



**CUSTOMS MODERNISATION DEVELOPMENTS AND IMPACTS ON
EFFICIENCY AND EFFECTIVENESS IN THE CLEARING AND FORWARDING
PROCESS: A CASE STUDY ON THE PORT OF DURBAN**

By

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DECLARATION

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I made use of generative AI in this dissertation in the following areas:

- i For language editing, and
- ii Paraphrasing in certain sections to enhance clarity and coherence.

All substantiative content, analysis, and original ideas are my own.


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ABSTRACT

The study examined customs modernisation developments and their impacts on efficiency and effectiveness in the clearing and forwarding procedures, using the Port of Durban as a case study for import and export. The research design utilised secondary sources of information and involved multiple stakeholders, including the South African Revenue Service (SARS), Transnet, and Clearing Agencies (such as SAAFF and SASSOA). Data for this study were gathered through a structured desktop approach, relying exclusively on publicly accessible primary and secondary sources. Rather than collecting empirical data via surveys or interviews, the research utilised authoritative legal texts, such as the Customs and Excise Act (CEA) 91 of 1964 and the Customs Control Act (CCA) 31 of 2014,¹ as well as SARS procedures, international customs conventions, and official reports. Once collected, the data were subjected to thematic analysis, allowing for the identification of key patterns and the assessment of customs modernisation impacts on clearing and forwarding efficiency at the Port of Durban.

The enactment of CCA 31 in 2014 significantly revised existing legislation by eliminating the legal authority to transport and discharge containerised cargo at an inland terminal using a manifest as the governing document. As a result, inland ports, including the Johannesburg Inland Port (City Deep), will no longer serve as points of entry or exit for customs. These amendments may significantly impact the broader freight forwarding and logistics sector, with possible implications for South Africa's role as a key transit corridor, as Khuzwayo (2021) and GMLS (2013) state. Such shifts could lead to employment reductions and place additional pressure on the overall cost of living.

The study provided evidence of a potential inefficiency and ineffectiveness in the forwarding and clearing procedures at the Port of Durban, primarily due to bureaucracy, corruption, and a lack of knowledge and understanding of customs compliance processes, including the new legislation introduced by SARS. The conclusion of this research is that the current stage of delivery improvements within the international supply chain does not align with the goals and objectives of international customs organisations, particularly in terms of early notifications for risk

¹ The rewrite of the Customs & Excise Act 91, of 1964, is an undertaking to place increased focus on trade facilitation, modernise Customs controls, facilitate regional economic integration and follow trends linked to the globalisation of trade. SARS is also concerned with 7 Supply Chain Security

management. The necessary information and control criteria could be obtained without the anticipated policy changes, which may affect the final cost of goods in transit.

All of these factors are expected to substantially increase the cost of transit through the Port of Durban, which is already known for ongoing congestion problems. While SARS maintains that the containerised traffic will still continue to flow seamlessly and that there will be no interruption to trade, business stakeholders are concerned that this may not be the case and believe that the new legislation should be amended.

The CCA (2014) is primarily designed to regulate the “control of goods imported or intended for export from the RSA” (Khuzwayo, 2021). It can be described as legislation that will serve as a platform for the implementation of other laws and for addressing the risk management objectives of SARS, as part of a new strategy aimed at facilitating trade whilst enhancing customs control.

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ABBREVIATIONS AND ACRONYMS

AEO	- Authorised Economic Operator
AWB	- Airway Bill
BOL	- Bill of Lading
C& FA's	- Clearing and Forwarding Agents
CBM	- Coordinated Border Management
CCA	- Custom and Control Act 31 of 2014
CCD	- Customs Clearance Declaration
CEA	- Customs and Excise Act 91 of 1964
CIF	- Cost, Insurance and Freight
CoC	- Contract of Carriage
CSIG	- Contract Sales of International Goods
DP & IR	- Duty Paid & Industrial Rebate
DPT	- Durban Port Terminal
EDI	- Electronic data Interchange
EMC	- eThekweni Maritime Cluster
EWP	- Examination Without Prejudice
GMLS	- Global Maritime Legal Solutions
GNC	- Globally Networked Customs
ICC	- International Chamber of Commerce
IPMS	- Integrated Port Management
LC	- Letter of Credit
NEDLAC	- National Economic Development and Labour Council
OGD's	- Other Government Agencies
PP	- Provisional Payment
PPP	- Public Private Partnership
PSRA	- Port Regulator South Africa
RIB	- Removal In Bond
RIT	- Removal In Transit
RKC	- Revised Kyoto Convention
RSA	- Republic of South Africa
SAAFF	- South Africa Association of Freight Forwarders
SAASOA	- South African Association of Ship Operators and Agents

