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# KTA NEWSLETTER

## KENYA PORTS AUTHORITY CUSTOMER NOTICE: CHANGE FROM LEDGER TO CASH ACCOUNTS



On June 5, 2023, the Kenya Ports Authority (KPA) issued a notice to its esteemed customers, informing them of changes in its service provision. Effective from July 1, 2023, the KPA will only offer services on a **CASH BASIS**. Consequently, all customers with ledger guarantee accounts were to be automatically converted to cash accounts, and that KPA to no longer open or operate ledger guarantee accounts or credit facilities.

**The directive issued by the Kenya Ports Authority (KPA) will have a significant impact on customers collecting cargo from the KPA. Here are the key implications of the directive:**

1. **CASH-ONLY BASIS:** Effective July 1, 2023, the KPA will only accept cash payments for its services. This means that customers will no longer be able to make payments using ledger guarantee accounts or credit facilities. They will need to arrange for cash payments to avail of the KPA's services.
2. **CONVERSION OF LEDGER GUARANTEE ACCOUNTS:** All customers with ledger guarantee accounts will be automatically converted to cash accounts. This means that the existing credit facilities provided by the KPA will no longer be available, and the customers will have to make immediate cash payments for any services required.
3. **SETTLEMENT OF OUTSTANDING DEBTS:** Customers with pending or outstanding invoices were required to settle debts before June 30, 2023. Failure to do so will result in the KPA recalling any guarantees held with banks. Therefore, customers need to prioritize clearing their outstanding debts to avoid disruptions in accessing port services and facilities.
4. **GRACE PERIOD:** Customers who have accumulated substantial outstanding debts were granted a one-month grace period from the date of the notice to clear their dues. This provides some additional time for customers to plan and settle their debts with the KPA.
5. **DISPUTE RESOLUTION:** The KPA appointed a dispute resolution team to address and resolve any disputes raised by customers. Customers with disputes are advised to contact the dispute resolution team at the KPA Headquarters to initiate the resolution process and regularize their accounts.
6. **CONSEQUENCES OF NON-COMPLIANCE.** Customers' accounts may be locked, and they may be denied port services or restricted access to port facilities until their debts are settled or disputes are resolved.

## KPA WAIVER APPLICATION AND CARGO NOMINATION PROCESS



*The Kenya Transporters Association, along with other stakeholders, participated in a comprehensive sensitization workshop convened by the Kenya Ports Authority. The workshop focused on enlightening Port Users about the KPA waiver application procedures and the cargo nomination processes.*

### **COMMON REASONS CITED BY CUSTOMERS FOR DELAYED CARGO EVACUATION DURING THE SENSITIZATION WORKSHOP.**

- *Shipping documents: Customers experience delays due to late receipt, lost, misplaced, or wrongly documented shipping documents.*
- *Disputes between importers/exporters and third parties sometimes delay cargo evacuation.*
- *Socio-economic problems: Issues such as sickness, death, or financial constraints faced by customers can lead to delays.*
- *Regulatory requirements: Delays can occur due to the need for permits, approvals, failed standards, or changes in policy.*
- *Operational issues: Delays can arise from problems with shipping lines, government agencies (PGA's), or cargo owners.*

### **BASIS FOR WAIVER POLICY:**

- *KPA charges storage fees for cargo after the expiry of the free storage period.*
- *Waiver charges may be granted by the Authority when storage charges have accumulated to a point where they impact cargo delivery, provided there is sufficient justification.*
- *The waiver policy applies to all requests for waiver of port storage charges received by the Authority.*
- *The waiver process is managed by the commercial & Insurance services division of the Authority.*

