



# Ministry of Finance, Federal Government of Somalia



## **Consultancy Services for Development of Somalia Integrated Tax Administration System**

### **Phase 1 Deliverable 2**

Business Systems Architecture - Customs

DRAFT

KPMG Advisory Services Limited and KasmoDev Consulting

June 2021



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## Glossary

Acronym	Description
BDV	Brussels Definition of Value
CET	Common External Tariff
CIF	Cost, Insurance and Freight
COMESA	The Common Market for Eastern and Southern Africa
DRM & PFM	Domestic Revenue Mobilisation and Public Financial Management Capacity Strengthening Project
EAC	The East African Community
ECOWAS	The Economic Community of West African States
EU	The European Union
FGS	Federal Government of Somalia
FOB	Free on Board
GATT	General Agreement on Tariff and Trade
HS	Harmonised System
ICT	Information Communication Technology
ITAS	Integrated Tax Administration System
MoF	Ministry of Finance
PCA	Post-Clearance Audits
FMIS	Financial Management Information System
SW	Single Window
TIN	Tax Identification Number



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# 1 Introduction and Background

## 1.1 Background

The World Bank governance operations in FGS are focussed on building institutions to enhance service delivery. The Domestic Revenue Mobilisation and Public Financial Management Capacity Strengthening Project (DRM & PFM) project is strengthening systems for revenue mobilisation (to ensure increased revenue collection) and expenditure management (to help government spend it wisely).

There is an existing Financial Management Information System (FMIS) which provides basic revenue receipting and Tax Identification Number (TIN) generation functionalities for Inland Revenue collections. There are ongoing discussions about improving the TIN structure. Most Government revenues are receipted through the FMIS, which is connected to several revenue points.

To scale up DRM & PFM's early successes, The World Bank governance support is directed at modernisation and automation support in FGS focussed on:

- i. development and implementation of integrated revenue automation system/ Integrated Tax Administration System (ITAS) including user requirement specifications
- ii. Information and Communication Technology (ICT) strategy
- iii. establishment of ICT Competency Centre
- iv. financing and supporting deployment of a 'fit-for-purpose' ITAS fully interfaced with FMIS, and
- v. training and change management strategy development and implementation, to facilitate adoption of the system by both staff and taxpayers

## 1.2 Vision

The ITAS project seeks to deliver a “fit-for-purpose” robust, dynamic, scalable, efficient and futuristic Integrated Tax Administration System (ITAS) that meets FGS current and future needs.

The project will implement a “fit-for-purpose” robust and technologically advanced Integrated Tax Administration System through business process reviews, research, selection, deployment processes and quality assurance that will support the delivery of effective service to citizens while protecting and maintaining internal and regulatory controls to maximise stakeholder value.

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### 1.3 Objectives

The objective of this assignment is to assess, design, support government to procure a third party "fit-for-purpose" ITAS system, and quality assure the third party, in a phased manner following the client priorities. This includes:

- Phase 1 - Design the "Fit for Purpose" tax administration system which fits the budget and local context of Somalia
- Phase 2 - Support Government to Procure a third-party Service Provider who shall implement the fit for purpose ITAS
- Phase 3 - Quality Assurance (QA) role over implementation of the fit for purpose ITAS by the third-party service provider

### 1.4 Goal of this Report

The goal of this report is to document the 'to-be' processes that will be automated focusing on:

- a) linkages between business needs and the ITAS
- b) functional gaps
- c) recommendations to improve and simplify procedures, forms and steps and functional gap analysis which compares actual performance with potential or desired performance, fully indicating estimated time and cost saving as a result of the recommendation.

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## 2 Approach and Methodology

This section provides a description of the approach and methodology for the design of the “To-Be” for Customs function.

The KPMG and KasmoDev consulting team began by planning to gain a detailed understanding of the customs operations in FGS. A robust engagement was undertaken by holding various face to face and virtual interviews with the targeted respondents from the Customs Department that included senior leadership, management and customs staff in FGS. The interviews were augmented by providing a tailor-made data collection tools that were filled by the FGS customs staff explain the detailed operations of Custom functions.

Additionally, a review was done for the various customs laws, policies and procedures that are required to be implemented in the FGS customs sections. We held a walkthrough exercise in order to validate how the policies and procedures are currently applied.

An “As-Is” validation workshop was organised with the staff of FGS Ministry of Finance (including Customs), in order to validate the understanding of the “As-Is” operations in FGS customs section.

Our understanding of the “As-Is” state assisted us in identifying the weaknesses and gaps in the current customs practices. After understanding the “As-Is”, a bench marking review was conducted on the best practices against trade blocks of COMESA, EAC, ECOWAS, SADC and EU to understand their customs management and import and export schemes, methods and procedures. We also conducted a review of the WTO GATT Valuation Agreement and adopted best practices on Customs Valuation (CV) and international trade practices.

The “To-Be” design assists us in suggesting and developing customs processes and procedures that aims in addressing the weaknesses and gaps noted in the current processes as well designing new processes that are in line with best practices regionally and internationally.



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### 3 Gaps/ Pain-Points from “As-Is” Assessment

The gaps uncovered during the “As-Is” Assessment are shown in Table 1 below:

Table 1 - High-Level view for Customs Tax Instrument and Processes To-Be

Tax category	“As-Is” Findings	Gaps/ Pain-Points considered
<b>Custom Taxes</b>	<p>The current import clearance of goods and services is manual and involves completion of paperwork prior to release of goods and supplies from the ports. At the port of entry, customs department performs the following steps and reviews the following documents:</p> <ul style="list-style-type: none"> <li>— Tariff identification</li> <li>— Bill of lading</li> <li>— Packing list</li> <li>— Declaration forms</li> <li>— Manifest documents</li> <li>— Manifest office clearance</li> <li>— Visit/pre inspection of goods and supplies</li> <li>— Valuation office to determine the value of goods and services</li> <li>— Control/ Visit - post inspection; release of goods</li> </ul>	<ul style="list-style-type: none"> <li>— Custom system is not fully interfaced with IFMIS for ease of reporting. Interface should be done.</li> <li>— Not based on best practice pricing - ad valorem (but rather invoice from the custom system – Ad-valorem to be considered and implemented including HS coding system</li> <li>— Lack of tax awareness campaign/ education for the importers and exporters to understand importation and exportation process to enable the importer to furnish customs with the full, supported by documentary evidence - Clarity on customs procedures should be in place</li> <li>— The Import tax rates per category of imported goods are not provided explicitly in the Customs regulation</li> <li>— There should be a clear system of valuation of imports and exports. WTO GATT valuation should be introduced.</li> <li>— There should be clear transit procedures</li> <li>— In determining the value of imported goods for the purpose of levying ad valorem duties, Customs Valuation, Tariff Classification and Rules of Origin play a significant role. Adoption of the customs valuation as provided for in the WTO Agreement on Customs Valuation (GATT Valuation) should be implemented. This will mitigate the risk of under valuation of goods or split shipment and customs disputes.</li> <li>— The valuation methods to use should be applied in a chronological order as indicated below:               <ol style="list-style-type: none"> <li>1. the transaction value method</li> <li>2. the transaction value of identical goods</li> <li>3. the transaction value of similar goods</li> <li>4. the deductive value method</li> <li>5. the computed value method</li> <li>6. Fall back method</li> </ol> </li> <li>— The Brussels Definition of value (BDV) (1950-1953) is outdated and should be replaced with GATT Agreement on Customs Valuation (1994) because BDV is based on:               <ul style="list-style-type: none"> <li>✓ Notional Concept</li> </ul> </li> </ul>

