

# PRE-SHIPMENT INSPECTION OF IMPORTS ACT

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**PRE-SHIPMENT INSPECTION OF IMPORTS ACT**

**An Act to provide for pre-shipment inspection of imports and for matters connected therewith.**

[1996 No. 11.]

[Commencement: 19th April, 1996]

**PART I**

*Pre-shipment inspection of imports*

**1. All imported goods liable to mandatory pre-shipment inspection**

(1) As from the commencement of this Act, no goods to which this Act applies—

(a) whether containerised or not and irrespective of value and personal effects (excluding such personal effects which are accompanied and subject to 100 per cent inspection at destination); and

(b) whether re-exported into Nigeria from any neighbouring country,

shall be imported into Nigeria unless accompanied by a Clean Report of Findings and an Import Duty Report issued in respect of such goods to the overseas sellers of the goods by the inspecting agent referred to in section 4 of this Act.

(2) For the purposes of subsection (1) of this section, any person intending to import any goods to which this Act applies shall, before shipment of such goods to Nigeria, furnish the Central Bank with the particulars specified in the Schedule to this Act together with such additional information as the Central Bank may specify from time to time and, for this purpose, the Central Bank may issue such forms as it thinks appropriate for the use of importers, except for personal effects which shall however be imported under zero duty as certified by the inspecting agent.

[Schedule.]

(3) The importer of the goods shall instruct the overseas seller of such goods to give the inspecting authority full access thereto in order to facilitate the carrying out of the functions imposed on the inspecting agent by or pursuant to this Act and in particular, the following stipulations shall be contained in such instructions, that is—

(a) that the seller shall give between seven to ten days' notice to the inspecting agent prior to the proposed date of the pre-shipment inspection;

(b) with respect to the carrying out of the pre-shipment inspection, that the seller shall provide the inspecting agent with copies of the required Form "M", *pro forma* invoice, indent, purchase order, price list, letter of credit, contract agreement and any other document relevant to the transaction which the inspecting agent may consider necessary for the proper carrying out of the inspection;

- (c) that the seller shall provide all necessary facilities to the inspecting agent to enable it to carry out a quality and quantity inspection and price comparison and to conduct all such tests, analysis and other processes as may be required in the circumstances;
- (d) that the seller shall make all necessary arrangements for the handling, presentation (including unpacking and re-packing), sampling, shop-testing and any other thing required in connection with the inspection of the goods;
- (e) that the seller shall submit to the inspecting agent a copy of the final invoice covering the goods;
- (f) that the seller shall comply with such other conditions as may be prescribed.

(4) The goods which shall be liable to inspection outside Nigeria by the inspecting agent before shipment of such goods to Nigeria and the type of inspection to which any such goods or categories thereof shall be subject are as specified in the following provisions of this section and the expression, "pre-shipment inspection" wherever used in this Act, shall be construed accordingly.

(5) Goods liable to pre-shipment inspection with respect to quality and quantity and price comparison thereof are all goods other than goods of the following descriptions, that is—

- (a) explosives and pyrotechnic products, arms and ammunition, weapons and implements of war;
- (b) supplies to diplomatic consular missions and international organisations for their own needs; and
- (c) such other goods as may be prescribed by the Federal Government of Nigeria from time to time.

(6) The expenses incurred by the inspecting agent pursuant to paragraph (d) of subsection (3) of this section shall be borne by the overseas seller of the goods concerned.

## 2. Issuance of Clean Report of Findings and Import Duty Report

(1) Where, after inspecting the goods, the inspecting agent is satisfied that all requirements as to quality and quantity and price of the goods have been complied with, the inspecting agent shall issue the overseas seller of such goods documents to be known as a "Clean Report of Findings" and "Import Duty Report" and where the inspecting agent is not so satisfied, it shall issue a document to be known as "Non-negotiable Report of Findings" in respect of the goods.

(2) Where the seller, subsequent to the issuance of a Non-negotiable Report of Findings, makes the necessary adjustments, the inspecting agent may issue a Clean Report of Findings and Import Duty Report in respect of the goods concerned.

(3) Every Clean Report of Findings and Import Duty Report issued under this Act shall be attached by the seller to all the relevant shipping documents.

## 3. Fees and duties payable by importers

(1) All importers shall pay into a special account designated for that purpose in the Central Bank, fees calculated as 1 per cent *ad valorem* of the FOB value of all imports

assessed by the inspecting agent or such *per centum* of the FOB value of goods inspected as may be prescribed by the Federal Government of Nigeria from time to time, based on the exchange rate prevailing at the previous week of inspection as determined by the Central Bank.

(2) All duties assessed as payable by the importers in respect of goods inspected by the inspecting agent shall be payable by the importers in accordance with procedures contained in the applicable guidelines as may be issued by the Federal Government of Nigeria as required and shall be based on the average autonomous rate of exchange of the previous week as determined by the Central Bank.