### **WAIVER APPLICATION REQUIREMENTS:**

- *A formal letter, on official letterhead, signed by the CEO of the client organization or individual consignee.*
- *Bill of lading: Document indicating the details of the cargo being transported.*
- *Proof that the customs requirements have been fulfilled.*
- *Delivery order: Document authorizing the release of the cargo.*
- *Supporting documents that provide evidence for the reasons cited for delayed evacuation.*
- *Copy of national ID/Passport: For individual applicants, a copy of their identification document.*
- *Applications and supporting documents should be scanned and emailed to [commercialteam@kpa.co.ke](mailto:commercialteam@kpa.co.ke) or [waiversecretariat@kpa.co.ke](mailto:waiversecretariat@kpa.co.ke).*
- *There are two waiver committees: The Corporate Waiver Committee at Mombasa Port and the ICD Waiver Subcommittee. The committees serve on an annual basis and are rotated periodically to enhance their effectiveness.*

### **THE OBJECTIVES OF THE WAIVER COMMITTEE:**

*To promote equity by implementing consistent guidelines for waivers, ensuring transparency and accountability in waiver management, eliminating discretion in handling waiver requests, adopting a customer-friendly approach, and supporting initiatives that benefit disadvantaged groups.*

**THE PROPOSED SOLUTIONS:** *Discouraging waivers as a long-term solution for accrued storage charges, emphasizing the need for improved efficiency through enhanced collaboration among service providers, and emphasizing proper planning by relevant entities such as KPA, PGA's, and professional service providers.*

## SENSITIZATION WORKSHOP ON AUTHORIZED ECONOMIC OPERATOR



*During the meeting which the KTA participated, several key points were discussed and recognized.*

- *There is need in conducting additional sensitization forums on AEO (Authorized Economic Operator) and PAP (Pre-Arrival Processing) programs was highlighted. Secondly, there was a need to review the AEO accreditation process and requirements to make it more flexible for small and medium-sized enterprises (SMEs) to participate.*
- *There need for the Kenya Revenue Authority (KRA) to segregate and disseminate individual benefits to various stakeholders, such as AEO importers, exporters, manufacturers, transporters, clearing agents, and shipping lines. The advantages of using shipping lines that are AEOs were also outlined, and it was emphasized that KRA should have a clear strategy to onboard more shipping lines onto the AEO program. Currently, only one shipping line is an AEO.*
- *Specific benefits for transporters, including dedicated lanes at border points and priority entry and exit at ports and depots, were discussed. The meeting also addressed the issue of system downtimes that result in delays in payment of cargo under PAP, thus negating the benefits of the program. Disputes related to HS codes when using PAP were identified as an area that needs resolution.*
- *Sensitizing KRA officers to ensure facilitation of AEOs and PAP program users and the delivery of anticipated benefits was recognized as a crucial step. The unique identifier of AEO, the Blue channel under the iCMS system, was noted. Additionally, AEO members were encouraged to take advantage of the regional AEO.*
- *It was noted that the number of AEOs has increased by 38%, from 307 to 337. KRA is currently in the process of color-coding PAP transactions to ensure clear recognition in the iCMS system. The possibility of using alternative documents for the pre-arrival process, such as the partial manifest or the bill of lading, is being explored.*
- *Amendments to the **East African Community Management Act (EACMA)** have eliminated the requirement of submitting the manifest 48 hours before vessel arrival for cargo clearance through Pre-Arrival Processing. Now, the manifest can be submitted immediately after the vessel docks. KRA is also working towards implementing the World Customs Organization (WCO) pillar of Customs to Partner Government Agencies, aiming to establish a mutual recognition framework for all AEO transactions involving various government agencies in the cargo clearance process.*
- ***KenTrade** is implementing a joint risk management module involving all government agencies to enhance risk coordination. Moving forward, the Shippers Council of East Africa/GIZ plans to maintain continuous engagement with government agencies to ensure system uptime, encourage collaboration among importers, clearing agents, and customs officers, and engage with KenTrade for the timely launch of the joint risk management module.*
- *Collaboration with KRA is crucial to establish the Mutual Recognition framework, including standard operating procedures (SOPs) and Service Level Agreements (SLAs) for AEOs. Continuous training for KRA staff will be provided to ensure smooth facilitation of AEO and PAP program consignee expedited clearance.*