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Tax category	"As-Is" Findings	Gaps/ Pain-Points considered
		<ul style="list-style-type: none"> <li>✓ assumed conditions the merchandise to be valued would be sold</li> <li>✓ Arbitrary administration</li> <li>✓ Lacking transparency</li> <li>✓ Not responsive to today's international trading environment</li> </ul> <p>— Whereas GATT Agreement on Customs Valuation is:</p> <ul style="list-style-type: none"> <li>✓ Based on Price Actually Paid or Payable</li> <li>✓ Fair</li> <li>✓ Uniform</li> <li>✓ Neutral system</li> <li>✓ Conforming with commercial realities</li> <li>✓ Precludes the use of arbitrary and fictitious values</li> </ul> <p>— The role of clearing and forwarding agents should be considered. Customs clearing agents in the process of clearance is to act on behalf of the owner of goods. Since the law provides for Customs Clearing agents, they should be the first point of contact by the importer or exporter. They also provide Customs advisory services to the importer and exporter before they a furnish their declaration to customs.</p> <p>— Obligations of the clearing agent should be:</p> <ul style="list-style-type: none"> <li>✓ Capturing of customs entries electronically</li> <li>✓ Avail proper accompanying documents to customs</li> <li>✓ Respond to queries from customs related to declarations</li> <li>✓ Assess of the proper taxes</li> <li>✓ Pay appropriate taxes in time</li> <li>✓ Facilitating customs examinations of goods</li> <li>✓ Delivery of goods to the owner</li> </ul> <p><b>Import documents</b></p> <p>— The owner of the goods is required to produce documentary evidence as proof of the declaration made to customs. Documents produced should depend on the nature of goods imported. The key documents include:</p> <ul style="list-style-type: none"> <li>✓ Supplier's invoice</li> <li>✓ Bill of lading</li> <li>✓ Certificate of origin</li> <li>✓ Freight invoice</li> <li>✓ Health/Agriculture certificates, etc depending on goods</li> <li>✓ Packing list, etc.</li> </ul>

## 4 “To-Be” Business Systems Architecture for Customs

### 4.1 Customs at a glance in FGS

Customs duties are defined as all taxes, duties, levies and fees that are required to be paid to Customs on imported or exported goods. In FGS, there are no duties on exports. Taxes collected by FGS Customs Include:

- Customs duty
- Excise Duty

Customs duties ensure that local and foreign business can compete fairly, by ensuring a level playing field (Excise Duty) and supporting domestic manufacturing industries. FGS does not belong to any Customs union and does not apply advalorem duties. Currently, there is no HS Coding system in FGS

#### 4.1.1 Taxation of imported goods

FGS Customs has a software where values of imported goods are predetermined. The Customs officers enter the value of goods using invoice and manifest as import documents and the tax is automatically determined by the system. It may be based on kilograms or value.

#### 4.1.2 Recommendation

Electronic Single Window (SW) should be established and used to manage imports. The SW is an online portal aimed at facilitating trade by ensuring all trade related information required by government institutions is submitted only once. This reduces the compliance burden and time taken when importing or exporting goods. The SW also increase transparency by clearly showing when information was submitted, changed or approved, and by whom.

The SW is used by Clearing Agents, Customs Officials and other government institutions as required. Clearing Agents use the SW on behalf of taxpayers during the importing and exporting process

#### 4.1.3 Valuation of imports

Currently, imports are valued at cost (Free on Board). Imports can be valued as Cost, Insurance and Freight (CIF) to bring in more revenue for FGS. This is equal to the cost of the goods, the cost of any insurance paid on the goods and the freight costs of transporting the goods to the first point of entry of FGS. Exports are valued as Free on Board (FOB). This is equal to the cost of the goods only.

Whether using the CIF or FOB valuation, the declared value must be supported by commercial invoices, as well as insurance and freight invoices where applicable and the manifest.

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If goods have been purchased in a foreign currency, importers declare the value and pay taxes in foreign Currency.

**4.1.4 Harmonised System (HS) Code**

Harmonised System (HS) Code is an internationally standardised system used to classify traded products. The taxpayer provides a description of the type of goods to the Clearing Agent/customs officer, who is trained to select the correct HS Code. Selecting the correct HS Code is important for ensuring the correct amount of tax is declared and paid

**4.1.5 Customs Tariff Nomenclature**

It means a systematic naming or enumerating of all goods found in international trade along with international rules and interpretations.

**4.1.6 Customs tariff**

Means, a systematic classification of goods entering the international trade for National interests together with rates of duties.

**4.1.7 Classification of goods**

Means, a process of arriving at a heading or sub-heading of a commodity entering the international trade.

**4.2 “To-Be” – Import-Export Process**

On arrival of goods, the importing or exporting taxpayer must provide the Clearing Agent/customs officer with valid documents proving the value and authenticity of their consignment. The mandatory documents that taxpayers importing goods must present are:

- Commercial Invoice or equivalent document, showing the value and description of all goods within the consignment
- Packing List lists the goods being transported within the consignment. Others are freight invoice and bill of lading and any other document that FGS customs may require

Process of clearing goods

- 1 Arrival of the vessel
- 2 Presentation of documents by the clearing agent or the importer
- 3 Submission of the declaration to the SW
- 4 Allocation of the goods to red, green, yellow or blue channel
- 5 Inspection and verification by the customs officer
- 6 Valuation and issuance of invoice by customs officers
- 7 Payment of taxes to the bank

Figure 1 below illustrates the Customs process at the border.

