or zero rated from payment of the tax. Goods imported from countries outside SACU attract customs duties at rates specified in the Customs and Excise Tariff Book as amended from time to time. Customs duties are paid on the free on Board (FOB) value of the imported goods against a prescribed declaration form formally known as a bill of entry, (Form SAD 500), which can be purchased from local stationer outlets.

A tariff book. Which details tariff rates applicable on imports into Botswana, is available for sale at all regional Customs and Excise offices for P1000.00

4. Customs Duties Rebates

Customs Rebates are conditional exemptions from payment of customs duties, which are afforded certain specified industries registered with the BURS – Customs and Excise Division to manufacture goods using imported raw materials.

The scope and types of rebates are contained in the Customs and Excise tariff book and briefly described below.

a. Industrial Rebates

Industrial Rebates are specified under Schedule 3 of the Customs and Excise Tariff, and are normally granted to manufacturers who import raw materials from outside SACU for production of goods for domestic consumption. The Industrial Rebates offer a full or partial exemption of customs duty on the imported raw materials and are generally accessible to a wide range of industries ceases as soon as manufacture has been completed. However, VAT is charged on any products, which are consumed in Botswana.

b. General Rebates

Raw materials that are not exempted under the foregoing provision may, where they are imported for manufacturing and ultimate re-exportation, be exempted from payment of customs duties under General Rebate of duty concession provided for under Schedule 4 of the Customs and Excise Tariff. Exemption from payment in this case extends to both customs duties and VAT. It is perhaps worth noting that only companies that are producing exclusively for export can register for this rebate of duty concession.

c. Customs Duty Drawback

In terms of the Duty Drawback System as specified under Schedule 5 of the Customs and Excise tariff, manufactures for the export market are allowed to pay duty on their imported raw materials which they can claim after their products have been exported. However, it is a condition that the claim for refund of the duties be lodged with the Customs and Excise Division within six months of export of the goods.

d. Duty Credit Certificate Scheme

TCIDP is a product specific rebate facility. It is currently limited to textile producers' (e.g. clothing and clothing accessories, household textiles, yarn, fabrics and other textiles) that have been exporting their products to markets outside the SACU area for a period of at least a year. Unlike other rebates of duty, the amount of duty that a company qualifies for as credit under DCC is calculated as a percentage of the value of the exported goods as opposed to actual rate of customs duty. Currently, the value of credit certificates as a percentage of sales value of proven exports is: 25% for clothing and accessories; 8% for yarn; 17.5% for household textiles; and 12.5% fabrics and other textiles. Once a trader has been issued with a DCC, subsequent importation of raw materials will be allowed free of customs duties against the balance on the DCC until it is exhausted.

TCIDP beneficiary may sell the credit earned to third parties but may not redeem it for cash.

5. Registration and De-registration for Rebates

A company which intends to benefit from the above rebate concessions is required to apply to the Commissioner of Customs and Excise to be licensed before production can commence. Such applicants are required to furnish the following documents:

- i. Application forms (CE 185 and CE 185.4A3) may be obtained freely from any inland Customs and Excise office. Such forms require the following details; names of directors, nature and quantity of materials

to be imported, expected annual production and details of the manufacturing process involved;

- ii. A sketch plan of the geographical location and machinery layout of the factory;
- iii. A certificate of incorporation and a trading license must also be attached to affirm that the business is legally registered to operate in Botswana;
- iv. A completed Customs Surety Bond Form CE 185C duly certified by a recognized bank or insurance company in Botswana pledging to pay for the duties in the event the applicant fails to do so. The bond amount should be sufficient to cover potential customs duties and/or VAT on the maximum quantity of raw materials that can be stored at the manufacturer's premises and;
- v. An import permit issued by the relevant Government Ministry or Department if some of the raw materials to be imported are restricted.

Before any establishment can be licensed, an inspection is carried out by the Customs and Excise Division to ensure that it conforms to all the legal requirements.

When the Commissioner of Customs and Excise is satisfied that all conditions have been met, a licence will be issued in the prescribed Form CE 102 to the applicant upon payment of a fee of P100. The Commissioner will also allow the applicant to operate a Bond Store for the exclusive storage of all imported raw materials upon which duty has been rebated.

Any registered rebate user may at any given time submit a written request to the BURS – Customs Division for de-registration. This will be granted once all customs duties and VAT liabilities have been settled. The Commissioner of Customs and Excise may also cancel the registration of any rebate user if any provision under which the rebate was given is violated.

