



Comment Sheet

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PAGE NO.	CLAUSE 120.09B	COMPULSORY SEALING FOR PURPOSES OF MONITORING THE MOVEMENT OF CERTAIN CATEGORIES OF GOODS	COMMENT RECOMMENDATIONS
1	120.09B (a)	A container, the holding compartment of a vehicle capable of being closed or a road tanker containing the following goods must be sealed with an electronic seal conforming with the requirements listed in paragraph (b):	<p>Does holding compartment include vehicles with curtain sides? Bear in mind each curtain can open on its own, meaning each curtain would have to have its own electronic seal.</p> <p>It is suggested to include a definition of “holding compartment of a vehicle”.</p> <p>Is the sealing requirement limited to road modality only?</p>
2	(a)(i)	Goods entered for removal in bond that are in transit through the Republic and destined to a consignee in a country outside the Republic;	<p>“in transit through the Republic”. Does this only include Removal in Transit (RIT) movements in accordance with Customs Procedure Code B21.00?</p> <p>Imported goods moved through the Republic to the BELN countries are regarded as RIB movements CPC B20.00, would these movements required to be sealed?</p>
	(a)(ii)	excisable goods of tariff subheadings 2402.20 and 2402.90.2, 22.08 when removed in bulk, and 2710.12 respectively, removed for export from a customs and excise manufacturing warehouse or a special customs and excise storage warehouse, whether removed in bond by a licensed remover in bond or by the licensee of the warehouse; and	<p>Clarity is sought for which Tariff Heading(s) the removal in bulk requirement is applicable; it is understood to be only Tariff Heading 22.08?</p> <p>Reference to “<i>when removed in bulk</i>” – clarity is required as to what this will entail. Certain industries’ focus is the selling of products of TH 2208 for export and such shipments may be far less than truck loads but transported in much smaller vehicles. E.g., 100 cartons each containing 24 X 750 ml bottles.</p> <p>Ship spares and the supply of Ships’ Stores warehoused for export, are they included in the draft provision?</p> <p>;</p>

			<p>TH 2710.12 – are all light oils and not only petrol and diesel required to be sealed?</p> <p>Goods of TH 2710.12 – for clarity purposes, any goods classifiable under this heading must be sealed when removed even when accounted for in terms of duty at source principles?</p> <p>For clarity - Stock in free circulation cleared for export will not be subject to any sealing requirement even though the export may be subject to a refund of duty.</p>
	(a)(iii)	the following goods of Schedule No. 1 Part 1 Section XI, removed for export from a customs and excise storage warehouse, a special customs and excise warehouse, a rebate store or a container depot where such goods were consolidated, whether removed in bond by a licensed remover in bond or by the licensee of the warehouse or the registrant in respect of the rebate store:	What is meant by “rebate store”? Does it imply stock in the rebate store or the finished article? Rule 75.08 defines a rebate store: “for the storage of materials obtained under the provisions of section 75”. It is recommended that rebate store be replaced by “the registrant of the manufacturing warehouse”.
	(a)(iii)(aa)	Yarns and fabrics of Chapter 50 to Chapter 60;	
	(a)(iii)(bb)	articles of apparel and clothing accessories of Chapter 61 and 62.	
	(a)(iii)(cc)	other made-up textile articles of Chapter 63;	
	(a)(iii)(dd)	articles of bedding and similar furnishing articles of heading 94.04.	
	120.09B (b)	A seal contemplated in paragraph (a) must be capable of –	
	(b)(i)	locking or otherwise securing the holding compartment of the container or vehicle or road tanker;	
	(b)(ii)	detecting any tampering with the seal.	