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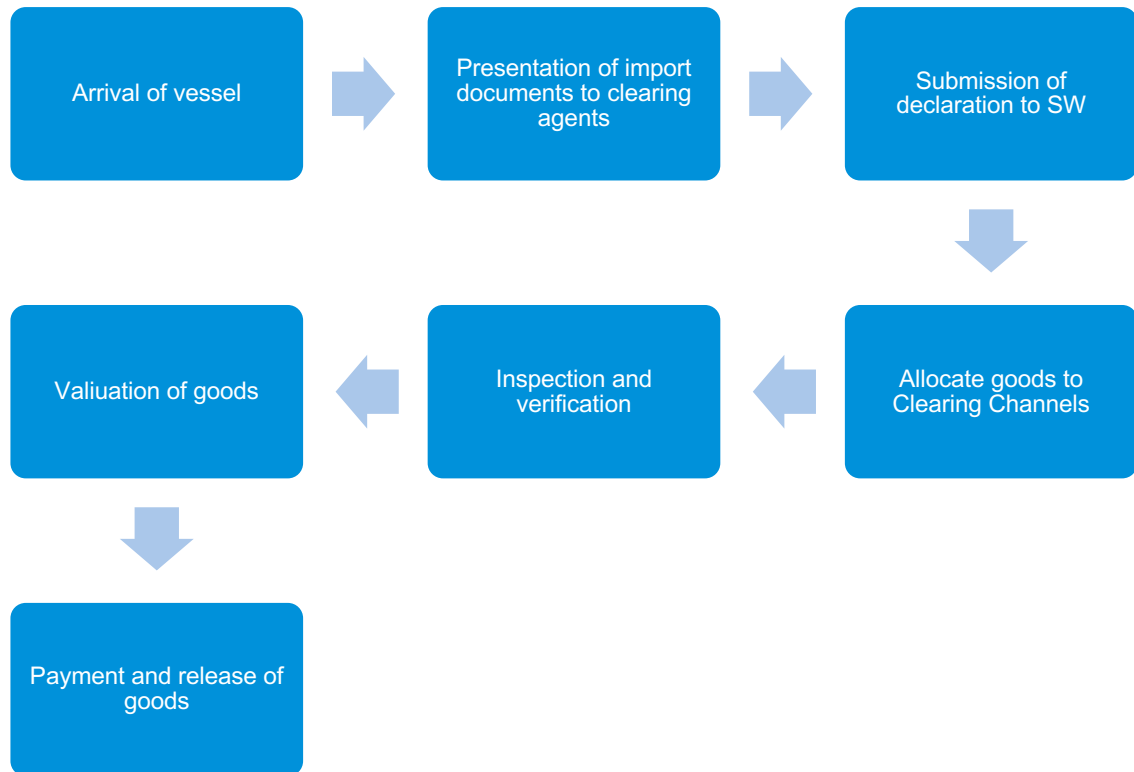


Figure 1 - Customs process at the border

Exports can also be given the certificate of origin. FGS exporters can apply for a Certificate of Origin through their Clearing Agent. The Clearing Agent applies on the FGS electronic Single Window (SW) and provides the required evidence at any Border Post or Dry Port.

#### 4.2.1 Management of Goods at the Port

When goods arrive at the port, they should be managed as follows to facilitate trade and quick clearance.

- Green – No verification, immediate release of goods from the port is done
- Yellow – Documentary verification is required
- Blue – No verification, immediate release of goods, available to taxpayers with history of correct compliance
- Red – Documentary and physical verification are conducted

Figure 2 below illustrates process for managing goods at the Port.

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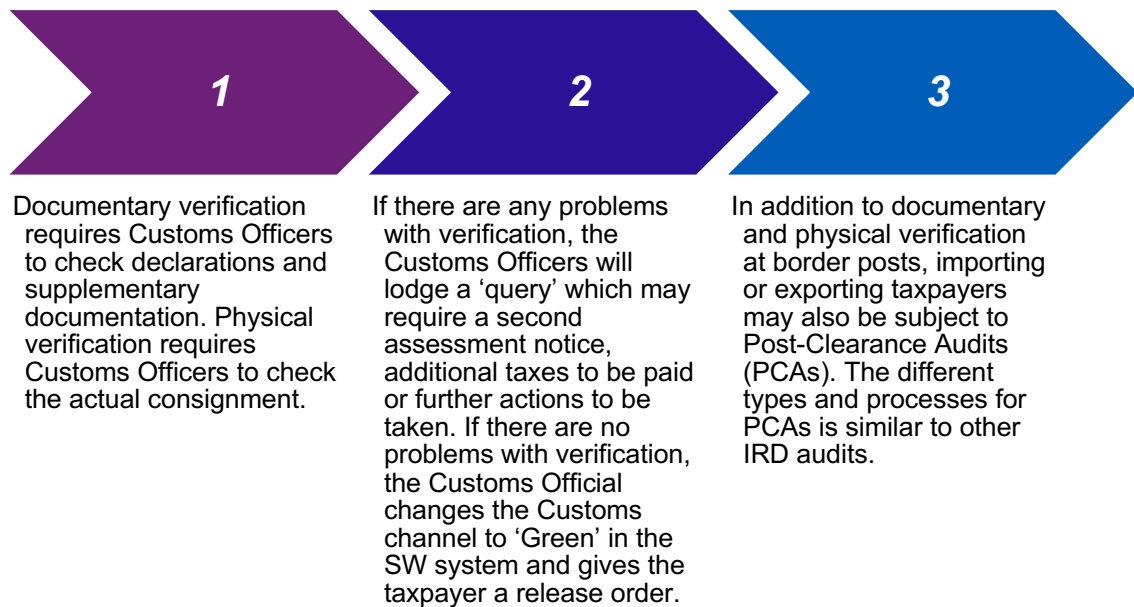


Figure 2 - Process for goods management at the Port

#### 4.2.2 Warehousing of Goods

Currently, there is a problem of warehousing goods at the port or in the private bonded warehouses before they are cleared for home consumption. Warehousing is considered as part of the logistics chain offering handling, weighing, recording, documenting, storing and delivering of goods to the last consumer after all customs and regulatory procedures completion.

The activities of logistics therefore include the following:

- Freight consolidation and transportation (land/rail/sea/air)
- Warehousing
- Material handling
- Packaging and packing
- Order processing
- Market forecasting and consumer service

Warehousing is the storage and care of goods in an environment where they retain their utility until such time that they are removed either for processing, storage elsewhere, sale or end use. Warehouse refers to a facility that provides a proper environment for the purpose of storing goods and materials that require protection from the elements.