SABS	- South African Bureau of Standards
SACU	- Southern African Customs Union
SAD 500	- South Africa Declaration Form 500
SADC	- Southern Africa Development Countries
SAMSA	- South Africa Maritime Safety Authority
SANDF	- South Africa National Defence Force
SARS	- South African Revenue Services
SOPCT	- Standard Operating Procedure Container Terminal
SUMATRA	- Surface and Marine Transport Regulatory Authority
TEU's	- Twenty Foot Equivalent Units as in a 6m / 20' container (2 x TEU = a 12m / 40' container)
TFA	- Trade Facilitation Agreement
TNPA	- Transnet National Port Authority
TPT	- Transnet Port Terminal
UNCTAD	- United Nations Conference on Trade and Development
VAT	- Value Added Tax
VDP	- Voluntary Disclosure Programme
VDS	- Vessel Delay Charge
WCO	- World Customs Organisation
WTO	- World Trade Organisation
TSF	Technical Stakeholder Forum

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CHAPTER 1: INTRODUCTION AND BACKGROUND

1.1. Background of the Research Study

The globalisation standards of different businesses, including production and manufacturing businesses, have created numerous opportunities for traders and the economies of trading nations (Matiya, 2013). As the world progresses toward the 22nd century, global trade is evolving at an unprecedented pace. Key changes include the increasing liberalisation of trade systems, the growth of regional economic partnerships, a rise in cross-border transactions, and stronger connections between businesses, clients, and international markets (Matiya 2013). According to Matiya (2013) emphasizes that significant progress in information, communication, and transportation technologies has strengthened linkages between businesses, their customers, and marketing partners, making such connectivity a critical factor in modern commerce. Jones (2017) also discusses the role that information technology, transportation and communication networks have played in the strategy of international businesses operating in developing economies.

In the recent business market, the aspect and focus of “on-time” production and delivery have become essential for a very agile and resilient supply chain, ensuring merchants have quick and predictable arrival times for their products (Matiya, 2013). Traders and the government of South Africa are continually concerned about the deferral of customs clearance for merchandise and other statutory or regulatory requirements, as it increases costs to their organisations (Sithole, 2025). Postponements in the arrival of merchandise are attributed to the convoluted and complex process requirements, bank transaction plans, documentary necessities, and the costly expense of handling data (Matiya, 2013; Sithole, 2025). The customs authority must aspire to trade facilitation standards to ensure predictable trade flows.

As indicated by the World Bank (2013; 2021) report, regulatory obstacles, such as customs compliance and tariff processes, as well as other types of clearances and goods assessment (i.e. ITAC, Port Health, and State Vet to name a few), add up to 33% and 30% of business transaction deferrals in South African (Van Rensburg, 2024) and, similarly, contribute to delays in other African ports, where such factors affect up to 75% of business transactions (Matiya, 2013). Customs clearance is one of the most important stages of sea transportation for buyers and sellers. The entire procedure encompasses various aspects, including the computation of expenses for transport tariffs and customs duties, which are facilitated by a

trader's forwarding and clearing agent through communication with both national and international government organisations (Matiya, 2013).

There are several reasons why international traders often require the recruitment or appointment of well-known and reputable customs clearing and forwarding agents, commonly referred to as customs brokers (M6T_C@rg0, 2023; Matiya, 2013).

According to Uzzaman and Yusuf (2011) and Bulterman (2024), administrative agents are necessary to facilitate the following aspects of the global supply chain:

- Ensure that shipment services are conducted efficiently so that cargo shipped arrives safely from the point of departure to the final destination (end-to-end);
- Whereas customs clearing agents facilitate the customs and other clearance requirements of cargo up to the final delivery point;
- Both agencies must have in-depth knowledge of international carrier requirements, shipping routes, cargo safety, security requirements, and advanced customs procedures, as well as the rules applicable at both the origin and the destination. They must also be familiar with additional "extended" clearing requirements, such as import permits and certificates required by other governmental organisations, to ensure full compliance with all regulations for such cargo or merchandise;
- Inefficient and reckless agents (including carriers and logistics operators considered an extension of such agents' services) can force international traders to seek more reputable and trustworthy clearing and forwarding administrators.

Scholtz (2017) explains why many vessel lines appoint the best freight and shipping administrators in Southern Africa. Thirty per cent of the vessels waiting to call at the Durban Port have experienced delays at Durban Port Terminal (DPT), causing port congestion and contributing to additional costs (Burgstahler, Goedhals-Gerber and Human, 2025). The CEA, 91 of 1964, is also one of the key factors that has contributed to this congestion, due to its ineffective customs control processes (Siphugu, 2020).