6. Exports from Botswana in terms of Bilateral and multilateral Trade Agreements

Botswana has entered into some Trade Agreements with other countries through which certain goods of Botswana origin are granted duty free and or quota free access in the markets of those countries.

The following are some of the bilateral and multilateral trade agreements which Botswana has with other countries.

a. **European Union (EU)**

Until end of 2007, the exporters into the European Union market were governed by the Cotonou Agreement. The EC had implemented new interim measures currently in place (market access regulations – MAR) on the 1st January 2008 for the Economic Partnership Agreement (EPA). The MAR form part of current rules of origin for exports to the EU.

Botswana has so far signed/initialed the IEPA and hence has started benefiting from the market access regulations (MAR) on the 1st January 2008 for the Economic

Partnership Agreement (EPA). The EPA will be reciprocal once implemented.

In order for the goods to enjoy the trade concessions under the market access regulations (MAR) – SADC-EU EPA, which are the current rules of origins for export, they must be wholly produced or manufactured in Botswana. Goods originating from Botswana may be exported to European Union countries without payment of Customs duties at country of destination. However, this is subject to the goods satisfying the origin rules of exporting as laid out in the (SADC-EU EPA) and the owner of goods obtaining a Certificate of Origin (EUR 1) from the BURS – Customs Division.

In order for the goods to be considered as originating from Botswana they must be wholly obtained or sufficiently worked or processed in Botswana. In more precise terms, the goods must be:

Wholly Produced

These are all products which do not contain any materials imported from third countries. Third countries are non European Union (EU) and SADC Countries. Mineral products extracted from her soil vegetable products harvested, animals born and raised in Botswana are considered as wholly produced in Botswana. Products of these can also be considered as wholly originating if they do not contain any imported materials.

Sufficiently Worked

These are products which are manufactured from imported materials and have met the product specific rule. Where materials sourced from outside SADC member states and EU Community are used to produce a given product, the product will be deemed to be originating from Botswana if the condition set out in the list in annex II of the Agreement are fulfilled. These conditions indicate the processing which must be carried out on non-originating materials should not be used, the non originating material can be used provided its value does not exceed 15% of ex-works price of the final product.

Cumulation Rule

Products manufactured from materials originating in the Community, in other ACP States, in the OCT or in other SADC EPA States are considered as originating in Botswana if the last process of working or processing is not considered as insufficient listed in Article 5 (1) of Title II of the Protocol 1.

Prior to exportation, traders are required to register with BURS – Customs and Excise Division (Regional Offices) and obtain a movement certificate EUR 1.

When the goods satisfy the above requirements, a Euro 1 certificate can then be purchased from licensed clearing agents or from BURS – Customs Division Regional Office at P5.50 per certificate. Prior to exportation, the certificate must be taken to the nearest Customs Office for Customs endorsement because a Euro 1 certificate which is not endorsed by the BURS – Customs Division

will not confer preferential treatment on the goods at country of destination. Endorsement of the certificate involves Customs officials visiting the exporter's manufacturing factory to ascertain that the manufacturing process taking place is in conformity with origin requirements under the MAR (SADC-EU EPA).

When goods are ready for exportation, the exporter must complete the relevant bill of entry Form SAD 500. These forms must be counter-signed by Botswana Customs prior to exportation.

b. United States of America (USA)

Botswana exporters may export their eligible products under the African Growth Opportunity Act (AGOA) scheme to USA free of customs duty and quotas until 2008. Products that can be traded under this scheme are both the non-textile and textile products.

In order for a non-textile product to become eligible, it first needs to be included in the list of the 6,500 products listed under the Act (this list can be obtained from any Customs and Excise office). Once that is satisfied, the next step is to determine if the product is wholly produced or grown in Botswana or a beneficiary Sub-Saharan country. If the raw material is sourced from outside any of the beneficiary Sub-Saharan countries, it must be ensured that the last stage of the manufacturing process takes place in an AGOA beneficiary country. In addition, only products meeting a minimum of 35% value added can qualify to enter the USA market under the AGOA scheme. This value added is calculated on the basis of either the cost of materials produced in an AGOA beneficiary country or

the US or, the cost of direct processing. However, up to 15% of the 35% value added may be of raw materials sourced in USA.