The importance of warehousing lies in the functions and the processes it enables, including:

- Cargo Handling
- Stock piling

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- Documentation
- Product mixing
- Consolidation
- Distribution
- Customer satisfaction
- Fumigation
- Weighing and measuring
- Repacking
- Inspection and verification
- Customs clearance

Different Warehouse types include:

**1) Private Warehouses**

The warehouses which are owned and managed by the manufacturers or traders to store, exclusively, their own stock of goods. The design and the facilities provided therein are according to the nature of products to be stored.

**2) Public Warehouses**

The warehouses which are run to store goods of the general public are known as public warehouses. Anyone can store his goods in these warehouses on payment of rent. An individual, a partnership firm or a company may own these warehouses.

To start such warehouses license from government is required and the government operates the operations.

**3) Government Warehouses**

These warehouses are owned, managed and controlled by central or state governments or public corporations or local authorities. Both government and private enterprises may use these warehouses to store their goods.

**4) Bonded Warehouses**

These warehouses are owned, managed and controlled by government as well as private agencies. Private bonded warehouses have to obtain license from the government. Bonded warehouses are used to store imported goods for which import duty is yet to be paid.

Warehouses provide a wide range of value-added services. This requires the warehouse to apply labour and, in some cases, special equipment to the customer's products, such as repackaging, further processing, or labelling.

They also require additional billings.

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Different types of goods can be warehoused. These can be categorised as:

**1) Perishable Goods**

These require specific control of temperature and other elements of the environment. This control is to reduce rate of negative change in the nature of the cargo. This is achieved by cooling, chilling and or freezing. Examples of such cargoes include meat, fish, milk products, milk and fresh produce e.g. vegetables etc.

**2) Non-Perishable Goods**

These are goods whose conditions remain unchanged over long periods of time under normal storage conditions. However, if they stay for extremely long periods in storage, their condition begins to change. Such goods include cereals, coffee, tea, hides and skin, machinery, cars, general merchandise, hazardous goods etc.

Any warehouse is said to be an ideal warehouse if it possesses certain characteristics, which are given below:

- Should be located at a convenient place near highways, railway stations, airports and seaports where goods can be loaded and unloaded easily
- Mechanical appliances should be there for loading and unloading the goods.
- Adequate space should be available inside the building to keep the goods in proper order
- Warehouses meant for preservation of perishable items like fruits, vegetables, eggs and butter etc. should have cold storage facilities.
- Round the clock security arrangement should be there to avoid theft of goods.
- Proper arrangement should be there to protect the goods from sunlight, rain, wind, dust, moisture and pests.
- Sufficient parking space should be there inside the premises to facilitate easy and quick loading and unloading of goods.
- The building should be fitted with latest fire-fighting equipment to avoid loss of goods due to fire.

### **4.2.3 Clearing and Forwarding Agents/ Freight Forwarders**

#### **4.2.3.1 Roles of Clearing and Forwarding Agents/ Freight Forwarders**

Roles of Clearing and Forwarding Agents/Freight Forwarder include:

- They act as agents of shippers and consignees in regard to facilitation and processing of cargo clearance from customs areas
- They also advise the shipper correctly on all his obligations
- Make correct declarations on behalf of the importer, shipper/exporter

A Freight Forwarder by virtue of being a Customs Agent and on the other hand an agent of the shipper/exporter/importer has to interact with other parties during the





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process of clearance of goods that may include but not limited to government agencies and ship agents.

Specifically, they ensure that:

- Ensure conformity on regulations and or restrictions as may be determined by the Government agencies.
- Ensure that requisite documents are lodged on time with other trade logistic interveners like ship agents, container freight stations etc.
- Collect such documents as may be issued by interveners

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#### 4.2.3.2 *The International Legal Framework of Freight Forwarders*

Several legal frameworks for Freight Forwarders include:

- **The Hague Visby Rules (amended by the Brussels protocol 1968)** - govern the carriage of Goods by sea and are employed by the shipping lines on their bills of lading under contract of carriage. They define who the carrier is, the consignee, shipper etc. They spell out the liability of the carrier and the time allowed reporting loss and damage to the goods while under the custody of the carriage.
- **Hamburg Rules (United Nations Convention on Carriage of Sea 1978)** - They define the carrier, shipper, consignee etc.
- **Warsaw Convention (Amended at The Hague, 1955 and by protocol no. 4 of Montreal, 1975)** - These laws apply to the carriage of goods by air in regard to persons, baggage and cargo transported by air.

#### 4.2.4 **Ports**

##### 4.2.4.1 *Port Operations*

In general, Ports are used for gathering huge amounts of goods both for local, regional and international needs.

Specific importance, roles or functions may include:

- Loading and offloading of cargo
- International Trade Facilitation
- Revenue collection
- Immigration Control
- Embarking and disembarking of passengers
- Limitation of International trade crimes
- Economic contribution to the country
- Creation of Employment
- Facilitation of the supply chain
- Port as hub- country entry and exit point

Ports should have sufficient infrastructure. Infrastructure can be anything that facilitates the production of services and goods for example roads are important because they help in transporting goods and distributing them to the market. Infrastructure in some other context may also include hospitals, schools and various other basic social services at the port.

Superstructure may include port equipment, cargo handling equipment like forklifts, pallets, cranes, excavators etc.

Infrastructure may include buildings, roads, information technology, hospitals, police centres, etc. and Security Equipment.

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Port Clearance is part and parcel of customs clearance which focuses on how goods are inspected, paid for respective port dues and how the goods move in and out of the port area. Different ports have different clearance procedures depending on the level of automation ports have reached.

FGS has manual systems whereby all procedures involved are handled manually with more paperwork involved such as use of cargo manifest, port revenue invoice, gate passes, cargo/container interchange and cargo release notes.

FGS should consider full automation where they can establish a web-based cargo clearance system where Clearing Agents in line with Port community system can clear port cargo through their offices.

#### 4.2.4.2 *Port Charges*

The Port Cargo Tariff consist of total charges paid at the port by the cargo owner and ship owner for services rendered in respect of that cargo or ship. It does not matter what type of port it is these charges will always attach to cargo or ship passing through a port. These charges are normally based on unit tonnage and unit volume, but they may also be value related (ad valorem), or related to the nature of the cargo, such as passengers, live animals, dangerous cargoes.

