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Government Notice No. ... of 2008

THE CUSTOMS ACT

Regulations made by the Minister under section 163 of the Customs Act

1. These regulations may be cited as the Customs (Cargo Community System) Regulations 2008.

2. In these regulations –

“Act” means the Customs Act;

“AEO” means an authorised economic operator;

“AEO Certificate” means a certificate issued under regulation 8;

“authorised economic operator” means an economic operator who has been granted the status of authorised economic operator and holding an AEO Certificate under regulation 8;

“cargo” –

(a) has the same meaning as in the Customs Act; and

(b) includes container, whether in transit or not;

“cargo community system” –

(a) means the electronic network system for the submission of advance information relating to cargo before the cargo is either imported into, or exported from, Mauritius by any mode of commercial transportation; but

(b) does not include the operation of TradeNet;

“Customs Management System” has the same meaning as in the Customs (Use of Computer) Regulations 1997;

“economic operator” –

(a) means any importer, exporter, manufacturer, freight forwarding agent, broker, carrier, port operator, airport operator or proprietor or occupier of bonded warehouse; and

(b) includes any party involved in the international movement of goods in whatever function,

registered with the Director-General under regulation 5 to use the cargo community system;

“electronic declaration” has the same meaning as in the Customs (Use of Computer) Regulations 1997:

“organisation” means an organisation approved under regulation 3;

“risk” means the likelihood of an event occurring in connection with goods imported into, or exported from, Mauritius, which –

- (a) prevents the correct application of customs laws; or
- (b) poses a threat to security and safety, public health, environment or to consumers;

“risk management” –

- (a) means the systematic identification of risk and implementation of measures necessary for limiting exposure to risk; and
- (b) includes collection of data and information, analysis and assessment of risk, taking action, regular monitoring and review of process and outcome,

in accordance with international best practice;

“TradeNet” has the same meaning as in the Customs (Use of Computer) Regulations 1997.

- 3. (1) No organisation shall operate the cargo community system unless it is approved by the Minister.
- (2) Where an organisation is approved under paragraph (1), the approval shall be for a period of 10 years as from the date of the coming into operation of the cargo community system and may be renewed for one or more periods not exceeding 5 years, subject to such terms and conditions as the Minister may determine.
- 4. (1) No economic operator shall, for the purposes of section 16A(b) of the Act, import into, or export from, Mauritius any cargo, as from such date as may be determined by the Director-General, unless he submits advance information relating to cargo through the cargo community system.
- (2) For the purposes of paragraph (1), the cargo community system shall interface with TradeNet and the Customs Management System, on such terms and conditions as may be mutually agreed by the parties operating the systems.
- 5. (1) Every economic operator shall first register with the Director-General in such form and manner as may be determined by the Director-General specifying –
 - (a) his full name and address;
 - (b) the location of his computer system;

- (c) the full name and designation of each of the persons authorised to operate the cargo community system; and
 - (d) such other particulars as may be required by the Director-General.
 - (2) Where there is any subsequent change in the information or particulars provided under paragraph (1), the economic operator shall forthwith notify the Director-General in writing or electronically of the change.
- 6.** Any economic operator may apply to the Director-General for the status of authorised economic operator, in such form and manner as may be determined by the Director-General.
- 7.** (1) The Director-General shall specify, in guidelines, details of the criteria for granting the status of authorised economic operator, which shall be posted on the website of the Authority.
- (2) The criteria under paragraph (1) shall include –
- (a) an appropriate record of compliance with Customs requirements;
 - (b) a satisfactory system of managing commercial records and, where appropriate, transport records which allows appropriate Customs controls;
 - (c) where appropriate, proven financial solvency; and
 - (d) where applicable, appropriate security and safety standards.
- 8.** Where the Director-General is satisfied that the applicant under regulation 6 meets the criteria referred to in regulation 7, he shall grant the status of authorised economic operator by issuing –
- (a) an AEO Certificate – Customs Simplifications;
 - (b) an AEO Certificate – Security and Safety Facilitations; or
 - (c) an AEO Certificate – Customs Simplifications/Security and Safety Facilitations,
- to the applicant, on such terms and conditions as the Director-General may determine.
- 9.** Where the status of authorised economic operator is granted under regulation 8, the authorised economic operator shall benefit from –
- (a) the use of Customs simplifications;
 - (b) facilitations that may be granted in respect of Customs controls relating to security and safety, taking into account the criteria for risk management,
- as may be determined by the Director-General.

