



March 2012
Pharmaceuticals and Intellectual Property

TAX AND CUSTOMS ENFORCEMENT

The SARS Mandate (SARS Act 34 of 1997)

Collect all revenues due

Ensure maximum compliance with tax and customs legislation

Facilitate trade

Protect our borders

DELIVERY STRATEGY

ENHANCED COMPLIANCE

Customs Objectives

- Curtail and Combat illicit economy – disrupt illicit trade
- Focus on Compliance & Border Control
- Risk Based Deployment
- Rapid Joint Deployment to Ports of Entry
- Unannounced Joint Operations at Ports of Entry
- Detailed Search and Detect Operations to Prevent Smuggling
- High visibility Operations at and between Ports of Entry
- Joint Operations with other Law Enforcement Agencies
- 24 / 7 Service delivery at Ports of Entry

Definition of Importer / Goods

- An “importer” includes any person who , at the time of importation:
 1. Owns any goods imported
 2. Carries the risk of any goods imported
 3. Represents or acts as if he is the importer or owner of any goods imported
 4. Actually brings or attempts to bring any goods into the Republic
 5. Is beneficially interested in any way whatever in any goods imported
 6. Acts on behalf of any person referred to in 1,2,3,4 or 5 and in relation to imported goods , includes the manufacture , supplier , shipper of such goods or any person inside or outside the Republic representing or acting on behalf of such manufacturer , supplier or shipper.
- “Goods” – includes all wares , articles, merchandise, animals, currency , matter or things.

Customs Requirements

- Registered Importer / Exporter
- SAD 500 – Customs Bill of Entry
- Commercial Invoices
- Transport Documents -Waybills / Bills of Lading
- Permits / LOA from NRCS (National Regulator for Compulsory Specifications) & Port Health
- Supporting literature for purposes of understanding the product for tariff classification purposes.

Registering for Brand Protection

- IPR Holders are required to make an application to the Commissioner in terms of section 15 (1) of the Conterfeit Goods Act on the format prescribed in SC-CC-01-A1.
- ii) Under no circumstances may there be deviated from the wording of the prescribed format.
- Included with the application must be the following documents –
 - A) Proof that the goods are protected goods, i.e. proof that the products are registered in the trade mark register;
 - B) Proof that the IPR subsist, i.e. that the trade mark has not expired; and
 - C) Proof that the applicant is the owner of the IPR, i.e. proof that the trade mark is registered in the name of the applicant or that the applicant has been authorised by the IPR Holder to use the trade mark.

Information

- i) Applicants are invited to submit as much as possible additional information pertaining to the protected goods to assist Customs Officers with the targeting and identification thereof.
- ii) This may include, but are not limited to, the following -
 - A) A specimen of the goods that are protected, which may be photographs, brochures, etc., but not samples of the products;
 - B) Any other information related to the substance, extent and title to the goods; and
 - C) Any information pertaining to the import / export of the stipulated goods by alleged perpetrators.

Submission of applications

- i) All Section 15 applications must be forwarded to the National Coordinator: Counterfeit Goods, Lehae La SARS, 299 Bronkhorst Street, Nieuw Muckleneuk, Pretoria, or Private Bag X923, Pretoria, 0001 for consideration.

Detention of Goods

- Goods are detained in terms of Section 88(1) and 113(A) of the Customs and Excise Act 91 of 1964 as amended.
- The difference between these two Sections is that 88(1) deals with the detention of goods in terms of the C&E Act whereas;
- Section 113 refers to goods which have been imported , or exported in terms of any legal principles contained in any other Acts e.g. NRCS; ICASA

Counterfeited Viagra in passengers baggage.



Steroids being imported via the Postal / Courier Company



Illicit Skin-lightening Creams

- 1347 boxes of facial and body creams were seized at the premises with the total amount of R6 500 000.



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