

# UNOFFICIAL TRANSLATIONS EQUATORIAL GUINEAN LAWS



Ministerial Order Number 11/2020 dated April 30th, approving the Automated Customs System for Completion of Procedures related to the Entry and Exit of Goods in the Republic of Equatorial Guinea

**MINISTERIAL ORDER NUMBER 11/2020 DATED APRIL 30<sup>TH</sup>, APPROVING THE AUTOMATED CUSTOMS SYSTEM FOR COMPLETION OF PROCEDURES RELATED TO THE ENTRY AND EXIT OF GOODS IN THE REPUBLIC OF GUINEA OF EQUATORIAL GUINEA.**

With the aim of ensuring the acceptability and applicability of the Automated Customs System, as a measure adopted by the Government of Equatorial Guinea to improve its capacity to mobilize resources, improve the functional organization of customs services, especially the collection of non-oil tax revenues in order to reduce macroeconomic imbalances, support the regional adjustment strategy and further improve social indicators.

Considering that the international practices and modalities promoted by the World Customs Organization (WCO) are the Harmonization and Uniform Application of Simplified System of Customs Procedures.

Considering Decree Number 134/2015, dated 2<sup>nd</sup> of November updating and expanding economic, financial and economic reactivation measures for the sustainability of public finances in Equatorial Guinea for the period 2016-2020.

Similarly considering Decree Number 136/2019, dated 15<sup>th</sup> of October adopting the memorandum on economic and financial policies for the period 2019-2022.

Considering the recommendations of the Third National Economic Conference to ensure the effectiveness, transparency and accountability in the management of public finances. To this end, the need arises to regulate the complete implementation of the ASYCUDA WORLD platform in all customs administrations of the country, as well as its development through a secure process for the collection or declaration of information about the entry and exit (importations and exportations) of goods into the national territory.

By virtue of the deliberation of the Council of Directors at its meeting dated 26<sup>th</sup> of March 2020.

**I HEREBY DECLARE:**

**TITLE I: ON THE GENERAL PROVISIONS**

**Article 1.-** By means of this Ministerial Order, the Automated Customs System (ASYCUDA WORLD), hereinafter SAGE (Customs System of Equatorial Guinea) for the processing of customs procedures in Equatorial Guinea, is approved, in accordance with the indications of the Manual of Customs Standards and Procedures.

**Article 2.-** The Customs System of Equatorial Guinea (SAGE) is adopted for:

- The Main Customs Administration of Malabo
- The Main Customs Administration of Bata
- The Main Customs Administration of Ebibeyin
- The Main Customs Administration of Mongomo.

**Article 3.-** The application of the Customs System of Equatorial Guinea shall be compulsory in delegations, ports, airports, as well as at the customs posts of the Main Administrations cited in the entire nation.

**Article 4.-** All customs formalities concerning the entry and exit of goods under any customs regime must be carried out using the Automated Customs System.

**Article 5.** - Any information or documentation generated by the Automated Customs System, notified to interested parties or notified when requested, has full legal, evidentiary and admissible value as a means of carrying out administrative and judicial procedures.

**Article 6.** - To facilitate the exchange between economic operators and Customs Services, the Ministry of Finance, Economy and Planning will install the technical and functional equipment necessary to perform the formalities of customs operations in offices and customs posts during the working day. Operators that receive the authorisation to operate by teleprocess may carry out their operations at the time established from time to time.

Similarly, said Ministerial Department will provide face-to-face and telephone consultation services at technical and functional support desks to support economic operators and other users to carry out customs formalities through the Automated Customs System.

The Manual of Customs Rules and Procedures will regulate the formalities in case of contingency in the event of failures in the system or the communications.

**Article 7.-** In reference to the provisions in Articles 4 and 6 of this Ministerial Order, in the event that the automated customs system is not available in certain offices the formalities for customs operations for the entry and exit of goods shall be carried out in accordance with the documentary procedures provided for in the current customs legislation on a temporary basis.

**Article 8.-** If SAGE is not temporarily available; the printed forms will be used for urgent operations in the terms and conditions indicated in the Manual of Rules and Procedures of the Automated Customs System with special attention to the document numbering rules.

Upon the restoration of SAGE, the documents processed under the emergency procedure will be entered into the system as soon as possible.

**Article 9.-** The main administrations shall certify on the first working day of each month to the Directorate-General of Customs the number of documents processed by SAGE and under the emergency procedure for each customs regime. Similarly, it shall expressly indicate the number of documents already processed that are not yet incorporated in SAGE.