- 10.** (1) Any AEO Certificate shall remain valid unless it is surrendered or the status of authorised economic operator is suspended or revoked.
- (2) An authorised economic operator may, at any time, surrender his AEO Certificate.
- (3) An authorised economic operator who wishes to surrender his AEO Certificate shall give written notice of his intention to the Director-General, specifying the reasons therefor and return the AEO Certificate.
- (4) Where an AEO Certificate is surrendered, the holder shall lose the status of authorised economic operator.
- (5) The Director-General may, at any time, suspend or revoke the status of authorised economic operator where –
- (a) the authorised economic operator no longer meets the criteria for the status of authorised economic operator;
 - (b) the authorised economic operator operates in breach of the terms and conditions of the AEO Certificate;
 - (c) any information furnished by the applicant for the grant of status of authorised economic operator was, at the time when the information was furnished, false or misleading in any material particular or was subject to a material omission; or
 - (d) any director or officer of a company which has been granted the status of authorised economic operator is convicted of an offence against customs laws or of any offence involving fraud or dishonesty, or is in breach of any of the provisions of customs laws.
- (6) Where the status of authorised economic operator is suspended, the holder of the AEO Certificate shall, during the period of the suspension, cease to benefit from the simplifications and facilitations referred to in regulation 9.
- (7) The Director-General shall, subject to paragraph (8), before the suspension or revocation of the status of authorised economic operator, by written notice inform the authorised economic operator of the reasons for the proposed suspension or revocation and request him to submit to the Director-General, within 14 days of the notification written reasons as to why the status of authorised economic operator should not be suspended or revoked.

- (8) Where the Director-General is of opinion that the status of authorised economic operator is to be suspended or revoked with immediate effect, written notice of the suspension or revocation and the reasons therefore shall be given to the authorised economic operator forthwith, and the authorised economic operator shall be entitled to submit to the Director-General, within 14 days of the notification written reasons as to why the status of authorised economic operator should be reinstated.
 - (9) Where the status of authorised economic operator has been suspended or revoked, the authorised economic operator shall, on receipt of a notification to that effect by the Director-General, within 7 days, surrender the AEO Certificate to the Director-General.
- 11.** Any fee or charge imposed by the organisation for the supply of services to economic operators shall –
 - (a) not exceed 325 rupees per electronic declaration during the 3 years following the date of the coming into operation of the cargo community system; and
 - (b) thereafter, not exceed such amount per electronic declaration, as may be determined by the Director-General by taking the rate of return on equity calculated at Repo rate plus 2 per cent.
- 12.**
 - (1) No manifest or report of cargo shall be submitted to the Director-General unless it is submitted through the cargo community system within such time as the Director-General may determine.
 - (2) On receipt of the information under paragraph (1), the organisation shall immediately transmit the information to the organisation operating the TradeNet.
- 13.** The Director-General may require a hard copy of the manifest or report referred to in regulation 12 to be submitted within such time as he may specify.
- 14.** The economic operator shall be solely responsible for his login and password for all transactions made through the cargo community system and all consequences arising from its use or misuse.
- 15.** Where, in respect of any advance information relating to cargo is submitted through the cargo community system, the economic operator shall keep at his business premises, for a period of at least 5 years from the date the information is submitted, a data log providing a complete historical record of data interchanged as they are sent and received.

16. The Director-General or a proper officer may, at all reasonable times, for the purposes of these regulations enter the business premises of an economic operator and –

- (a) require the authorised economic operator or any of his employees to –
 - (i) retrieve any electronic advance information relating to cargo and submit a print-out of such information;
 - (ii) produce the documents relating to the cargo; and
 - (iii) retrieve the data log relating to a specified period and submit a print-out certified by the authorised economic operator as being true and correct;
- (b) retain any document or record and take copies or extracts therefrom; and
- (c) require any person on those premises to give him all reasonable assistance and to answer all proper questions either orally or in writing.

17. Where an economic operator ceases business, he shall forthwith notify the Director-General in writing of the cessation of the business.

18. Any person who contravenes any of these regulations shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

Made by the Minister on 20th March 2008.