

CHAPTER 3

EXPORTATION OF GOODS

1. Introduction

Exportation is the Customs procedure applicable to goods which leave the Customs territory and are intended to remain permanently/temporarily outside, for specific reasons. The legislation dealing with exports can be found in the following sections of the Act:

Delivery of bill of entry – Section 40(6)(a)
Liability for duty – Section 18(1)(2)(3);40(6)(a)(i)
Production of export – Section 40(6)(b)
Proof of export – Section 18(4); Exports by post – Section 12(4)(a)
Goods exported overland – Section 11(7)
Time of export – Section 40(6) (a)
Documents required for export – Section 40(6)(a)
Diversion of exported goods ex warehouse – Section 18(8)
Documentation export ex warehouse – Section 18(7)(b)
Furnishing of security export ex warehouse – Section 18(5)
Removal in transit/bond exports ex warehouse – Section 17
Samples taken by Controller – Section 40(2)(c)
Value for goods exported – Section 80(a)

Apart from the collection of any export duties and taxes applicable, the purposes of Customs control are, in particular, to ensure the enforcement of national legislation concerning export prohibitions and restrictions and to check the particulars used to determine the amount of any internal duties and taxes from which refund can be allowed or which exemption can be granted.

In addition, the Customs are normally responsible for collecting the information needed for the preparation of external trade statistics.

Goods to be exported may also be subject to certain controls by competent authorities other than Customs, for example Agricultural, Mining, Fisheries, Trade etc.

2. Presentation of export entry

Exporters must present an export entry to the Controller at the locations designated below during regular office hours prior to actual exportation.

2.1 Exportation by aircraft, train or vessel: The export entry shall be presented to Customs at the office at which the goods to be exported will be loaded onto the exporting aircraft, train or vessel. The entry must be presented prior to loading the goods onboard.

- 2.2 **Exportation by truck or other vehicle:** The export entry shall be presented at the Customs office at the border port where the goods will be exported. Generally, the Customs and Excise Act prohibits goods being loaded for export until an export entry has been accepted by Customs and permission has been granted. This prohibition is waived regarding exportations by truck or vehicle; however, Customs officers at the border of exportation may require that goods to be exported by truck or vehicle be made available and ready for inspection. Should it be necessary to unload the goods, it is the exporter's responsibility to do so.
- 2.3 **Exportation by post:** A postal form customs declaration shall satisfy the export entry requirements for goods exported by post.
- 2.4 **Exportation at locations where there is no Customs officer:** With the exception of goods exported by post, exportations will not be permitted from locations at which there is no Customs officer.

3. Export of goods ex-warehouse

Any goods exported from the customs bonded warehouse are treated as follows:

- 3.1 Excisable goods exported by vehicle from any Customs and Excise bonded warehouse or manufacturing warehouse.
- a. When the warehouse licensee removed excisable goods for export purposes and potential duties and taxes are already covered by the warehouse licensee's bond. Take note that it is not necessary to require provisional payment on these exportations if the warehouse licensee is the actual exporter.
 - b. In the case when the goods belongs to a client who wishes to remove goods for export purposes, then the licensee should demand the proof of export if goods are cleared by the clients agent for exportation in order to clear the liability on the warehouse entry from which the goods have been drawn.
 - c. Lastly, in-bond entries will be required to move the goods under bond either by the clients own bond arrangement, PP or licensees warehouse bond to cover duties and taxes to the place of exportation. In later the letter of bond usage should be obtained.
- 3.2 **Proof of exportation:** Where proof of exportation is required to relieve the exporter or seller of liability for duties or taxes or for other purposes, it is the responsibility of the exporter to obtain that proof, such as:-
- a. When goods are exported by vessel, aircraft or train, a Namibian export entry shall be deemed sufficient proof of exportation.