## PART II

### Administration

#### 4. Appointment of inspecting agents

(1) The President shall appoint such number of bodies corporate as inspecting agents to carry out any pre-shipment inspection required by or pursuant to this Act.

(2) In the exercise of the power to appoint an inspecting agent pursuant to subsection (1) of this section, the President may appoint an inspecting agent to cover a specific country or countries or group of countries within a specified geographical location.

(3) Nothing in subsection (1) or (2) of this section shall be construed as preventing pre-shipment inspection pursuant to this Act of any goods (whether or not goods of a description mentioned in this Act) by any department or agency of the government of the Federation or of a State or any statutory body (corporate or unincorporate) established by any such government or any accredited representative of any such government or by any importer or his authorised agent.

#### 5. General administration

(1) The Central Bank shall be charged generally with the responsibility of the administration of the provisions of this Act.

(2) For the purposes of assisting the Central Bank in the discharge of its functions under this Act, there shall be established by the Minister a Technical Committee comprising a representative of the Central Bank as chairman thereof and a representative of each of the following, that is—

- (a) the Federal Ministry of Finance;
- (b) the Federal Ministry of Industry;
- (c) the Federal Ministry of Commerce; and
- (d) the Board of Customs and Excise.

#### 6. Proceedings of the Technical Committee

(1) The Technical Committee shall meet not less than four times in each year and on such other occasions as it may consider necessary.

(2) At any meeting of the Technical Committee, the chairman shall preside.

(3) The quorum for meetings of the Technical Committee shall be the chairman and two other members.

(4) The Technical Committee shall have power to regulate its proceedings and may make standing orders for that purpose and, subject to such standing orders, may function notwithstanding any vacancy in its membership or the absence of any member.

(5) Where the Technical Committee desires to obtain the advice of any person on a particular matter, it may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue of this subsection shall not be entitled to vote at any meeting of the Technical Committee and shall not count towards a quorum.

(6) There shall be a secretary to the Technical Committee who shall be an official of the Central Bank designated as such and the secretariat of the Committee shall be located in the Central Bank.

*Miscellaneous and supplementary*

**7. Penalties for unlawful importation**

(1) Any person who, at any time after the commencement of this Act, knowingly imports any goods liable under this Act to pre-shipment inspection otherwise than in compliance with the provisions of this Act, is guilty of an offence under this Act.

(2) Imports not accompanied with the relevant Import Duty Report are henceforth liable to be confiscated upon arrival in Nigerian territorial waters and the shippers responsible for transporting the goods into Nigeria shall upon conviction in a court of competent jurisdiction be liable to payment of fines not exceeding the value of the goods impounded.

(3) Any person guilty of an offence under this Act shall be liable upon conviction—

(a) in the case of an individual, to a fine of ₦50,000 or the value of the goods, whichever is higher, or to imprisonment for a term not more than twelve months or to both such fine and imprisonment; and

(b) in the case of a body corporate, to a fine of ₦100,000 or twice the value of goods, whichever is higher.

(4) In addition to the penalties prescribed in subsection (3) of this section, the goods in respect of which the offence was committed shall be forfeited to the Federal Government of Nigeria.

(5) Where an offence under this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in such capacity), he as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished in the same manner as an individual under paragraph (a) of subsection (3) of this section.

(6) For the purposes of subsection (2) of this section, “value” means the amount stated on the face of the document or documents relating to the transaction in question and, where this is not expressed in Nigerian currency, its equivalent in Nigerian currency:

Provided that nothing in this subsection shall be construed as precluding proof of value by any other method or means permitted by any other enactment or law (including rules of law).

(7) Notwithstanding the other provisions of this section, any person charged with an offence under this section, including—

- (a) the importer of goods in respect of which the offence has been committed; or
- (b) any consignee or endorsee for valuable consideration of any bill of lading or any other appropriate document representing goods to have been shipped to Nigeria; or
- (c) any other person who in the normal course of his duties handles imported goods,

may exonerate himself by showing that the goods in question were shipped without any default on his part or by the fraud or negligence of the overseas seller or of any other person.

#### **8. Proof of certain documents**

(1) Without prejudice to any other mode of proof, if in any proceedings taken before a court under this Act any book or document in the official custody of the Central Bank or of any public officer is required to be used as evidence as to the transactions to which it relates, copies thereof or extracts therefrom certified by the Central Bank or the proper officer shall be admissible for that purpose, without production of the original.

(2) In any proceedings under this Act, a document issued pursuant to or in connection to its provisions and copies of official documents purporting to be certified under the hand, seal or stamp of the principal officers of the inspecting agent in any foreign country or of any of their principal representatives of Nigeria abroad shall be sufficient evidence of the matters stated therein, unless the contrary is proved.

