

Customs Law Executive Regulations

Simplified



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Introduction

- Following the adoption of the Egyptian Customs Law No. 207/2020 in November 2020, the Executive Regulations of the Law were published in the Egyptian Gazette on August 31, 2021. The Law seeks to restructure the Egyptian customs regime by implementing certain measures and policies to facilitate trade, customs clearance processes, and lead time. These measures include digitizing several processes such as the customs warehousing system, pre-shipment clearance procedures, payments, as well as the introduction of the Advance Cargo Information system.
- While the provisions of the Executive Regulations will not have an immediate direct impact on Egypt's trade volumes, they are expected to have a positive impact on trade operations with Egypt on the medium and long term.

Highlights

- The Executive Regulations put in place customs clearance pathways based on the type of goods, which determine the level of inspection that shipments will undergo:
 - **Green route : immediate clearance for low-risk shipments**
 - **Yellow route: clearance upon the completion of the necessary documents**
 - **Red Route: clearance following ordinary inspection procedures**
- The Executive Regulations introduce the customs warehousing systems, which include the setup of offsite public and private warehouses for storing goods pending the completion of the clearance process. This move alleviates the financial burden of demurrages on importers.
- The Executive Regulations:
 - Grant the Customs Authority the right to carry out unscheduled audits for projects situated in free zones,
 - Mandate the free zones and special economic zones authorities to coordinate with the Customs Authority on customs related matters,
 - Outline a thorough description of the procedures and criteria for temporary clearance and temporary admittance.

Main Provisions

The following are selected key provisions of the Executive Regulations (ER) pertaining to intellectual property protection, tax brackets, customs taxes and free/special economic zones.

These regulations are geared towards a comprehensive framework that covers all customs related topics in great detail. Several provisions are new to Egypt's customs regime.



Intellectual Property Rights

- The ER provides an enhanced role for the Customs Authority on intellectual property right protection by creating an IPR unit mandated with receiving IPR- related complaints.
- IPR related complaints must be accompanied by a financial guarantee.
- IPR- related investigations may take place in parallel with the customs clearance of the shipment in question.
- The intellectual property owner must present the matter to the competent court to resort to probationary measures on the shipment in question.
- Without proof of probationary measures from the court, the Customs Authority may carry on with the clearance of the shipment.



Tax Brackets

- The tax bracket is calculated according to the actual transactional value as well as additional fees and expenses including, packaging, broker fees, licensing, patent fees, among other service fees.
- If the transactional value cannot be calculated, the Customs Authority is mandated to make the calculation based on fees imposed on similar goods in the market (in accordance with WTO rules.)
- If there is a conflict of interest between the buyer and seller involved, the Customs Authority has the right to investigate the relationship to determine the necessary procedures and ensure that the transactional value of the goods is correct.



Customs Taxes

- Customs taxes must be paid by cashless means.
- Customs taxes for manufacturing equipment may be paid in instalments.



Free Zones and Special Economic Zones

- Projects situated in free zones or special economic zones are subject to their respective laws (i.e. Investment Law and Special Economic Zones Law)
- Goods passing through free zones are subject to the same provisions as transit goods.

Main Provisions



Direct Transit

- Transit goods are allowed to pass through Egyptian ports upon fulfilling 4 requirements.
- Transit goods can be stored at offsite warehouses.
- The undertaking becomes null once notification is received by the Customs Authority of arrival of the shipment.



Indirect Transit

- Indirect transit of goods is permitted upon submitting the required documents and guarantees.
- The data provided is sent electronically to the port of destination.
- The pathway of the shipment is then determined (red, yellow, green).



Customs Declaration

- The customs declaration must be submitted in the Single Administrative Document (SAD) format.
- The customs declaration must be submitted within 2 weeks of unloading the shipment and is valid for 3 months.
- The electronic customs declaration will be uploaded on the Nafeza website.
- Electronic signatures may be used as well as physical signatures.
- If the customs data is incomplete, the customs manager will have discretion in accepting or rejecting the shipment.

Cash deposit

Letter of credit

Undertaking

Customs declaration

Delivery permit

Bill of lading

Commercial invoice

Package list

Tax guarantee

The Single Administrative Document is a customs form recognized for use in international trade

SAD

Nafeza is a one-stop-shop portal for international trade facilitation used for submitting the documentation needed for import, export & transit of goods at a single point of entry. The Customs Authority is in charge of administering the portal.

Nafeza

Main Provisions



Advance Cargo Information System

- The new Customs Law introduced the Advance Cargo Information system (ACI).
- ACI is a platform for uploading shipment data and documents prior to the arrival of the shipment in Egypt. It is mandatory for trade with Egypt, effective October 1, 2021.
- The purpose of the ACI is to eliminate the illicit trade of goods and commodities, facilitate the customs clearance process, and decrease the customs lead time.
- The ACI system seeks to remedy previous challenges facing importers and exporters, by developing an enhanced technology platform that would significantly decrease human error and bureaucracy.
- The process requires that both the importer and exporter upload data entry requirements onto the ACI platform.
- Data required includes commercial invoice, bill of lading, packing list, and certificate of origin.
- The ACI system uses blockchain technology and electronic signatures.
- The captain must present the ACID (the registration ID) upon arrival at the port of entry.



Pre-shipment Clearance

- Importers may begin the clearance process prior to the arrival of the shipment.
- Pre-shipment clearance requests are submitted electronically through the Nafeza portal.
- After submitting the request, the clearance route is determined based on the criteria set forth (green, yellow, or red)
- The request must be accompanied by the ACID.



Clearance Brokers

- Customs brokers are now obliged to carry a license from the Customs Authority.
- The broker is obliged to provide the client with a signed and stamped declaration by the Customs Authority, including all settled fees and expenses.

Main Provisions



Inspection

- The Customs Authority continues to enjoy discretionary powers with regard to withdrawing samples and inspecting goods.
- Inspection by other government stakeholders (i.e. National Food Safety Authority, General Organization for Export and Import Control) present on site is permitted after the commence of customs procedures.
- Aside from goods on the green route, 5% of shipments must be inspected.
- Parties may request that inspection processes occur outside of the customs zone under certain circumstances.
- In certain cases all shipments and parcels will be opened and fully inspected at the discretion of the Customs Authority.
- Testing must be performed at the accredited labs by the pertinent Ministry, at the expense of the importer.



Penalties

- Customs smuggling crimes are considered an infringement on the rights of the state.
- Contested goods may be cleared when the customs duties and taxes are settled.
- Contested goods may be cleared upon obtaining the approval of the Head of the Central Unit pertinent to the issue.



Dispute Resolution

- The concerned party may appeal the customs categorization as per its HS code before a grievance committee.
- The dispute resolution committee comprises of a general manager level customs official and 2 other customs officials.
- The first degree of dispute resolution must be resolved before the grievance committee. Failure to do so may lead to the referral of the case to arbitration.
- During the process, the contested goods will remain under the Customs Authority's supervision.

Thank you

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