

CHAPTER 5

PHYSICAL EXAMINATION OF CARGO

1. Introduction

The removal of goods to the hall, or any other premises for the purpose of examination, opening, unpacking, repacking and subsequent removal shall be performed at the risk of the importer. The importer, exporter, manufacturer or owner of any goods, or the carrier or agent acting on behalf of a person must, whenever required to do so by the Controller, convey any package(s) selected for examination to a place designated by the Controller (Section 6(1)(F)). Such person is responsible for ensuring that such packages are opened and unpacked in the presence of and on the instructions of an officer. Any costs associated with making a shipment ready and available for inspection (such as labour costs for unloading, unpacking and repacking the shipment) are the responsibility of the importer, exporter, agent, etc. Section 15(1).

If, possible, Controllers must ensure that where goods are detained on importation, in terms of section 98 of the act, with the aim of establishing whether such are liable for forfeiture as well as to ensure that the declarations of all particulars are correct, that at least two officers are present at such examinations. A representative of the importer i.e. his agent, or the importers themselves should be present.

2. Purpose of physical examinations

The purposes of examining cargo is to ascertain that the cargo is as described in the entry field, whether for importation, warehousing, deposit into an Export Processing Zone, removal in bond, exportation, or other purpose. The officer conducting an examination will verify that the following items on the entry regarding the cargo are correct:-

- Tariff classification,
- Rate of duty,
- Quantity,
- Country of origin,
- That value(s) appear reasonable,
- That no prohibited or restricted goods are present in the cargo

It is for this reason that officers must develop a familiarity with and understanding of the Harmonized Customs Tariff, explanatory notes, the Prohibited and Restricted List of Imports, previous rulings, Value Added Tax legislation, Rules of Origin etc. for adequate customs control.

3. Routine nature

Physical examination of cargo is a routine function. Therefore, not all goods have to be examined. It is thus advisable that officers need to select goods carefully bearing in mind that we need to strike a balance between trade facilitation and enforcement. Every effort will be made to do it as efficiently as possible and at least possible expense to the importer/exporter; however, expense to the importer or difficulty in conducting the examination are not reasons for avoiding examination.

Note: Local instructions shall be issued to importers and exporters advising them how to make arrangement for examinations.

4. Selection of cargo for physical examination

Most physical examination will be conducted based on a review of the entry documents by a checking officer and risk profiling. An entry should be designated for physical examination if the checking officer has any concerns regarding classification, value, quantities, or admissibility of any of the goods entered.

On top of desk assessment by the checking officers, some forms of risk analysis are preferred method of selecting consignments for examination. Controllers and other officers in charge shall also establish a procedure for designating at least 1% of all entries at random for physical examination. It is required that not less than 5% of all cargo shipment will be designated for physical examination at every port of entry.