- b. When goods are exported by vehicle, however, it is necessary for the exporter to prove that the goods were legally removed from the country of exportation. In this case, proof of exportation requires a copy of the entry for home consumption, in transit or warehousing in the country of destination, should the goods have been removed or transported in bond.

4. Re-landing of exported goods

Goods which have been loaded on any carrier for export after the filing and approval of an export entry may not be re-landed in Namibia without the filing of a new entry to reflect the re-importing unless due to a mechanical failure of the carrier; in which case, the person in charge of the carrier shall first report to Customs and obtain permission for temporarily unladen such goods until such time as repairs are effected or until the goods are transhipped onto another exporting carrier.

5. Exchange Control

- 5.1 **Purpose:** The purpose of Exchange Control is to conserve foreign currency and gold reserves by controlling the movement of gold, currency securities, etc., from Namibia to countries other than those in the Common Monetary area namely, Lesotho, Swaziland, RSA and Namibia. The ultimate control is vested in the Treasury and the Bank of Namibia.
- 5.2 **Customs role:** Control of currency, etc., in itself is not a function of Customs and Excise, but since physical control is exercised over goods involved in commercial and other transactions, resulting in the accrual or disbursement of currency etc., certain safeguards have been provided for in the Exchange Control Regulations to cover such transactions, and these safeguards are of our concern.
- 5.3 **Form and approval:** The ordinary Declaration form for Exports from Namibia is a Form F.178. In terms of the Namibian Exchange Control Regulations, all exports, except those which have been exempted in terms of the Exchange Control Rulings, must strictly be supported by the prescribed Export Declaration on Form F. 178. It implies that all companies exporting goods from Namibia are required to complete the Form F.178 to be attested by an Authorized Dealer (commercial bank authorized to deal in foreign currency) "(herein referred to as a Bank)". Furthermore, should there be an agent involved, this agent should complete the Form F.178 on behalf of its client and must equally be attested by an Authorized Dealer. . However, in exceptional cases permission might be granted in the form of a letter by the Exchange Control Division of the Bank of Namibia.

The Form F.178 may normally only be attested by the exporter's bank and in exceptional cases by the Exchange Control division of the Bank of Namibia. Resident companies, or members of the public desiring advice and/or

information on Exchange Control matters, should be directed to any commercial bank in Namibia.

5.4 **F.178 required on exports:** Form F.178 is required for all exports from Namibia with the following exceptions:

- a. Exports to RSA, Lesotho and Swaziland;
- b. Goods exported as ships or aircraft stores;
- c. Any other exports irrespective of the origin of the goods involved, if the value thereof does not exceed N\$50 000 in the case of goods exported.
- d. Goods of foreign origin which are in transit through Namibia.

The exporters should ensure that only the original Form F.178 is attested by the bank to ensure that only the consignment of goods specified on the Form F 178 is cleared by Customs.

Only the original Form F 178 must be stamped (bear a Bank Stamp) and the original invoice(s) confirming the transaction value of the goods to be exported should also be stamped by the bank.

5.5 **Restriction regarding currency, securities and gold**

No person may take or send out of Namibia any foreign currency, gold or securities without an approval granted by the Exchange Control Division of the Bank of Namibia or alternatively with the Form F.178. (Letters of credit, bank drafts, travelers' cheques or similar instruments of exchange should be regarded as foreign currency.)

No Kruger Rand coins may be exported from Namibia without the prior approval of the Exchange Control Division of the Bank of Namibia.

- a. **Bank repatriations:** Namibian bank notes/South African Bank notes repatriated by overseas banks are not affected by these restrictions.
- b. **Personal facilities:** Any person (Namibian resident and/or/ Foreign resident) entering or leaving Namibia is only allowed to carry **N\$ 25 000-00** in Bank of Namibia notes with him/her.

It follows that, neither the Namibian residents (when traveling outside the CMA) nor the foreign visitors to Namibia are allowed to import Bank of Namibia notes nor any notes of other member countries of the CMA (Lesotho, South Africa and Swaziland) in excess of the total value of **N\$ 25 000** in Bank of Namibia notes.