FGS may consider adopting ad valorem port charges to enhance revenue collection.

In formulating port charges/pricing policies and establishing tariffs, FGS should endeavour to incorporate the following pricing objectives:

- To promote the most efficient use of the facilities: A principal objective of port pricing is to ensure that port facilities are used in the most efficient manner. The pricing system can influence the utilization of assets particularly when the demand for the services is price elastic. When demand for a service is inelastic, other measures, generally more authoritative than pricing, have to be found
- To retain the benefits resulting from investment within the country: An objective of port pricing of particular interest for ports in developing countries is to establish charges at a level that tends to retain the benefits arising from port improvements within the country
- To recover sufficient revenue to meet financial objectives: A third objective relates to building up financial reserves to prepare for unexpected falls in revenue or rises in costs. Nevertheless, the acceptable amount of the reserve may be limited, if other more important objectives, for instance the improvement of the utilization of assets, are to be achieved
- Other objectives of port pricing include: minimizing total logistics costs from a national point of view; providing an incentive to port users to improve their facilities and services; and ensuring that the tariff is both practical and simple

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#### 4.2.5 Consideration of Conducive Tariffs

The following should be considered in order to arrive at conducive tariff rates for FGS to benefit from favourable Tariff that will create larger market, releasing the potential for trade, economic growth and employment creation. The revised FGS Tariff should meet the following needs of the FGS private sector and other stakeholders:

- Increased domestic production
- Greater business opportunities
- Higher regional imports and exports
- Access to cheaper inputs and consumer goods
- Greater employment opportunities
- More foreign direct investment and joint ventures
- The creation of regional value chains
- Poverty reduction
- Expanding industrial opportunities,
- Increase domestic production,
- Greater business opportunities,
- Increase in exports- intra/extra regional trade
- Access to cheaper inputs and consumer goods,
- Reduction of items in the exemption regime, to allow for development of local/regional industries
- Strengthen the resolve to counter counterfeits, substandard products

Regional and Comparable Tariff Structures include:

- 1 The Common Market for Eastern and Southern Africa (COMESA) Tariff Structure
- 2 The East African Community (EAC) Tariff Structure
- 3 The Economic Community of West African States (ECOWAS) Common External Tariff (CET)
- 4 The European Union (EU) Tariff Structure

##### 1) COMESA Tariff Structure

The COMESA tariff structure is shown in Table 2 below.

Table 2 - COMESA tariff structure

Categories	Percentage of Duties	Goods Description
0	0%	Essential social goods.
1	10%	Goods of primary necessity, raw materials and specific inputs, Specific goods for economic development
2	25%	Final Consumption goods.

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The COMESA tariff considers changes in technology and the patterns of international trade that require extensive modifications to the Convention on Nomenclature for the Classification of Goods in Customs Tariffs, done at Brussels on 15 December 1950. The COMESA tariff structure is also designed so that the degree of detail required for Customs and statistical purpose by Nomenclature and recognises the importance of accurate and comparable data for the purpose of international trade negotiations.

The COMESA harmonized System is intended to promote as close a correlation as possible between import and export trade statistics and production statistics.

**2) EAC Tariff Structure**

The theoretical structure of the EAC Common External Tariff (CET), where raw materials and capital goods are at zero, intermediate goods at ten and finished goods at twenty five percent is fairly consistent with a balanced trade policy approach. Lower tariffs on inputs to production (capital goods, raw materials and intermediate goods) are all important for cost competitiveness. To the extent that low tariffs on these items are maintained, it is not necessary to have high tariffs on finished products to maintain a reasonable level of effective protection for companies.

The EAC Tariff Structure 2017 is shown in Table 3 below.

Table 3 - EAC Tariff Structure 2017

Categories	Percent Duties	Goods Description
0	0%	Raw materials and capital goods
1	10%	Intermediate goods
2	25%	Finished goods
3	Over 25%	Sensitive Items

**3) ECOWAS Common External Tariff (CET)**

Article 3 of the ECOWAS Revised Treaty defines the aims of the community as promoting “*co-operation and integration, leading to the establishment of an economic union in West Africa ....*”. In order to achieve this, the community is to ensure, in stages, among other means, the establishment of a common market through “*the adoption of a common external tariff and a common trade policy vis-à-vis third countries...*”.

To this end, the ECOWAS Authority of Heads of State and Government established an ECOWAS Customs’ Union. A common external tariff with a common nomenclature so that customs procedures are transparent, readily followed and delays at borders decreased, was a key milestone in achieving this union. Following this, the Authority of Heads of State and Government of ECOWAS adopted in January 2006 in Niamey a decision establishing the ECOWAS-CET which draws on the basic UEMOA CET composed of five tariff bands, or rates of customs duty as indicated in Table 4 below.

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Table 4 - ECOWAS Tariff structure

Categories	Percent Duties	Goods Description
0	0%	Essential social goods.
1	5%	Goods of primary necessity, raw materials and specific inputs.
2	10%	Intermediate goods.
3	20%	Final Consumption goods.
4	35%	Specific goods for economic development

#### 4) EU Tariff Structure

The EU Customs Union has a wall of 12,651 tariffs known as the Common External Tariff on defined goods imported from outside EU. These tariffs are not only numerous, but ever-changing and are sometimes bewilderingly detailed, complex and of astonishing scope. All tariffs are overseen by a common coding hierarchy making it easier to compare with the other 190 nations belonging to the World Customs Union. According to data from HMRC (Her Majesty Revenue and Customs) – the largest share or 34% of tariff revenue is collected from clothing and footwear usually made in the developing world. Thereafter, it breaks down into much smaller parts starting with electrical goods at 7.67% share followed by plastics with 5.77% share. The collection of duties on sensitive protected sectors like food, vehicles and steel made outside of the EU single market is surprisingly small. Coffee – not even grown in Europe, has 7 different types of Tariff.

Most individual tariffs – 2,676 – are levied within the Section entitled “Products of the chemical or allied industry” followed by Machinery and mechanical appliances – 2,336 and prepared foodstuffs and beverages – 1,686. The chapter with the highest number of tariffs is “Organic Chemicals” with 1409. In total, there are 36 different categories of tariff, with two-thirds given over to straightforward percentage plus value and many complex variations related to food (The Essential Guide to EU Import Tariffs 2016).

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**Proposals for FGS Tariff Structure**

The proposed FGS tariff structure, to borrow from international leading practices practise, should be supportive of value chains approach focusing on development interventions, fostering vertical and horizontal linkages between input suppliers, producers, processors, sellers and buyers of a goods.