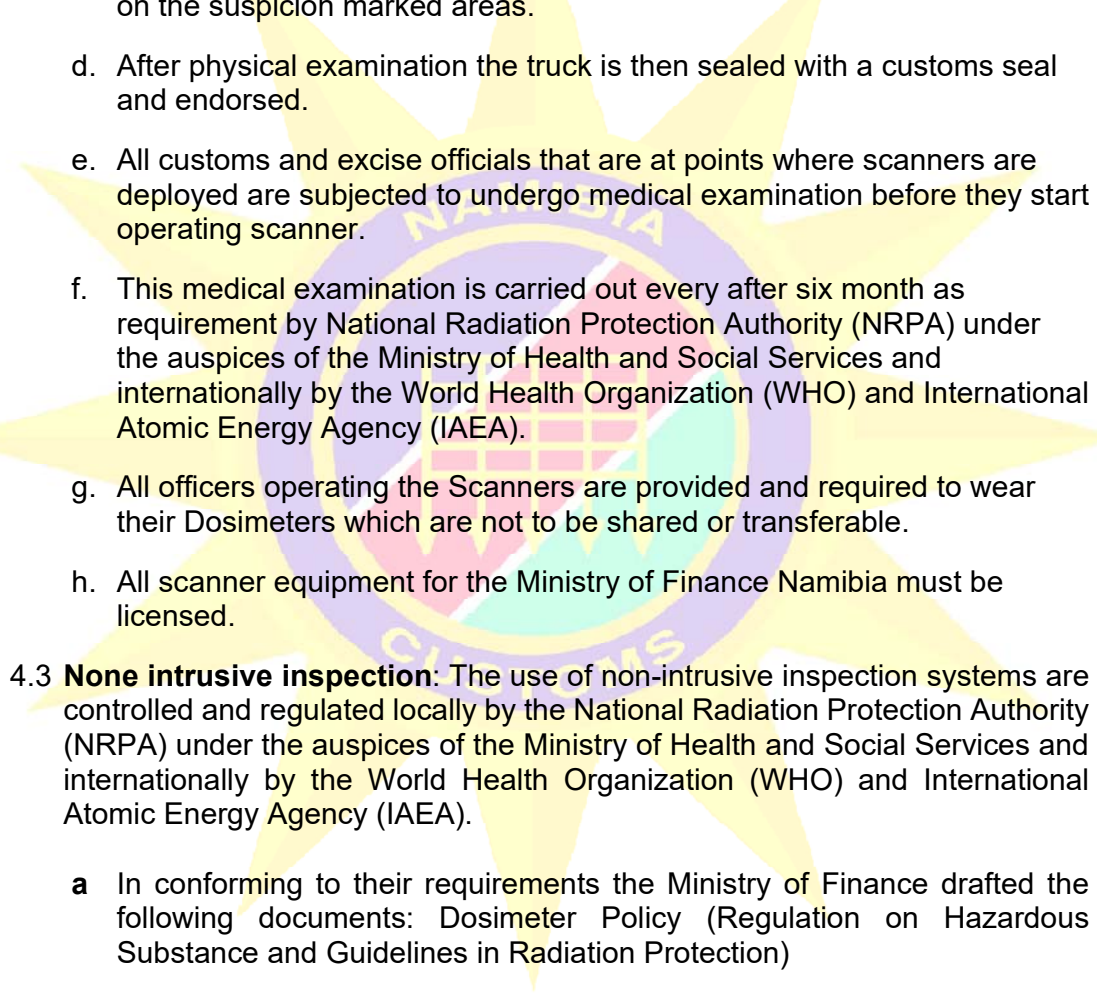
The computer system can also be programmed to select certain risk goods for physical examination. The Risk Management Section to provide risk profiles on continuous basis to update the system.

Note: it is preferable that physical examinations are authorized and approved by the supervisor, and the result thereof shall be documented and endorsed by the supervisor.

4.1 When examining the cargo the following is required:

- a. The checking officer/supervisor shall clearly indicate the reasons for examinations.
- b. When cargo is selected, the examiner should follow the instructions as requested by the checking officer/supervisor
- c. The examining officers shall ensure to health and safety measures

4.2 All goods entering or leaving the country are subject for clearance by customs and it's believed that the declarations are true and correct at that time.

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- a After all clearance is done and release order is issued its when customs officials from clearance sends the documents to enforcement so that the Truck/consignment can be scanned based on the Risk profile of that particular duty station regarding the company profiles weather High ,Medium or Low profile.
 - b The driver of the vehicles is required to sign a consent form to prove that there no person in the vehicle before scanning.
 - c Officers are trained on how to analyze the Scanned Images and thereafter if any suspicion on the consignment is detected then physical examination is conducted, and if no suspicion then the consignment is released. The scanning takes about 3 three minutes and physical examination if conducted becomes easier because officers concentrates on the suspicion marked areas.
 - d. After physical examination the truck is then sealed with a customs seal and endorsed.
 - e. All customs and excise officials that are at points where scanners are deployed are subjected to undergo medical examination before they start operating scanner.
 - f. This medical examination is carried out every after six month as requirement by National Radiation Protection Authority (NRPA) under the auspices of the Ministry of Health and Social Services and internationally by the World Health Organization (WHO) and International Atomic Energy Agency (IAEA).
 - g. All officers operating the Scanners are provided and required to wear their Dosimeters which are not to be shared or transferable.
 - h. All scanner equipment for the Ministry of Finance Namibia must be licensed.
- 4.3 **None intrusive inspection:** The use of non-intrusive inspection systems are controlled and regulated locally by the National Radiation Protection Authority (NRPA) under the auspices of the Ministry of Health and Social Services and internationally by the World Health Organization (WHO) and International Atomic Energy Agency (IAEA).
- a In conforming to their requirements the Ministry of Finance drafted the following documents: Dosimeter Policy (Regulation on Hazardous Substance and Guidelines in Radiation Protection)
 - b Radiation Management Plan (As per Health Regulation from NRPA,WHO and IAEA)

Additionally, the Ministry signed a Memorandum of Understanding with the National Radiation Protection Authority (NRPA)

5. Notification to importer of physical examination (SAD 503)

Form SAD 503 should be used as both query and stop note. The SAD 503 will be prepared in two copies. Importers, exporters or agents will be notified that an entry has been stopped for physical examination. After examination the importer, agent shall be notified about the findings of the examination and the subsequent action.