- c. **Detentions/Seizure:** There is in general no exemption in respect of the exportation of any foreign currency instruments from Namibia. However, permission for the exportation of foreign currency instruments may be

granted by the banks and/or the Exchange Control Division of the Bank of Namibia.

- d. **Receipt:** A General Revenue Receipt: clearly indicating whether the currency was declared or not declared is to be issued to the person concerned in all instances of the detention of currency, and the receipt is to be endorsed to the effect that the person from whom they were taken was leaving the Republic.

In this regard, a receipt from the local bank confirming the purchasing/selling of such foreign currency as well as an original Customs declaration showing the amount of currency imported into the country by foreign visitors should be presented.

- e. **Report to head office:** The detention of declared and undeclared excess currency must be reported to the Director: Customs and Excise. In this regard, the Exchange Control Division of the Bank of Namibia must be contacted by Customs and/or Police within 3 days by providing copies of the following documents:

- 23.1.1 Original affidavit/s from officer/s who detained the money/or goods;
- 23.1.2 Detention / Seizure Notice and all supporting documents, such as the Air ticket, if available;
- 23.1.3 Original Declaration Form by the person from whom the banknotes are taken/seized;
- 23.1.4 Receipt./Slip from the local bank confirming the purchasing/selling of such foreign currency; and
- 23.1.5 Personal details including copy of Passport

- f. **Application for return:** The person from whom the bank notes are taken should be informed that application for the return of detained currency, securities or gold should be referred to the Director: Customs and Excise. In this regard, the Exchange Control Division of the Bank of Namibia must be contacted, as any foreign currency issue falls within the mandate of the Bank of Namibia.

Transfer of currency to other countries is only allowed through banking institutions and officers must request the persons from whom the money was detained to furnish the names and addresses of banking institutions in Namibia as well as in their country of domicile, and their account numbers when applying for a refund of the detained currency in order that transfer of the currency can be effected with the least possible delay.

In this regard, a receipt from the local bank confirming the purchasing of such foreign currency is a pre-requisite.

5.6 Restrictions regarding foreign currency:

When leaving Namibia to any destination, both resident and non-resident travelers are compelled to declare any foreign and local currency that he/she is taking out of the country to the Customs officials. This should be done through the completion of a Customs declaration form (SAD 500) and proof the origin of the funds.

Exchange Control Regulation 3(1) prohibits the exportation and importation of Bank of Namibia notes (Namibia Dollars) unless the prior approval of the Bank of Namibia has been obtained. The exportation of foreign currency is similarly restricted.

However, in terms of the Exchange Control, foreign visitors¹ on temporary visit to Namibia and who can therefore properly be regarded as “non-residents”, may be granted foreign exchange to provided it can be proved that they imported the foreign currency into Namibia or, alternatively, that such currency represents the unspent portion and/or the proceeds of foreign exchange instruments² imported and exchanged in Namibia. Such persons may re-export any foreign bank notes that they had imported into the country but may not export more than N\$ 25 000 in Bank of Namibia notes, which must be reduced by the value of any bank notes of the other CMA member countries eligible for exportation.

The onus rests on the returning foreign travelers to prove the origin of the foreign currency that they are re-exporting. Therefore, upon arrival they must declare the funds they are importing into the country and retain the receipt as proof to re-export all and/or part of the imported funds on their departure from Namibia.

Namibian residents are eligible for the single discretionary allowance of an amount not exceeding **N\$ 1 000 000 (One Million Namibia Dollar)** per calendar year, for the specific purposes of travel, gifts, donations and maintenance. (*Was previously N\$ 160 000 per calendar year, for either business or holiday travels to destinations outside the Common Monetary Area*). Such foreign currency will be granted by the Authorized Dealer handling the transaction on presentation of a valid passport and air ticket confirming the journey to be undertaken. In addition, travelers are allowed to take out an amount of **N\$ 25 000** in Bank of Namibia notes.