Table 5 shows CFTA CET bands and structures in comparison with operational RECs.

Table 5 - CFTA CET bands and structures in comparison with operational RECs

RECs	No. of tariff bands	CET & RoO Structures	Duty Rates (%)
East African Community (EAC) CET since: 2005	3	Raw materials & capital goods	%
		Intermediate goods	10%
		Finished products	25%
		Sensitive products	35%-100%
Common Market for Eastern and Southern Africa (COMESA) CET since: 2012	4	Raw materials, primary goods, capital goods and medicines	0%
		Intermediate goods	10%
		Final products	25%
Southern African Customs Union (SACU) CET since: 1910	3	Products of animal origin, ores, fertilizers, cork, pulp of wood, silk, some minerals (e.g. nickel, lead, and zinc), and other base metals.	0%
		Mainly dairy products	96%
		Worn clothing	624%
Economic Community of West African States (ECOWAS) CET since: 2013	5	Essential social/capital goods	0%
		Goods of primary necessity, raw materials, and specific inputs	5%
		Intermediate goods	10%
		Finished consumption goods	25%
West African Economic and Monetary Union (UEMOA) CET since: 2001	4	Specific goods for economic development	35%
		Essential social goods	0%
		Essential/basic raw materials, capital goods and specific inputs	5%
		Intermediary products	10%
Central African Economic and Monetary Community (CEMAC) CET since: 1994	4	Final consumer goods	20%
		Basic necessities	0%
		Primary raw materials & capital equipment	10%
		Intermediate /semi-finished goods	20%
CFTA		Final consumer goods	30%
		Builds on acquis of RECs and TFTA	
		Covers goods & services	
TFTA		Targets liberalising 90% of continental trade	
		Tariffs under negotiation	

Source: Various Treaties

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#### 4.2.6 Duty Remission Scheme

The duty remission scheme aims to provide manufacturing firms with key inputs at lower tariff rates. The scheme should be envisaged in the FGS Customs. Theoretically the scheme allows the import at zero tariff or reduced rate of an approved list of inputs for an approved list of importers for the purposes of export or for home consumption

**Positive effects** of DRS on Rwanda's Economy include:

- 1 Duty Remission results in less costly inputs for industrial growth and leads to job creation
- 2 The scheme assists manufacturing companies in lowering cost of production and price of goods thus improving consumer welfare.
- 3 It allows access to industrial inputs many of which are not produced in the FGS

#### 4.2.7 Exemption Regime

The exemption regime aims at importing goods in the country duty free either to facilitate industrial growth and agricultural development or to improve social economic wellbeing of the society.

**Positive effects** of exemptions:

- 1 Exemptions leads to improvement of social welfare of the citizens whereby goods are imported at zero duty thus increasing its affordability, such as goods related to health, education and agriculture
- 2 Facilitates investment and industrial growth. Industrial machinery and raw materials that are exempt from duties lead to industrialization thus improving the wellbeing of people and job creation and economic development
- 3 Diplomatic goods are also exempt to facilitate diplomats access goods free of duty

**Negative effects** of exemptions:

- 1 Loss of revenue on imports. Revenue is foregone when goods are exempt.
- 2 It stifles competition and development since outsourced goods become cheaper than locally produced goods
- 3 Does not encourage industrialization because goods which would be locally manufactured are imported from other countries
- 4 Exemptions creates problems of balance of payment problems where imports remain higher than exports thus affecting economic growth

The following goods shall be exempted from import duties on the conditions specified:

- Objects belonging to foreign sovereigns or Head of State who come to stay in FGS on a basis of reciprocity
- Objects and Motor Vehicles belonging to diplomatic or consular agents accredited to the FGS on a basis of reciprocity. Objects necessary for the initial establishment of diplomatic and consular offices, Motor Vehicles and other objects for official use, based on reciprocity.
- Objects and Motor Vehicles belonging to the representative, officials and experts of the International Organisations in its Specialised Agencies and other International Organisations in accordance with Agreements ratified by Law.



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Objects and Motor Vehicles for official use of the United Nations Organisation, its specialised agencies or other International Organisations and objects and Motor Vehicles necessary for the execution of projects carried out in FGS by these organisations in accordance with agreements ratified by law except for more comprehensive concessions under agreements converted in law. Also one Motor Vehicle for three years for experts contracted and paid by foreign governments or International organisations, for the execution of bilateral technical assistance programmes in FGS is exempt. The exemptions are granted by the Ministry of Finance with prior authorisation.

Customs permits the sale or other disposal of objects or motor vehicles imported duty free to persons or for purposes other than those originally stipulated after payment of import duties due on the basis of the value of the objects or motor vehicles at the time of their sale or disposal.

- Personal belongings, furniture, radio receivers, sound recorders, cameras, cinematographic cameras and projectors(8mm), firearms, typewriters and sewing machines, household items, professional tools and instruments excluding motor cars belonging to persons taking up residence in FGS for whatever reasons provided the items are all used and are not excessive in relation to the status of the person concerned
- The goods may be imported in separate shipments within six months from the date of the person's arrival in FGS Exemptions shall be granted by the customs authorities on submission of an application together with an itemised list of the goods to be imported in one or more shipments, and a residence certificate issued by the municipal authorities or an equivalent document.
- Traveller's personal belongings, firearms, cameras, cinematographic cameras (8mm), sewing machines and typewriters, portable furnishings and instruments, and the small provision of books and bed and table linen they bring with them, provided the items are all used and are not excessive in relation to the status of the persons concerned
- Clothes used theatrical props and operatic scores which actors and singers bring with them, entertainers used instruments and performing animals for public performances. Exemption shall be granted on submission to the customs authorities of an itemised list of the foregoing articles
- Objects used in religious worship which are sent to religious missions and communities in the State
- Publications and other objects donated directly to cultural institutes or organisations or organisations and to be used for scientific or cultural purposes
- Sample of goods, provided they are not directly utilisable
- Publications, diaries, calendars, booklets, postcards, posters, metal plates, albums, illustrated and other catalogues, and price lists to be distributed free of charge to advertise tourism or business
- Stamps, stamped paper, bank notes and other instruments of credit