6. Explanation of the reasons for examination

Checking officers/ Customs need not justify or explain to the agents/importer, exporter its reason for conducting a physical examination. If an importer believes a disproportionate percentage of his shipments have been designated for examination, he may lodge an informal enquiry with the Controller. If he is not satisfied with the Controller's explanation, he may enquire in writing to the Director.

7. Referral for examination

At larger ports of entry, cargo will normally be designated by a checking officer for physical examination by another officer assigned to an examination team. At smaller ports of entry, the checking officer may be required to conduct the physical examination. In either case, the SAD 503 will be prepared. When the checking officer prepares it, he or she will write specific instructions to the examining officer reflecting his or her concerns on the copy of SAD 503 (but not on the original which is given to the entry agent, importer, exporter). Examining officers will conduct a sufficient examination to adequately answer these concerns; however, they need not limit their examination to those issues.

8. Registration of entry required

Physical examination of goods must only be done after the SAD 500/501 has been registered. (Registration at non-automated ports occurs when the entry is numbered and date-stamped). At automated ports, registration is done via the ASYCUDA system. This is to make sure, in the event of a dispute as to the validity of the declaration made by the importer that we have proof beyond doubt that a false declaration was made.

9. Extent of physical examination

in cases when goods declared for home use shall be examined, this examination shall take place as soon as possible after the Goods declaration has been accepted. Priority should be given to the examination of live animals, perishable goods and other urgent consignments. If goods are to be inspected by other competent authorities, for the purpose of applying veterinary, health, , etc., controls the Customs should, where practical, perform their examination at the same time. However, Customs may also require that goods to be examined by other competent authorities. It is not generally necessary for a shipment to receive a 100% examination. A 100% examination occurs only when every box, carton,

or other package in the shipment is opened and the goods within it are examined. Normally, an examining officer will only open as many packages as necessary to satisfy his concerns or the concerns expressed by the checking officer. When only a portion of the shipment is to be examined, the checking officer or examining officer will designate which packages, containers, etc. are to be opened for examination. Under no circumstances will this be left to the discretion of the importer, exporter or agent.

10. Place of examination

Goods may be directed to the State Warehouse or other location. Where they are too bulky to be examined in the State Warehouse, where they require special conditions such as temperature control, or where the importer, exporter or agent so requests, such goods may be allowed to be examined at the importers premises. Requests for examination at importer's premises require that special attendance will be paid and the importer, exporter or agent may be required to transport the Customs officers from his or her normal work site to the examination location and back to his or her worksite.

11. Removal to another location for examination

At the request of the importer, and for reasons deemed valid by the Customs, Customs must as far as possible, allow goods declared for home use to be examined at a place other than the Customs office where the Goods declaration was lodged. Goods may be examined, according to the circumstances; at the premises of the person concerned, on premises with appropriate equipment, at any place within the Customs surveillance zone or at a Customs office other than that at which the Goods declaration was lodged. The cases in which arrangements may be made for examination at a place other than the Customs office where the Goods declaration was lodged include:

- 11.1 Goods which cannot readily be examined until unloaded at destination (for example: wheat, oil or ores imported by ship or barge; bulk consignments of parts in containers; furniture and household effects imported on transfer of residence;
- 11.2 Goods which cannot be examined without appropriate equipment, facilities and capacity
- 11.3 Goods which cannot usefully be required to be produced at a Customs office (for example, products obtained from the working of border lands or quarries near the frontier, imported by the shortest route).

Note: it is the responsibility of the importer to make imported cargo ready for examination by customs. This includes providing labour as well as the responsibility for all expenses associated with the unloading, unpacking, repacking, and reloading of the imported goods.

Under most circumstances, goods must be made available for inspection at the port where they actually enter Namibia. Occasionally, situations arise where this is not feasible. In these situations, requests have periodically been received from importers to permit the examination to be conducted at a subsequent location. The following procedures are designed to ensure that all requests are handled promptly and equitably:

- a. **Notification:** Customs at the port of entry where the goods have arrived will advise the driver when an examination is required. It is the responsibility of the driver, as agent for the importer, to make necessary arrangements for the examination.
- b. **Request:** When the importer believes circumstances clearly justify an exception being made to the normal procedures and that the examination can only be conducted at another Customs office, he or she must provide a written request (via fax) to the officer-in-charge of the port of entry where the truck or container has arrived stating his or her reasons for requesting and exemption and stating the location at which he or she wishes the goods to be examined.
- c. **Approval:** The officer-in-charge at the port of entry where the truck or container has arrived has full authority to decide whether to allow the requested exemption. That officer will contact the officer-in-charge at the port of entry where the importer has requested that the examination be allowed to occur in order to determine if he or she is in agreement and that staffing and facilities are sufficient to conduct the examination.
- d. **Sealing:** If agreement is reached among the importer and the officers-in-charge of the original and subsequent Customs offices, the truck will be sealed with Customs seals and a placard will be placed on the sealed doors stating: **“Warning – Seals May Only Be Broken By a Customs Officer. Report to Customs at _____”**.
- e. **Explanation to examining port:** An SAD 503 will be prepared by the first point of entry and transmitted to the officer-in-charge of the location where the entry will be examined. The SAD 503 shall provide the reasons the shipment was designated for examination and what the examining officers should look for in their examination.
- f. **Transmission of entry and SAD 503:** The original SAD 503 and the original Customs entry and required copies will be placed in a sealed envelope, which is clearly noted: **“This envelope may only be opened by a Customs Officer. Contact Customs immediately on arrival at _____.”**
- g. **Instructions to driver:** Customs advise the driver of the agreed-upon destination and that the seals may not be broken and the envelope may not be opened except by a Customs officer at that location.

- h. **Controls:** the originating office should maintain a control register and a suspense file.
- i. **Delivery at destination:** When the shipment arrives at the inland Customs office where the examination will occur, the driver/importer will ensure that the sealed envelope containing the entry and the SAD 503 is delivered to Customs and that the seals are not broken until such time as an examining Customs officer is present.
- j. **Examination and reporting:** The examining officer(s) at the inland Customs office will conduct a full and intensive examination noting the results of that examination on the original SAD 503. The result of the examination shall be reported to the originating office and corrective measures where necessary shall be taken in consultation with the destination office.
- k. **Surety:** Provisional payment will be required in the amount of taxes due on the entry, regardless of whether the importer has VAT account numbers. Such payment shall be lodged at the location to which the shipment is being permitted to proceed for examination. In the event that the truck fails to arrive and report to Customs, or in event that seals are broken without a Customs officer being present, or in other similar circumstances, provisional payment will not be cleared and the matter will be reported to Head Office as well as to the originating port. An immediate investigation will be initiated. Additionally, the importer and the importing carrier will be prohibited from using this procedure in the future until the matter is fully resolved to Customs satisfaction and they may be required to fully unload their shipments at the border.
- l. **Expenses:** All expenses related to examination of imported cargo are the responsibility of the importer. If this process is used, such costs shall include special attendance of the officer or officers deemed necessary to conduct the examination at the subsequent location.

12. Importer's/exporter's representative to be present

A physical examination should, whenever possible, be attended by the importer, exporter or agent (including the carrier). It is his or her responsibility to make the shipment ready for inspection; that is, to have it delivered to the agreed upon place, to open any container or package as required by the examining officer, to draw out any requested sample if a sample has been deemed necessary for classification or other purposes, and to re-seal and re-pack the goods at the conclusion of the physical examination. This representative should be available to witness any discrepancies or damage discovered during the examination.

13. Report of Examination

Immediately upon completion of the physical examination, the examining officer will complete the SAD 503. The report should be completed in a neat and legible fashion, dealing with line-for-line of the SAD 500/501. If any discrepancies are noted, they should be documented. The SAD 503 and the entry shall then be returned to the checking officer to determine if it may be assessed and released, if the entry should be amended, and/or if penalty action is warranted.

If amendment is required or further information is required, the checking officer will prepare a query SAD 503 advising the importer of the actions which need to be accomplished.

14. Queries

A Customs entry is a legal document. Officers shall not deface an entry by writing over information placed on that form by the importer, agent. Customs actions and notations shall be limited to the **For Official Use Only** space at the bottom right corner of the document or to an SAD 503, which references the entry and is attached to the document. Writing queries on the entry itself may jeopardize the validity of the document in a court case. The entry will not be returned to the importer, exporter or agent with the query, but held in a suspense file in the Customs office until the SAD 503 has been completed and returned. At that time the SAD 503 shall be attached.

15. Recommendation for penalty action

All recommendations for penalty or seizure action, whether resulting from physical examination or other reasons, must be submitted for review to the officer-in-charge at the port of entry where the entry was filed. No penalty or seizure action may be initiated without the approval of the officer-in-charge. For this reason, it is absolutely necessary that when the officer-in-charge is, for any reason, absent from the port of entry, a senior officer be designated to act on his behalf in a supervisory capacity.

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