#### **9. Prosecution and trial of offences**

(1) The prosecution of offences under this Act shall be at the instance of the Attorney-General of the Federation or by such other officer as the Attorney-General may authorise so to do:

Provided that the question whether any authority has been given in pursuance of this subsection or what the authority was shall not be enquired into by any person except at the instance of the Attorney-General.

(2) Every proceeding under this Act shall, subject to the applicable procedure, be commenced in the Federal High Court and references in this Act to “court” shall be construed accordingly.

#### **10. Power of the Central Bank to compound proceedings**

(1) Subject to subsection (2) of this section, the Central Bank may—

- (a) without prejudice to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria 1999, (which relate to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), stay or compound any proceedings for an offence or for the forfeiture of any goods under the provisions of this Act; or

[L.F.N. 2004 Cap. C23.]

(b) subject to the approval of the Minister, restore any goods forfeited pursuant to the provisions of this Act.

(2) The powers conferred on the Central Bank under this section shall be exercised so as not to defeat the objects of this Act.

### **11. Regulations**

The Minister may make such regulations as may be required, from time to time, for carrying into effect the objects of this Act.

### **12. Annual reports**

(1) The Technical Committee shall, not later than fifteen months after the coming into operation of this Act and thereafter at intervals of twelve months each, prepare and submit, to the Minister, a report on the operation of the scheme during the immediately preceding year.

(2) The Minister shall cause each report submitted to him under this section to be laid before the President.

### **13. Mandatory inscription of Hologram of Import Duty Report number of goods**

All goods inspected, whether containerised or not and for which Import Duty Reports are required, shall have pasted thereon the Hologram Mark issued by the pre-shipment inspection agents to conform with the Import Duty Report numbering of such goods.

### **14. Repeals and savings provisions**

(1) The Pre-shipment Inspection of Imports Act is hereby consequentially repealed.

[L.F.N. 2004 Cap. 363. L.F.N. 1990.]

(2) Nothing in this Act shall be construed to prohibit the continuation of an inspection by an inspection agent appointed under the enactment repealed by subsection (1) of this section, or begun before the commencement of this Act so however that such inspection shall be subject to payment of fees and duties in accordance with the provisions of section 3 of this Act.

(3) Funds, accounts and records constituted under this Act shall be deemed to be in continuation of the corresponding funds, accounts and records constituted under the enactment repealed by this Act.

(4) Where any offence, being an offence for the continuance of which a penalty was provided, has been committed under the enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provisions of this Act.

(5) The Minister, if he deems fit, may, within twelve months after the commencement of this Act, by order published in the *Gazette*, make additional transitional or savings provisions for the better carrying out of the objectives of this section.

**15. Interpretation**

(1) In this Act, unless the context otherwise requires—

“**Central Bank**” means the Central Bank of Nigeria established under the Central Bank of Nigeria Act;

[L.F.N. 2004 Cap. C4.]

“**inspecting agent**” has the meaning assigned thereto by section 4 of this Act;

“**Minister**” means the Minister charged with responsibility for matters relating to Finance;

“**overseas seller**” or “**seller**” includes any supplier of goods abroad or exporter;

“**prescribed**” means prescribed by the Minister by order published in the Federal Gazette;

“**pre-shipment inspection**” means inspection of goods in foreign countries prior to shipment thereof to Nigeria as provided in this Act;

“**shipment**” means transfer of goods by sea, air, road, rail or any other means whatsoever and “**shipper**” shall be construed accordingly;

“**Technical Committee**” means the Technical Committee established by section 6 of this Act.

(2) Nothing in this Act shall be construed as relieving any overseas seller of his contractual obligations to the importer of any goods liable to pre-shipment inspection or of any other goods.

**16. Short title**

This Act may be cited as the Pre-Shipment Inspection of Imports Act.

**SCHEDULE**

[Section 1 (2).]

*Particulars to be supplied to the Central Bank by all importers*

1. Name and address of applicant .....
2. Name and address of beneficiary .....
3. Method of payment:
  - (a) Revocable/irrevocable letter of credit .....
  - (b) Expiry date .....
  - (c) Bills for collection .....
  - (d) Other .....



SCHEDULE—continued

4. The Free on Board (f.o.b) value of the goods and the following—
- (a) Freight charges .....
  - (b) Ancillary charges such as commissions and interest charges .....
  - (c) Name and amount of foreign currency .....
  - (d) Total amount of all expenses involved .....
5. Statement as to serial number of relative forms and amounts where part-payment has been made for the goods .....
6. Description of and quality of the goods—
- (a) S.I.T.C. code .....
  - (b) Means of shipment (*sea/air/road/rail/parcel post, etc.*) .....
  - (c) Ultimate destination of goods .....
  - (d) Import licence no. (*where applicable*) .....
  - (e) Country of origin .....
  - (f) Country of supply .....
  - (g) Date of shipment .....
  - (h) Validity .....
  - (i) Registration dates of orders (*where applicable*) .....
7. Declaration as to the accuracy of statements made under the foregoing paragraphs.
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