## STATUS OF IMPLEMENTATION OF SINGLE CUSTOMS TERRITORY



*Single Customs Territory is the full attainment of the Customs Union achievable through minimization of internal border controls and removal of trade restrictions between Partner States ultimately resulting in free circulation of goods in the EAC Customs Territory.*



- *It is crucial to streamline and harmonize the legal and regulatory framework and integrate systems for data exchange.*
- *Technological issues are hindering the smooth exchange of information, and efforts should be made to identify and address the causes of these problems.*
- *Automation in import modules is more advanced, but equal priority should be given to automating export modules to enhance competitiveness of exports.*
- *While some countries have made progress in implementing the Single Customs Territory (SCT), they have introduced impediments such as export licenses that negate its benefits.*
- *Harmonizing working hours and implementing a 24/7 schedule is necessary to reduce cargo backlog at borders.*
- *Harmonization of transit and procedural codes is essential for better data exchange.*
- *Mutual recognition of Clearing and Forwarding agents and harmonization of licensing should be prioritized.*
- *Visa waivers in all Northern Corridor/EA member States are needed to facilitate the movement of goods.*
- *The SCT has had overwhelmingly positive impacts since its adoption.*
- *The issue of multiple independent systems should be addressed to mitigate the risk of downtime and disruptions in goods clearance.*
- *Revamping the inter-ministerial committee for monitoring non-tariff barriers (NTBs) along the corridor can enhance the flow of cargo.*
- *The consultant is advised to provide more specific statements and recommendations rather than general ones.*
- *Container guarantee should be refunded promptly upon the container's arrival at the port.*
- *Advocacy is necessary for the recognition of COMESA yellow card scheme insurance by traffic police in South Sudan.*
- *Data discrepancies for goods not reflected in intermediary transit countries can be resolved by checking if the goods were declared to transit through a different border.*
- *The evaluation report on the SCT should also encompass other modes of transport, such as rail, inland waterways, and pipelines.*
- *Balancing trade facilitation with revenue protection is crucial to minimize delays and transaction costs.*
- *To address data migration challenges, receiving customs authorities should be granted access rights to confirm the receipt of goods data.*
- *Capacity building and sensitization efforts are needed for member States that are lagging behind in implementing the SCT.*
- *Smart Corridor initiatives should leverage technology to the maximum extent to reduce delays and costs.*
- *Transit Goods Licenses from the Democratic Republic of Congo (DRC) should be recognized by transit countries if they comply with COMESA requirements.*
- *Dialogue should be initiated to customize and extend the SCT concept to other sectors such as tourism and investment.*
- *While the SCT has brought benefits, negative factors like poor infrastructure and non-tariff barriers need to be addressed to maximize its impact.*



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## IMPACT OF POOR STATE OF ROAD ALONG JOMVU KUU – MIRITINI SECTION IN MOMBASA COUNTY.



*The condition of the section of the highway 109A, from **Jomvu Kuu** to **Miritini**, has been a matter of concern due to its poor state. This route serves as a crucial transit route for truckers, facilitating the transportation of cargo from the port of Mombasa to various destinations. However, the deteriorated condition of the road has become a significant hindrance to trade and has caused numerous challenges for truckers and businesses alike*

*The poor state of roads along the Jomvu Kuu - Miritini section, has emerged as a major hindrance to trade and economic growth. The route serves as a vital transit route for truckers evacuating cargo from the port of Mombasa, but the deteriorated road conditions lead to increased maintenance costs, traffic deadlock, and resource loss. Urgent attention and investment in road infrastructure improvements are necessary to alleviate these challenges and support the smooth flow of trade, benefiting businesses, truckers, and the local economy as a whole.*



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*The Kenya Transporters Association Limited (KTA) is a business association of road transporters whose broad objective is to provide a common voice to articulate business constraints facing its members, while being a united association of global excellence in advancing sustainable and competitive road freight services in Kenya, East Africa Region and beyond.*