Textile materials qualify for trade under AGOA scheme in the event they are wholly assembled in one or more lesser-developed AGOA beneficiary countries. What is of importance in this case is for the last stage of manufacturing to be done in Botswana. Since Botswana enjoys a grouping 5 status under AGOA, fabric or yarn enjoys the benefit of having no restriction of their origin status (they may be imported from anywhere in the world). There is however a quota restriction on the amount of textile products that may be exported to under AGOA.

Exportation benefits accorded under AGOA are extended on condition that exporters, for either or both non-textile and textile products, are registered with the BURS-Customs and Excise Division prior to exportation. This registration involves submission of written application to export stating type of raw materials to be used in production, their country of origin and manufacturing process and; customs inspection of the manufacturing plant and company documents. In addition, manufacturers and exporters of textile and apparel products are required to complete AGOA application forms (form EC 48 A 1.03 and form CE 48 A1.02 respectively).

It must be noted that transshipment of goods is not allowed under AGOA except for cases, such as is the

case with Botswana, where a country relies on sea ports of its neighbouring countries to export to USA.

c. Generalised System of Preference

Goods originating from Botswana can enjoy some preferential treatment when exported to developed countries under the General System of Preference (GSP) scheme. Goods that qualify under this scheme are those that have been wholly obtained or produced in Botswana. These goods include materials extracted in Botswana, animals born and raised in Botswana as well as plants grown in Botswana. Goods produced from non-originating materials will only qualify if the materials are subjected to a sufficient manufacturing process, which result in a change in the tariff heading of the final product.

Since every importing country may have its own tailor-made preferential scheme, it is beneficial for exporters to check prevailing requirements of the product they intend to sell from the Commissioner of Customs and Excise.

Once all requirements have been met, a Certificate A (which is the relevant movement certificate) may be obtained from BURS-Regional offices at P5.00, Excise Division. When goods are ready for exportation, the relevant export document to complete is a SAD 500.

d Southern African Development Community (SADC) Countries

Botswana is a contracting party to SADC. In terms of the SADC Protocol on Trade, SADC members states are required to grant each other reduced duty (Most favoured Nation status) or duty free access of goods traded

amongst them. This covers import and export duties, non-tariff barriers as well as quantitative import and export restrictions. Goods originating from Botswana and destined for any of SADC member states will on arrival at country of destination enjoy reduced tariff rates, no non-tariff barriers and, reduced quantitative restrictions.

In order for the goods to enjoy this trade concession, they must be wholly produced or sufficiently worked as per the SADC Trade Protocol.

Prior to exportation, a SADC certificate of origin must be obtained from the BURS – Customs and Excise Division at P5.50. When goods are ready for exportation, the relevant export document to complete is a SAD 500.

e. Zimbabwe

The Botswana/Zimbabwe Trade Agreement accords goods originating from Botswana and exported to Zimbabwe duty free treatment. Goods which meet a minimum 25% local content as per this trade agreement are exempted from payment of customs duty. Excise duty and local taxes will be due and payable where applicable.

Traders (manufacturers or their agents and wholesalers) who wish export to Zimbabwe under this trade agreement must register with the BURS-Customs and Excise Division. The Division will then visit the prospective registrant's establishment to ascertain that indeed a manufacturing process is taking place. According to Article 4 of the Botswana/Zimbabwe Trade Agreement, where goods are manufactured using materials from

outside the two trading partners, the manufacturing should take place in Botswana. The prospective registrant will then be requested to submit costing data for the purposes of calculating the local content of the goods under trade.

If the local content of the goods meets the minimum 25% required, the company will be registered to export to Zimbabwe and given a registration number. Companies dealing in wholly originating products qualify for automatic registration without going through the process of determining local content.

Prior to exportation a certificate of origin (Form 61) must be obtained from the nearest regional office at P1.00. When goods are ready for exportation, the relevant export document to complete is a DAD 500.

f. SACU Countries

As indicated in the opening paragraph, Botswana is a contracting member of the Southern African Customs Union hence, goods exported to other member states of SACU generally enjoy free movement without payment of customs duties and quantitative restrictions. Only local taxes, such as Value Added Tax, are levied on goods coming from Botswana at destination country. Where there are some import prohibitions or restrictions, they will usually be instituted to protect the security, economic, social, and cultural interests of the importing.

When goods are ready for exportation, the relevant export document to complete is a SAD 500.