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- Goods imported directly by the governments or purchased after their arrival but before they are cleared through the customs. In the latter case, exemption shall be granted only on submission of an authorisation issued by the Ministry of Finance
- Materials required for organising the Desert Locust Survey, for use in the anti-locust campaign and for the malaria eradication campaign
- Gifts and aid in kind to populations struck by public disasters
- Artificial limbs and invalid wheelchairs
- Materials to be used exclusively by the blind, imported by the organisations for assistance to or re-education of the blind, or institutions attached to them
- Machinery, parts thereof, shipbuilding materials for ships sailing under any flag
- Selected domestic animals, male and female, for breeding and domestic animals to be used in agriculture
- Live trees and other plants, slips, cuttings, tubers, selected seeds for field and kitchen garden crops, fertilisers and parasiticides to be used exclusively for agriculture provided they are imported directly by the agricultural establishments concerned or their exclusive agricultural use is provided
- Professional fishing equipment, but not equipment for fishing as a sport
- Shops' stores, excluding monopoly goods, for the exclusive use of passengers and crews, to be used during the voyage and while the ships are in port or in roads, subject to the guarantees and limitations laid down by the customs authorities
- Packing materials and packing of any kind needed for the transport of fruit and vegetables to be exported, subject to the guarantees laid down by the customs
- Jars, boxes, cans and other containers for foodstuffs to be exported, subject to the guarantees laid down by the customs authorities
- Fuels and lubricants for the serving of:
  - Ships leaving or operating outside the territorial waters
  - Aircraft leaving with destiny abroad including those making intermediate stops in the FGS Territory
- Coffins and urns containing remains of deceased persons transported to FGS, and ornaments thereof. Exemption shall be granted by the customs authorities on submission of an authorisation issued by the relevant authorities
- Wreaths and ornaments for graves in FGS
- Goods of proven FGS origin. Such exemption shall be granted to the owner of the goods on behalf of whom the export was affected, subject to submission of the expert customs clearance document and provided the goods are re-imported within one year from the date shown on the document.

The majority of exemption regime is made up of Government and Aid project imports, and relief on the imports of inputs to industry.

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#### 4.2.8 Declaring Imports and Exports

What should be the general procedure when declaring imports or exports at Border Posts, seaports or at Dry Ports?

- Step 1: Taxpayer prepares all necessary documents and contracts a Clearing Agent or does it himself.
- Step 2: The Clearing Agent prepares and submits an import or export declaration to IRD using the FGS electronic Single Window (SW).
- Step 3: The Clearing Agent receives assessment notices, containing the amounts of customs duties due. The taxpayer pays all customs duties due, either directly or through the Clearing Agent. The assessment notice may contain different taxes such as Excise Duty and Customs Duties. If so, these must each be paid separately.
- Step 4: The SW system allocates the consignment to a certain Customs channel. If verification is required, Customs Officers will request the necessary documents and/or access to the consignment. If there are any problems, further action may be required.
- Step 5: After successful verification, the Customs Officer provides the taxpayer with a release order.
- Step 6: The taxpayer pays any due warehousing fees, if applicable, to the warehouse owner.
- Step 7: The taxpayer receives an exit note and may leave with his/her consignment.

In determining the value of imported goods for the purpose of levying ad valorem duties, Customs Valuation, Tariff Classification and Rules of Origin play a significant role. Adoption of the customs valuation as provided for in the WTO Agreement on Customs Valuation (GATT Valuation) should be implemented. This will mitigate the risk of under valuation of goods or split shipment and customs disputes.

The valuation methods to use should be applied in a chronological order as indicated below and as per GATT Valuation rules:

- the transaction value method

The basis for customs value in FGS should be wherever possible, the transaction value of the imported goods being valued and that: Transaction value is the price actually paid or payable for goods when sold for exports to the country of importation adjusted in accordance with article 8, provided certain conditions are met.

Other methods include:

- the transaction value of identical goods
- the transaction value of similar goods
- the deductive value method
- the computed value method
- Fall back method

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The Brussels Definition of value (BDV) (1950-1953) is an old system and should be replaced with GATT Agreement on Customs Valuation (1994) because BDV is based on:

- Notional Concept
- Assumed conditions the merchandise to be valued would be sold
- Arbitrary administration
- Lacking transparency
- Not responsive to today's international trading environment

Whereas GATT Agreement on Customs Valuation is:

- Based on Price Actually Paid or Payable
- Fair
- Uniform
- Neutral system
- Conforming with commercial realities
- Precludes the use of arbitrary and fictitious values

#### **4.2.9 Post Clearance Audit**

To facilitate trade and increase compliance, FGS should introduce and strengthen Post Clearance Audits. These are recommended by WTO GATT Valuation. This system allows customs to release goods and follow up with the importer in future so that they can recover any duty that was not paid/declared at the time importation.

Important documents that should be reviewed and audited during PCA include:

— **Commercial Invoice**

This is a document that bears the value/price and origin of the goods shipped by sea or air. It normally contains details of the invoice number, the date, the seller/buyer's details/reference, Consignee details, Certificate of origin and destination, Terms of delivery and payment, Vessel/flight details, Port/ Airport of Discharge, Place of delivery and fullest description /details of the merchandise including unit price.

— **Pro forma Invoice**

This is an invoice given before the contract of sale is made.

— **Quotation**

This is an inquiry regarding the price and quantity of goods and services. It also includes the terms of payment and delivery. It also gives a range of product items and hence the time of supply is not fixed.

— **Bill of Quantity (BOQ)**

This document is a full list of items, quantity and value of the items to be delivered for projects.

— **Letter of credit (LC)**

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A documentary Letter of Credit is the means whereby at the buyer's request the importer's bank authorizes the exporter to draw a financial amount by a specified date for a particular shipment subject to the detailed documents being forthcoming. It may be Revocable or Irrevocable.

— **Bill of Exchange (BOE)**

A Bill of Exchange is legally defined as an 'unconditional' order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a certain sum in money to or to the order of a specified person. The Bill of Exchange looks something like a cheque and is prepared by the exporter and drawn on an overseas buyer, or even a third party, as designated in the export contract for the sum agreed as settlement.

— **Bill of Lading**

A receipt of goods shipped on board a ship signed by the person (or his agent) who contracts to carry them and stating the terms on which the goods are carried. It is a document of title and as such is required by the importer to clear the goods at the port of destination.

— **Airway Bill**

An Air waybill is the document that accompanies goods conveyed by the airline throughout the transit.

When completing the Air Waybill note it ought to be taken that:

- When more than one package is involved, the carrier can require the consignor to make out separate Air Waybills.
- The cargo description must be identical to on all documentation accompanying the consignment.

— **Stowage Plan**

This is a plan depicting location of cargo stowed in ship or unit of carriage. To the exporter or shipper, it is paramount he/she is aware of the principle of cargo stowage.

