

LEGAL NOTICE NO. 256

THE AGRICULTURAL FINANCE CORPORATION ACT

(Cap. 323)

DETERMINATION OF LIMIT OF TOTAL INDEBTEDNESS

IN PURSUANCE of subsection (2) of section 14 of the Agricultural Finance Corporation Act, the Treasury determines that the sum of three hundred million shillings shall be the amount of the total indebtedness (whether present or contingent) of the Corporation which shall not be exceeded as the result of the borrowing of any money.

Dated the 24th August, 1992.

GEORGE SAITOTI,
Vice-President and Minister for Finance.

LEGAL NOTICE NO. 257

THE CUSTOMS AND EXCISE ACT

(Cap. 472)

IN EXERCISE of the powers conferred by section 234 of the Customs and Excise Act, the Vice-President and Minister of Finance makes the following Regulations:—

THE CUSTOMS AND EXCISE (AMENDMENT) (No. 3)
REGULATIONS, 1992

1. These Regulations may be cited as the Customs and Excise (Amendment) (No. 3) Regulations, 1992 and shall be deemed to have come into operation on the 1st September, 1992.

2. The Customs and Excise Regulations are amended by deleting regulation 240A and inserting the following new Regulation—

Duty remission on exports for use in export production. 240A. (1) Subject to this regulation, a remission of duty shall be granted by the Minister in respect of—

- (a) goods imported for use in, or to be attached to, goods manufactured or produced in Kenya for subsequent exportation; and
- (b) imported goods, other than fuel, lubricants, plant, machinery or equipment, for direct consumption or to be expended in the manufacture or production in Kenya of goods for subsequent exportation.

(2) The remission of duty referred to in paragraph (1) is restricted to the manufacturer or producer of goods for export, provided that remission shall not be granted for goods imported for use in the production of goods for export which are prohibited from export under any other law.

(3) The Export Promotion Programmes Office shall be authorized to approve application for remission under this regulation.

(4) Subject to paragraph (2), an application for remission of duty may be approved by the Export Promotion Programmes Office in either of the following cases—

(a) on receipt of an application on Form C 56 supported

(i) a bona fide export order or export contract for specified export goods, or a letter of credit;

(ii) detailed production plans including production processes or formulae, and specifying the types and quantities of goods to be imported; and

(iii) a list of the goods to be imported including description, tariff classification, quantity, value and the estimated amount of duty to be remitted; or

(b) where an exporter has an established record of exports of specified goods over a period of at least one year, on receipt of application of Form C 56 for the imports required to produce exports of value up to the value exported on average over a six month period where the application is supported by—

(i) export entries documenting the value of exports of specified goods over the immediately preceding year or such longer immediately preceding period not exceeding three years;

(ii) detailed production plans including production processes or formulae, and specifying the types and quantities of goods to be imported;

(iii) a list of the goods or materials to be imported including description, tariff classification, quantity, value and the estimated amount of duty to be remitted; and

a copy of the approved application shall be returned to the applicant duly certified by the Export Promotion Programmes Office.

(5) Application under paragraph (4) (b) can only be made once every six months except where evidence can be provided that export have or will reasonably be expected to exceed the average export value for a six month period.

(6) The Export Promotion Programmes Office shall maintain a register for applicants for duty remission under this regulation which shall include the name, postal address and location of business premises, and any other information that the Commissioner may require.

(7) Remission of duty on goods under this regulation is conditional on the applicant undertaking in Form C 56—

(a) to pay the duty on any imported goods—

(i) that have not been used in the production of specified exports; or

(ii) that have not been re-exported; or

(iii) that have not been transferred to an approved bonded factory as provided for under paragraph (21); or

(iv) that have not been transferred to the next production period as provided for in paragraph (22);

(b) to complete and submit to the Commissioner a reconciliation declaration as required under paragraph (19);

(c) to keep and maintain books and records in accordance with paragraph (15); and

(d) to provide security in the form and manner referred to in paragraph (12).

(8) Export goods manufactured from goods imported under this regulation shall not be eligible for export compensation under the Local Manufactures (Export Compensation) Act or duty remission under any other written law.

Cap. 482.

(9) Where a by-product results from a process of manufacture or production utilizing goods subject to duty remission under this regulation, duty shall be payable on such imported goods in the same proportion that the value of the all goods manufactured or produced from such imported goods, unless the by-products are exported.

(10) Where any scrap or waste of commercial value results from a process of manufacture or production utilizing goods subject to duty remission under this regulation, duty shall be payable on the prevailing value of the scrap or waste in accordance with section 127 or 127B, as the case may be, and the First Schedule, unless the scrap or waste is exported, or destroyed under supervision of the proper officer.

(11) Goods imported under this regulation—

(a) shall be entered on Form C 15 with a declaration of "REMISSION UNDER APPROVED MANUFACTURE, Legal Notice number of" endorsed on each copy in block 39; and

(b) shall have a security bond posted in an amount determined by the Commissioner, but not exceeding the duty that would otherwise be payable, and executed on the prescribed Form CB 13.

(12) The security bond shall be cancelled only—

(a) after the reconciliation declaration had been verified and approved by the Export Promotion Programmes Office; and

(b) any unused imported goods have been re-exported or transferred to an approved bonded factory; or

(c) the duty has been paid:

Provided that for application for remission approved on or after the 1st July, 1992, the security bond shall be cancelled within ninety (90) days of receipt by the Export Promotion Programmes Office of a properly completed Form C 57 as required under paragraph (17) and (18) if the Export Promotion Programmes Office has failed to respond in writing to approved or reject such a reconciliation within such a period.

(13) The Export Promotion Programmes Office shall within seven (7) days of the receipt of a satisfactorily completed and supported application as required under paragraph (5) give approval or advise the applicant of a rejection stating the reasons for rejection.

(14) Every person who has been granted a remission from duty, shall keep and maintain at his place of business detailed books and records relating to the purchase, importation, stocks of goods, production, packing, sales, shipping and exportation of all goods.

(15) The books and records referred to in paragraph (14) shall be kept for five years from the time of the application for remission and shall be made available, upon request, to the proper officer, including an officer of the Export Promotion Programmes Office, for examination and verification at all reasonable times.

(16) Separate books and records shall be maintained for stocks of imported goods from those maintained for domestic goods.

(17) A proper officer, including an officer of the Export Promotion Programmes Office, is authorized to examine and verify the books and records, inspect the production facilities of any remission application and examine any goods or materials within the production facility or any storage place related thereto.

(18) A reconciliation declaration in Form C 57 in respect of the duty remission granted, shall be submitted to the Export Promotion Programmes Office in three copies within a nine month period from the time of the approval of the remission application or, for applications approved under paragraph (4) (a), on completion of the export order or contract, whichever is the earlier.

Made on the 9th September, 1992.

GEORGE SAITOTI,
Vice-President and Minister for Finance.