	(b)(iii)	determining the geographical location of the container, vehicle or road tanker; and	Kindly refer to Note 2 under General. Does this mean GPS tracking?
	(b)(iv)	communicating any data collected in relation to the container, vehicle or road tanker via the Global System for Mobile Communications network for purposes of monitoring the movement of the goods.	<p>Would the monitoring via GSM, which is effectively a cellular network (requiring a device containing a sim card) be used in conjunction with the GPS requirements, as per (b)(iii);</p> <p>Does this entail that 24/7 live monitoring is required or that monitoring can take place on an ad hoc basis? Should live monitoring be required network coverage constraints must be considered.</p> <p>Recognising that GSM networks require data connection it is doubtful whether the whole SACU region is fully covered for data connection. In addition, roaming functions would be required to switch from one operator to another operator which could result in exorbitant data costs.</p> <p>The purpose of the draft rule is to monitor the movement of the goods – the fact of the matter is that the GSM networks utilised by cellular providers are not covering South Africa in totality nor the other SACU countries which could impact effectively monitoring the movement.</p>
3	120.09B(c)	The licensed remover in bond or the relevant licensee or registrant, as the case may be, who is responsible for the movement of goods as contemplated in paragraph (a), or the licensee of the container depot where the goods are consolidated for export, must –	It is requested that SARS should provide guidance to the tracking system and seals required and provide a defined set of criteria the seals need to comply with, this would effectively enable industry and SARS to jointly explore the specifications and ICT requirements.
	(c)(i)	place a seal conforming with the requirements listed in paragraph (b) on the container, vehicle or road tanker; and	Kindly refer to Note 2 under General.
	(c)(ii)	ensure that real time access to the data collected by means of an electronic seal placed on the container, vehicle or road tanker is given to the Commissioner for purposes of monitoring the seal status and geographical location of the goods.	<p>Kindly also refer to Note 2 under General.</p> <p>What specific information needs to be provided to Customs and in which format should the information be communicated?</p> <p>Real time access is required – as alluded to in the comments to (b)(iv) – real time tracking and access will only be possible</p>

			<p>if within GSM coverage and at present not all areas are covered.</p> <p>GPS tracking access and GSM monitoring access may also be systems dependent.</p> <p>In effect every seal being equipped with both GPS and GSM would have login details which is required in terms of the draft rule to be provided to SARS. This poses a risk to owners / exporters of the goods as information pertaining to locations may be breached placing the cargo at risk.</p> <p>Measures to ensure data security will have to be in place, i.e., to whom the information is provided, how it is provided. For this reason, the rule needs to be enhanced to include security measures as well as to protect private information.</p> <p>At what point does the responsibility to provide the Commissioner with real time information regarding the seal status and geographical location of the goods cease?</p>
	120.09B(d)	The route to be followed by the vehicle containing goods contemplated in paragraph (a) to the place of exit where the goods will leave the Republic must conform to requirements prescribed in terms of rule 6.01 read with item 200.03A of the Schedule to the Rules.	
	120.09B(e)	Goods referred to in paragraph (a)(i), (ii) or (iii) not capable of being sealed must be dealt with in terms of rule 64D.09(4).	Kindly refer to Note 3 under General.
	120.09B(f)	Compliance with the sealing requirement as set out in this rule may be regarded as compliance with a sealing requirement in any rule in respect of goods referred to in paragraph (a)(i), (ii) or (iii).”.	

Amendment of the Schedule to the Rules

3	200.3A	Limitations on routes for purposes of rule 6.01 read with rule 120.09B	
	(a)	Road routes for purposes of rule 6.01 read with rule 120.09B are limited to national roads as envisaged in the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998).	
4	(b)	Paragraph (a) does not preclude a remover in bond, a licensee or registrant contemplated in rule 120.09B(a) (i), (ii) or (iii) who undertook the transport of goods from using a road which is not a national road—	When routes are stipulated by Customs, routes other than toll routes be considered to reduce transport costs.
	(b)(i)	in order to—	
	(b)(i)(aa)	gain access to a national road when travelling from the starting point of the removal in transit or the removal for export; or	
	(b)(i)(bb)	to reach the place of exit after travelling on a national road; or	
	(b)(ii)	in the event of a road closure affecting a national road.”.	

General Comments

- The insertion of the Draft rules providing for the compulsory sealing of certain categories of goods for purposes of monitoring their movement in the Republic presents a unique opportunity. The opportunity beckons to enforce accountability for duties, taxes and acquittals of goods moved in bond or in transit by road via the actual licensed remover in bond. With regards to the movement of bonded cargo, there are numerous different role-players involved in managing the movement till final delivery. Each different leg of the movement requires the party involved to take on risk which creates a responsibility with regards to ensuring compliance with Customs rules and regulations.

Concern has previously been raised with regards to Customs' default approach in all instances to firstly hold the Customs Clearing Agent (declarant) responsible for producing acquittals for bonded cargo movements.

We respectfully request Customs to reconsider the current blanket approach with regards to interpreting the licensed remover of goods as the declarant in all instances relating to the liability for duties, taxes and acquittals of goods moved in bond or in transit by road. We strongly believe that more care should be taken to allow for role-players, other than the declarant, whom are also directly involved in the movement of bonded cargo to be held accountable for possible compliance failures.