It follows that, neither the Namibian residents nor the foreign visitors to Namibia are allowed to import Bank of Namibia notes or any notes of other member countries of the CMA (Lesotho, South Africa and Swaziland) in **excess** of the total value of N\$ 25 000.

¹ Visitors from countries outside the Common Monetary Area (CMA)

² Foreign bank notes.

There is, however, no limit on the amount of Namibia Dollar which may be exported from Namibia and/or spent on traveling within the CMA.

In conclusion, with regard to the foreign currency declaration one of the following documents must be presented to substantiate the origin/source of such currency:

- a. An original Customs declaration showing the amount of currency imported into the country by foreign visitors.
- b. A receipt from the Authorised Dealer ³(AD) confirming the purchasing of such currency representing the proceeds of foreign exchange instruments brought into and exchanged in Namibia by them.
- c. Documentation issued by AD evidencing cash withdrawals from the Foreign Currency Account or receipt of foreign currency by bank transfer.
- d. Local currency amount should not exceed the existing limit of N\$ 25 000 for travelers going outside the CMA, however, there should be no limit to passengers traveling to Lesotho, South Africa and Swaziland

All the above are in accordance with the Exchange Control Regulation 3(3) that, in addition, requires an “...*appropriate officer and any person...may search such person and examine or search any article which such person has with him, for the purpose of ascertaining whether he has with him any bank notes, gold, securities or foreign currency...*”.

5.7 Currently Namibia has only four (4) Authorized Dealers, which are commercial banks that are authorized to deal in (buying and/or selling) foreign currency in Namibia. Furthermore, there are at present eight (8) Authorized Dealers in foreign exchange with Limited Authority (“ADLA”), which are companies licensed to carry on business of operating bureau de changes in Namibia.

It should be noted that ADLAs are companies, other than commercial banks, authorized to deal in foreign currency pertaining to travel-related foreign exchange transactions only. Therefore, although these companies are authorized to deal in foreign exchange, they are not part of commercial banks but limited liability companies registered under the Companies Act whose sole business are to conduct the business of bureau de change.

5.8 **Review on exportation:** The importance of form F.178 lies in its attempt to ensure that Namibia receives the appropriate foreign exchange for the full proceeds of its exports. For this purpose it is essential that officers satisfy themselves that the total foreign exchange proceeds declared on form F.178, coincides approximately with the exporter’s selling price to purchaser consignment involved. Such selling price will usually be the C.I.F. value. Selling price will only be the F.O.B. price if all charges beyond placing the

goods free on board ship (or rail in the case of exports overland) are payable by the buyer at destination. The destination shown on the bill of lading, consignment note, etc. and the export SAD 500/501 must be the same as that declared on the Form F.178.

Customs officers must scrutinize the export declarations on the Forms F 178 with a view to ensuring that-

The transaction value/insurance value of goods exported is reasonable in relation to current market prices for the commodity concerned. Where any doubt exists in this respect, documentary evidence of contract notes/insurance and/or correspondence should be called for; and

Where any permission has been granted, the provisions of such permission are rigidly adhering to.

Customs officers should be at their guard against attempts to duly circumvent the attestation of the Export Declaration (Form F 178) by sub-dividing the goods from the same exporter, in consignment of below N\$ 50 000 to leave Namibia destined for same foreign importer.

- 5.9 **Processing:** All Completed forms F.178 submitted to Controllers should be date stamped on acceptance, and numbered with the relative Export SAD 500/501 numbers, and should be forwarded (one copy only) without covering letters to the Deputy Director: Exchange Control Division, Bank of Namibia, 71 Robert Mugabe Avenue, P O Box 2882, Windhoek. In case of any urgent query/guidance the Customs Officials should contact the following numbers: Tel No's: (061) 283 5125/5126 or 283 5153.