— **Stowage Order**

A document issued by the ship-owner indicating acceptance of a specified cargo on a particular ship sailing from a port and featuring the ship owner's reference. It is usually associated with the movement of dangerous classified cargo by sea. The stowage order will indicate where the cargo is to be stowed on the ship.

— **MDG/IATA/FIATA declaration of dangerous goods form**

Accompanies a consignment of dangerous classified cargo on each occasion when it is dispatched by air or ship or land.

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**— Manifest**

A summary of cargo loaded on a ship (usually) or aircraft. This would include its weight, measurement, freight details and total amount-whether prepaid or payable at the destination, port departure and destination, nature of cargo and so on.

**— Delivery Orders**

A delivery Order gives details of imported goods that are to be delivered to a consignee or agent by a port authority. It accompanies the goods. It is in varying layouts and is used extensively worldwide. The cargo description must accord with the details found on the bill of lading and other shipping or customs documents.

**— Cargo Arrival Notice**

Informs the consignee of the arrival of the goods at the specified port and to request the appropriate documents to enable the consignment to be cleared through customs.

Other documents include:

**— Certificate of origin**

A document confirming the nature, quantity, value etc. of goods shipped and their place of manufacture, and includes a declaration stating the country of origin of the goods. The certificate of origin is a long-established document and is required as one of the support documents at the time of importation.

**— Charter party**

A charter party is a document under which a vessel is hired or chartered.

**— Customs pre-described forms**

Various customs pre-described form such as Single Administrative documents (SAD), exemption forms, scanner forms etc.

Other documents include Profit and loss account of the importer/exporter, Balance Sheet and bank statements and correspondences with the seller.

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## 5 Conclusion and Recommendations

The table below summarises the proposed “To-Be” design for consideration by FGS. Our proposal is based on the various customs handling processes that can be revamped to meet good practice used both within the region and internationally.

No	Process	Description	Proposed “To-Be” for FGS
1	Automation of Customs processes	Automated systems in Customs are one of the most important tools for simplifying international trade procedures. Automated Customs Systems provide governments with accurate and timely statistics on imports and exports allowing for more accurate macro and micro economic planning.	FGS should consider establishing Electronic Single Window (ESW) to be used to manage imports and exports because it provides information required by government institutions easily
2	Warehousing	Warehousing is considered as part of the logistics chain offering handling, weighing, recording, documenting, storing and delivering of goods to the last consumer after all customs and regulatory procedures completion	<p>FGS should consider introduction of Private Warehouse and public warehouses.</p> <p>a) Warehouses provide a wide range of value-added services. Perishable cargo also requires specific control of temperature and other elements of the environment. This control is to reduce rate of negative change in the nature of the cargo. This is achieved by cooling, chilling and or freezing. Examples of such cargoes include meat, fish, milk products, milk and fresh produce e.g. vegetables etc</p> <p>b) For some manufacturers, Bonded Warehouses which are owned, managed and controlled by government as well as private agencies are essential in local production</p>
3	Tariff classification	In determining the value of imported goods for the purpose of levying ad valorem duties, Tariff Classification plays a significant role. This will mitigate the risk of misclassification of goods or split shipment and customs disputes.	FGS may consider introduction of Harmonised System (HS) Code which is an internationally standardized system used to classify traded products. Selecting the correct HS Code is important for ensuring the correct amount of tax is declared and paid and helps in capturing correct statistics for Government Planning purposes



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No	Process	Description	Proposed “To-Be” for FGS
4	Valuation of imported goods	Whether using the CIF or FOB as a basis of levying duties,, the declared value must be supported by commercial invoices, as well as insurance and freight invoices where applicable and the cargo manifest.	The basis for customs value should be wherever possible, the transaction value of the imported goods being valued and that: Transaction value is the price actually paid or payable for goods when sold for exports to the country of importation adjusted in accordance with article 8 of GATT, provided certain conditions are met
5	Port operations and port charges	Port Clearance is part and parcel of customs clearance which focuses on how goods are inspected, paid for respective port dues and how the goods move in and out of the port area.	FGS should design a procedure manual in relation to port operations and consider updating port charges. Customs should also equip the port with sufficient infrastructure such as modern Forklifts and other cargo handling equipment.
6	Duty remission	The duty remission scheme allows the import at zero tariff or reduced rate of an approved list of inputs for an approved list of importers for the purposes of export or for home consumption. It encourages production and industrialisation.	FGS may consider developing a list of sensitive products where duty remission scheme can be implemented.
7	Clearing and forwarding	Clearing and Forwarding agents act as agents of shippers and consignees in regard to facilitation and processing of cargo clearance from customs areas. A freight forwarder by virtue of being a customs agent and on the other hand an agent of the shipper/exporter/importer has to interact with other parties during the process of clearance of goods that may include but not limited to government agencies and ship agents	FGS customs may consider licensing of Clearing and Forwarding agents in Somalia and ensure that they take responsibility in declaring and accounting for all consignment (import or export) that they handle. There should be tough penalties against any rogue clearing and forwarding agents including cancellation of their licenses.
8	Exemption region	Although exemptions lead to improvement of social welfare of the citizens and facilitate investment and industrial growth, if not planned carefully it has severe negative consequences. It does not only lead to loss of revenue on imports, but it stifles competition and development since outsourced goods become cheaper than locally produced goods. Exemptions do not encourage industrialization because goods which would be locally manufactured are imported from other countries.	FGS may consider reviewing the list and criteria for exemptions with the view of minimising them. The Government can consider also increasing excise duty on imports with the view of discouraging imports and encouraging domestic production



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No	Process	Description	Proposed “To-Be” for FGS
9	Post clearance audit	Post Clearance Audits facilitate international trade and domestic production. This system allows customs to release goods and follow up with the importer in future so that they can recover any duty that was not paid/declared at the time of importation. Goods should not stay at the port for long time. Profiling of importers should also be done so that importers with no history of fraud can be facilitated	FGS should consider setting up a Post Clearance Audit (PCA) department and train the officers therein on how to perform their roles.
10	Tariff structure	A tariff structure is a set of rules and procedures that determines how to charge different categories of consumers. Tariff structures depend on many factors, including the network’s characteristics and the objectives pursued via pricing policy	FGS should consider implementation of COMESA tariff rates. Where Goods of primary necessity, raw materials and specific inputs, Specific goods for economic development are exempt, (10%) is applicable on intermediate goods and Final Consumption goods are charged 25% and essential goods are charged 0%.

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