2. The proposed seal would appear to be for use in a GPS-GSM environment with live tracking capabilities. Essentially it would mean that an electronic infrastructure be required to manage (track and monitor) all the seals. The requirement imposed by the legislation would effectively require removers in bond, licensees etc. of impacted cargo to obtain a system with the relevant seals similar to a GPS fleet management system.

The difference is that a fleet management system tracks only the vehicles, while in this instance a great number of seals of this nature may be required and in instances of cross border movements the seal can only be returned after an extensive period and when the truck or container returns to South Africa. It is proposed that vehicle tracking devices be compulsory and mandatory sealing but not seals capable of GPS and GSM tracking.

It is acknowledged that seals of the nature prescribed in the draft legislation will mitigate risks, assist in proving the movement of cargo which will include to serve as proof of export or proof of arrival at a specific destination, for example from manufacturing warehouse to special storage warehouse but on its own it will only pertain to the movement of the vehicle and container and not to the cargo. The only method to ensure cargo integrity will be if all load and sealing takes place under Customs/Excise supervision, i.e., the officer affixes the seal once satisfied that all the goods as per the declaration are duly accounted. The vehicle tracking can then track the shipment to the destination point reflected on the declaration.

It is requested that SARS should provide guidance to the tracking system and seals required and provide a defined set of criteria the seals need to comply with, this would effectively enable industry and SARS to jointly explore the specifications and ICT requirements.

3. Currently with Covid 19 the impact on the economy of SA and neighbouring countries has been extreme, we are only now seeing the increased movement of transit cargo both north and south bound.

Many loads of commodities and minerals are coming southbound in Tipper trucks or in bulk bags.

Several large companies have warehouses inland that containerise cargo for shipping, if this rule is fully enforced, revenue loss to these companies will be astronomical, some of them have built new and modern facilities within the last year.

Shipping lines containers are not allowed cross-border without the lodging of deposits averaging US\$8000 per container – economic impact of this costing to the consumer is huge.

SA-DRC-SA route is currently taking 40 days, shipping lines refund container deposits after 30 days – US\$8000 tied up for 70days per single container.

The availability of containers in neighbouring countries is scarce.

Bulk 1-ton bags are also common – loading on a triaxle can accommodate 6 x 1Ton bags extra to a 40' container.

Copper cathodes and billets when packed in containers affect the permitted axel loading weights for heavy duty vehicles, limiting the number of billets/cathodes loaded in containers versus triaxle/ super-link.

Many transporters use taut-liners and certain types of flat deck vehicles that cannot load containers or be sealed. Bulk tobacco and cotton are loaded in bales and cartons that do not fit well into containers when loaded in rural areas – specialised equipment is required to load the bales into containers at warehouses. These are realities that should be considered when Controllers exercise their discretion in allowing the movement of cargo under Rule 64D.09(4) LCL loads converted into consolidated loads are often shipped northbound in breakbulk vehicles, the enforcement of Rule 64D.09(4) will also impact this type of movement. In terms of the onus placed on us to facilitate trade in the region and reduce the cost of doing business in Southern Africa, the enforcement of this rule will have a hugely negative impact. We run the risk of losing transit traffic to Walvis Bay and Beira if the draft Rule is fully enforced – causing further harm to Durban Port.

4. Cost implications:

The compulsory sealing requirement may impact heavily on industry members engaged in the product types specified. The cost associated with procuring sufficient seals to cater for the different types of sealing as well as a live system will detrimentally impact companies financially, especially in the current economic situation. Preliminary investigation indicated that the cost for RFID tags that meets the requirements of the draft Rule would be around ZAR 1200.00 to ZAR 1500.00 per seal excluding the costs for imports and customs duties and VAT. The infrastructure required for track and trace is excluded from this costing and would need to be determined, in addition the track and trace requirements may require additional capacity to perform such functions potentially at an extra cost. For example, the liquor industry will be required to seal and monitor each and every shipment while being negatively impacted as a result of the restriction on sale of alcohol products. Even if the sale restrictions are lifted recovery time for the industry to become financially sound again will be required. It is also known that SARS embarked on a sealing initiative a few years back but due to the logistics and the associated cost of obtaining electronic seals elected to cancel the project.

5. Transitional period:

A transitional period, sufficient to allow impacted entities, in collaboration with SARS, to research and obtain the necessary infrastructure is required. For this purpose, a period of 45 days is proposed.