**Article 10.** - For the purposes of Article 1:

- a) All economic operators or any natural or legal person involved in formalities relating to the import or export of goods must be registered with the Directorate-General of Customs as users of the Automated Customs System (carriers, customs clearing agents, owners and consignees of goods, freight forwarders, cargo agencies, etc.)
- b) All economic operators or any natural or legal person involved in the formalities relating to the import or export of goods, in order to connect remotely to the system must be registered with the Directorate-General of Customs as a remote user of SAGE.
- c) The Directorate-General of Customs shall establish the requirements and the tests that remote users will need to pass and the conditions of revocation where appropriate.

**Article 11.-** Natural or legal persons carrying out customs formalities for the importation or export of goods under any customs regime using the Automated Customs System shall have:

- Tax Identification Number (NIF), for legal entities
- Personal Identity Card, for natural persons
- Residence card or Passport, for foreign nationals
- Name of the institution or body (Embassies, Consulates, etc.) in accordance with the Manual of Automated Customs System Standards and Procedures.

## TITLE II: ON THE CARGO MANIFEST

**Article 12.-** Carriers or cargo agents shall register the cargo manifest in the SAGE database, using the existing format in the corresponding module, as well as scan and append the necessary documents in accordance with applicable legislation.

**Article 13.-** In the case of operations carried out by several carriers in the same means of transport, the additional transport documents shall be incorporated, subject to the prior authorization of the main carrier to be registered and validated in the system.

**Article 14.-** In the case of grouping of the goods, the carrier or its legal representative shall authorise the freight forwarder to ungroup the goods.

**Article 15.-** The presentation of the manifest and transport documents under SAGE shall be made within the following deadlines:

- a) At most forty-eight (48) hours before arrival or upon arrival under justification of the vessel or means of transport at the port of landing of the goods, for the Maritime Customs.
- b) Twelve (12) hours for Air and Land Customs (Article 83 of the CEMAC Customs Code).

**Article 16.-** SAGE shall validate the information and assign the electronic registration number to the cargo manifest. This number will be definitive for all legal purposes and consequently the user will not be able to make modifications after the date of registration.

In cases where a modification is required, a request for modification of registered manifests through the system, within a period not exceeding forty-eight (48) hours from the arrival of the means of transport for maritime customs, and not exceeding twelve (12) hours for air and land customs.

The customs office shall validate the modification after verification if it is admissible, or failing that, reject it if it is not admissible and shall proceed to contentious before validating it in accordance with the applicable rules.

**Article 17.-** Subject to the prior approval of the port and airport authorities, the opportune establishment of common messages formats for remote users and telematic procedures that facilitate the creation of one-stop shop is made possible.

**Article 18.-** Once the registration and validation in SAGE is effected, the cargo may be carried to the temporary warehouse, and consequently the authorised government officials at the warehouse shall locate or relocate the transport document, according to its physical location of the same.

## TITLE III: ON THE SUBMISSION OF THE CUSTOMS DECLARATION

**Article 19.-** All goods presented before the Customs must be subject of a declaration that will assign them a custom regime and will be processed in SAGE. The exoneration of customs duties and taxes does not exempt from the obligation to present the Customs declaration.

**Article 20.-** The Customs declaration will be submitted by the owner or by the person holding an authorisation as a customs clearance agent, in accordance with the provisions of the CEMAC Customs Code, without prejudice to what it is provided in Articles 10 and 11 of this Ministerial Order. Nevertheless, the following can declare on their own behalf:

- Public Administrations.
- Diplomatic Missions.
- International Organisations.

**Article 21.-** The documents that will have to be attached to the Customs declaration will be submitted electronically via SAGE or will be digitalised at the Customs offices.

The Manual of Rules and Procedures may establish obligations relating to the electronic signature of the documents.

**Article 22.-** Documents submitted to SAGE shall be retained for a period of three years, by the declarant and the importer, in anticipation of possible future verifications, unless otherwise provided by any rules.

**Article 23.-** The admission of the declaration and the designation of the control circuit shall be carried out by SAGE, that will assign both the corresponding registration number and the inspector in charge of control.

Once the customs declaration has been validated, SAGE will automatically activate goods' risk management parameters, applying the controls to determine the selectivity channels.

- a) BLUE CHANNEL: Selection for Document verification following the release of the goods. (Direct Release).
- b) GREEN CHANNEL: Electronic verification. Automatic release of the goods.
- c) YELLOW CHANNEL: Selection for Document verification.
- d) RED CHANNEL: Selection for Physical document verification.