6. Export of diamonds

The procedures to be followed in connection with the exportation of rough and uncut diamonds (as well as crushed diamonds, diamond dust and diamond powder) are as detailed below:

Conditions for valuation and release of unpolished diamonds for export

- 6.1 Every unpolished diamond submitted to the Minister of mines and Energy for valuation for export purposes shall be accompanied by an Export Declaration on the Form F 178 for Unpolished Diamonds in the form as set out in Form 20.
- 6.2 A consignment must not be released for export unless a Kimberly Process Certificate has been issued and validated by the Namibian Exporting Authority in respect of every diamond contained in the consignment.
- 6.3 The parcel into which the unpolished diamonds are placed must be made up before release for export and must be a tamper-resistant container sealed in the manner determined by the Minister Of Mine and Energy.

- 6.4 The Namibian Exporting Authority must issue and validate a Kimberley Process Certificate in the form set out in the Form 21 if he or she is satisfied that the provisions of sub-regulation (3) above have been complied with.
- 6.5 A consignment released for export must be accompanied on export by the original of the Kimberley Process Certificate issued and validated in respect of the diamond contained therein, and the exporter must be furnished with an authenticated copy of that Certificate.
- 6.6 Particulars of every unpolished diamond in a consignment released for export must be recorded forthwith in the appropriate register maintained by the Namibian Authority.
- 6.7 No diamond consignment will be passed for export at Customs and Excise unless it bears the Namibian Exporting Authority seal, unbroken, and the properly attested Form F.178 has been produced.
- 6.8 Form F.178 completed for each consignment must be numbered with the relevant Customs Declaration form SAD 500/501 numbers.

7. Export of gold

The procedures to be followed in connection with the exportation of gold are as follows:

- 7.1 The Treasury authorizes the export of gold in manufactured and semi-processed form by certain firms whose names do not require to be noted by Customs and Excise. The bank always ascertain, before issuing and attesting a Form F.178 that the exporter is authorized to export gold; consequently it will be sufficient if officers merely ensure that every parcel of semi-processed or manufactured gold for export is sealed by the Protected Resource Unit of the Namibian Police and is accompanied by an appropriate Form F.178.
- 7.2 All sealed parcels are to be placed on board a ship or aircraft under Customs supervision and once they are produced for inspection they are not to be allowed to pass out of the control of Customs and Excise until shipped.
- 7.3 When a manufacturing jeweler wishes to export jewelers' sweepings, such consignment will first be examined by the Protected Resource Unit of the Namibian Police and then sealed with the official Protected Resource Unit seal. The SAD 500/501 Export will be endorsed by the Protected Resource Unit to the effect that the export is in order. No consignment will be passed unless it bears the Protected Resource Unit seal, unbroken, and the properly attested Form F.178 has been produced.
- 7.4 All consignments to be exported shall be accompanied by an Export Permit, duly issued by the State Authority.

8. Other Minerals and Precious stones

Requirements in terms of Section 127 of the Minerals (Prospecting and Mining) Act No. 33 of 1992.

In terms of the above section of the act:

- 8.1 No person shall export any mineral or group of minerals from Namibia, except with the permission of the Mining Commissioner obtained in writing and subject to such conditions as may be determined by the Commissioner, unless he or she;
 - a. Is the holder of a non-exclusive prospecting licence, a mining licence or a mineral licence and has been granted the permission to remove any such minerals or group of minerals from Namibia
 - b. Is exempted from the provision of this section in terms of section 137.
- 8.2 An application for permission referred to in subsection 1 shall be made to the Mining Commissioner or any other person designated by him or her in such form as may be determined in writing by the Commissioner and shall be accompanied by such application fee, if any, as may be determined under section 123, together with such documents and information as may be required.
- 8.3 Any person who has contravened or failed to comply with the provision of subsection 1 shall be guilty of an offence and on conviction liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

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