

NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 2383 [NW2622E]
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2383. Mr M G P Lekota (Cope) to ask the Minister of Finance:

- (1) In light of the fact that the (a) SA Revenue Service and (b) Customs Office have proven and uncontested knowledge of the tariffs applicable to the imported material (details furnished) and given the fact that he and/or the National Treasury are provided with regular reports about extended demurrage of the specified items and cost for storage to importers, has he found that there are procedures and processes that are problematic and/or overly bureaucratic, which need speedy resolution in the interest of fairness, rationality and lawfulness; if not, how was the conclusion reached; if so, what are the relevant details;
- (2) whether he will make a statement on the matter?

NW2622E

REPLY:

The South African Revenue Services has a mandate to control the import, export, manufacture or use of goods. SARS Customs is responsible for implementing a wide range of government policies, including revenue collection, trade compliance and facilitation, control over prohibited and restricted goods, protection of cultural heritage and enforcement of intellectual property laws.

This mandate is inter alia exercised by the risk based assessment and examination (documentary and/or physical) of goods to ascertain whether the provisions of the Customs and Excise Act No. 91 of 1964, ("the Act") or other relevant legislation have been complied with. In this regard, the Act makes provision in section 4(8A) for an officer to stop and detain and examine any goods while under customs control in order to determine whether the provisions of the Act or any other law have been complied with in respect of such goods. Section 107(1)(a) of the Act further provides that all expenses of landing, examination, weighing, analysis etc. of imported goods shall be borne by the importer, owner or other person, whoever is in control of those goods. The Act further provides in terms of section 107(2)(a) that goods may be released on provision of security by the client, pending the final outcome of an intervention.

This policy position is also internationally applied in the customs legislation of other jurisdictions and is very much aligned to acceptable international practice. In instances where the goods are not dealt with in terms of section 107, such goods are transferred to the state warehouse pending the final outcome of the intervention.

All Customs declarations are submitted through automated channels and risk assessed based on a variety of factors that may include commodity type (tariff), value, origin, rebate provisions etc. In

this regard, more than 90% of all trade are automatically risk-assessed and released within seconds. The balance is subjected to documentary inspection where the officer will consider the customs declaration against a variety of trade documents in order to establish correctness and any further possible risks or interpretive matters to be considered. This may lead to further physical examination of the goods.

This process does often result in goods for a particular trader being stopped repetitively over a period of time, and accordingly, SARS was approached by trade to explore improved resolution where the importer/exporter, supplier and commodity type is the same. Formal communication was sent to trade during October 2016, outlining a process through which the client can attach supporting documents reflecting outcomes of previous identical cases for documentary inspection purposes. Customs, at the time, committed to consider and review such supporting documents in their approach to mitigate perceived risk which will assist in reducing the likelihood of an intervention that may require physical inspection. This process is being utilised successfully by most traders today, and although documentary inspection do increase the time to release goods, in most cases this process is concluded within 4 hours after trade submits supporting documents. It is to be noted that there are infrequent incidents where goods are stopped for further examination despite the supporting documentation submitted.

In instances where a trader is uncertain of the correct tariff, value or origin to use on the goods being imported or exported, such trader may apply for a firm determination from SARS. A process, which commenced in May 2018, geared at eradicating the historical tariff determination backlogs resulted in related delays been eliminated. Goods subject to tariff disputes may be cleared with SARS following the section 107 route.

Further to this, SARS Customs is in the process of upgrading its risk systems to the effect that it will provide necessary tools to inspectors to enhance their decision making capabilities and reduce unnecessary and repetitive stops.

Clients who experience delays as a result of this can also contact the Customs Contact Centre or e-mail their query to the Customs Escalations mailbox for assistance. Customs further provides a facility for a Client to apply for Release and provide surety pending the final outcome of an intervention.

In addition to this, in acknowledging the opportunities to improve service, SARS have published a Client Charter which holds SARS accountable against its commitments in processing times and resolving queries within published timeframes.