**Article 24.-** The physical and documentary verification shall be carried out at the Customs office, the warehouses and dispatch areas, or at the designated places for that purpose by the Customs Authorities, and it shall be carry out on the basis of the elements or descriptive data in accordance with the applicable law. Records shall be kept at SAGE through the changes made by the verifier in the Customs declaration, as well as on the electronic inspection report. The system will link the changes made concerning the assignation made by the system with regard to both actuaries and the type of control performed on the signed note that authorise them in accordance with the Procedural Manual.

Once the physical and/or documentary verification has been carried out and is compliant, the release will be authorised and the decision will always be reflected on SAGE.

**Article 25.-** Once payment of the respective customs duties and taxes has been made at the authorised bank, following validation by the Public Treasury, the payment will be registered on SAGE and the Customs Service will authorise the release of the goods, and this will be reflected on SAGE.

**Article 26.-** For the release of the goods from the warehouses and/or dispatch areas, the Customs Service will verify if the release of the authorised goods is in conformity with the customs documentation submitted.

**Article 27.-** At Exportation:

- a) All goods shall be subject to Customs declaration that will assign a customs regime on the Automated Customs System.
- b) Proceed as well in conformity with the provisions of articles 11 to 25 of this Ministerial Order, on the Automated Customs System for exit of goods.

**TITLE IV: ON THE MONITORING OF EXONERATIONS AND FRANCHISES**

**Article 28.-** The importation or exportation of goods subject to total or partial exoneration from payment of customs and taxes that stem from conventions, public tenders o Government authorizations, Law 7/1992, dated 30<sup>th</sup> of Abril, regarding the Investment Regime in the Republic of Equatorial Guinea, Law 8/2006, dated 3<sup>rd</sup> of November, on Hydrocarbons in the Republic of Equatorial Guinea and other existing legal provisions, must be previously authorized by the Ministry of Finance, Economy and Planning and registered with the Directorate-General of Customs, as well as the materials and products mentioned in Article 276 of CEMAC Customs Code, in order to be registered and introduced on the Automated Customs System.

By means of a Resolution from the Director of Custom statistical keys shall be published that will enable the analysis and quantification.

**Article 30.-** The Customs Administrations services may require at any time, for control purposes, the information they deem necessary.

**Article 31.-** The Directorate-General of Customs and the Directorate-General of Taxes and Contributions shall meet at least on a quarterly basis as part of the Working Commissions to study, evaluate and adjust the regulation regarding the granting of exoneration, based on the information provided by SAGE.

**Article 32.-** The import or export of goods under the franchise of customs duties and taxes shall be adjusted in conformity with the provisions of Article 276 of the CEMAC Customs Code, Vienna Convention Treaties, the other legal provisions in force, as well as the declaration of the generic key that corresponds to the category of the applied franchise referred to in Article 7 of this Ministerial Order.

**TITLE V: ON STATISTICS**

**Article 33.-** The information in the Automated Customs System shall be used to elaborate Statistics on External Trade in Equatorial Guinea. The Directorate-General of Customs shall publish provisional statistics monthly and annual Statistics on External Trade for country-product and trade flow.

**TITLE VII: ON THE CONTROL OF SAGE**

**Article 34.-** The Directorate-General of Customs has the competence to provide access codes to the SAGE system, as well as revoking them and imposing sanctions to users or remote users for inappropriate use of the system or unauthorised transfer of the access code.

**Article 35.-** The Directorate-General of Customs shall audit the use of the system, with special attention to the changes made to the information in the course of completing the procedures and the authorised amendments that change SAGE assignation with regard to channels or actuaries.

**TRANSITIONAL PROVISION**

The application of the Automated Customs System shall be carried out initially in the Customs territories that have such system available, and subsequently extended to the remaining offices and national Customs posts as implementation of this system takes place progressively.

**ADDITIONAL PROVISIONS**

The Directorate-General of Customs is hereby authorised to issue any regulation necessary for the strict enforcement of the present Ministerial Order.

**REPEALING PROVISION**

Any regulation of the same or lower rank that oppose the provisions set forth in this Ministerial Order is hereby repealed.

**FINAL PROVISION**

This Ministerial Order shall be effective from the date of its publication on the national media, without prejudice to its publication in the Official State Bulletin.

Issued in Malabo on .... day of the month of ....., two thousand and twenty.

**FOR A BETTER GUINEA,**

**CESAR AUGUSTO MBA ABOGO**

**MINISTER OF FINANCE, ECONOMY AND PLANNING**