As per Ginindza (2023) and Van Rensburg (2024), port congestion has been noted as one of the main causes of inefficiency in the clearing and forwarding process in South Africa, which also affects a number of other ports across Africa. In addition to other contributing factors, the inadequacy of port infrastructure and the poor condition of road and rail systems are major drivers of congestion at South African ports. Specifically, at the Port of Durban, congestion

has been closely linked to inefficiencies in customs clearance procedures, which hinder the smooth flow of cargo and logistics operations (Mkhabele, 2024; Van Rensburg, 2024). Capacity constraints have also posed a significant obstacle to port operations over the past five years (Khuzwayo, 2021). For instance, Venter (2021a) demonstrates that there has been an increase in client objections and concerns, and containers have consistently been held up in the container stack yard, due to delays in clearing goods on time.

At this juncture, it is essential to provide some recent examples that offer insight into the impact of port congestion on the supply chain, particularly in relation to Durban Port. Importantly, it should be noted that the current problem of port congestion should not be further exacerbated by the customs authority through legislative changes that negatively affect inland deliveries permitted under the existing customs act. Furthermore, such changes should not adversely impact established trade practices, rules, and procedures within international contracts of carriage.

The following points highlight the ongoing challenges of congestion and inefficiencies at the Port of Durban:

- Extended Transit Times to Durban – The longest shipping route to Durban is from Seattle, with an average transit time of 57 days. Other lengthy routes include Oakland–Durban, which takes an average of 55 days, and Long Beach–Durban, averaging 53 days. These prolonged shipping times contribute to delays in trade and disruptions in supply chain operations.
- Port of Durban Backlog Following Flood Damage – April 20, 2022: Port of Durban Operations have resumed following severe flooding; however, a backlog of 8,000 to 9,000 containers still requires clearance (Burgstahler, Goedhals-Gerber and Human, 2025). As South Africa's largest port, its temporary shutdown had significant economic consequences. The unprecedented floods led to the loss of over 400 lives, displaced approximately 40,000 people, and caused infrastructure damage exceeding 10 billion rand (\$663.78 million), further intensifying delays and logistical difficulties.

Figure 1-1. Marine Services Delays: Evidence from the Transnet National Port Authority (TNPA) Annual Report, 2021

Category	Unit of measure	FY2020/21 Target	FY2020/21 Actual	Variance %	Reason/s for deviation
Durban	Hours: Minutes (HH:MM)	≤ 01:55	00:26	77	13 vessels delayed for an average of 6 minutes, total hours of 1 hour 23 minutes
Cape Town	HH:MM	≤ 02:04	01:23	33	15 vessels delayed for an average of 1 hour 16 minutes
Ngqura	HH:MM	≤ 02:10	03:13	(48)	4 vessels delayed for an average of 1 hour 21 minutes

In addition to the marine operations services delays KPI, there are other KPIs that measure efficiency including ship turnaround time (STAT) and anchorage waiting time (AWT) which are tracked and monitored. The linear graphs on page 5 compare FY2020/21 performance against target with Year to Date (YTD) comparison of financial year end 2019/20 and 2020/21 (PY).

Source: TNPA (2021)

1.1.1. Sappi Raises Concerns Over Inefficiencies at the Port of Durban

According to Makhosini (2022), Sappi Limited highlighted challenges related to operational inefficiencies at the Port of Durban and within the rail transport network during the inauguration of its plant, an event graced by President Cyril Ramaphosa.

Figure 1-2. Sappi Raises Concerns Over Inefficiencies at the Port of Durban



Source: SABC News, 14 September 2022, 13:00, reported by Vusi Makhosini

During the launch of two major investment initiatives along the KwaZulu-Natal coast—a R7 billion Sappi mill in Umkomaas and a newly established automotive plant in KwaDukuza—the President attended the official proceedings. In his address, Sappi Limited’s chairperson, Sir Nigel Rudd, underscored persistent logistical challenges at the Port of Durban. Together with observations by Mkhabele (2024), he noted that

inefficiencies within both the rail network and port operations continue to elevate operational expenses and constrain the company's potential for expansion. As one of the largest users of rail services and a container exporter dependent on the Port of Durban, Sappi has been adversely affected by “persistent congestion”, port inefficiencies, and unreliable road infrastructure in South Africa (Mkhabele, 2024). According to Rudd, these logistics issues have a direct negative impact on the company's operations and may influence future investment decisions, which will be based on economic viability. Despite these challenges, Rudd expressed optimism that the government acknowledges the urgency of these problems and recognises the importance of improving logistics efficiency to foster economic growth.

1.1.2. Transnet Tariff Book April 2022 – Container Backlog at the Port of Durban.

The late Public Enterprises Minister, Mr Pravin Gordhan, confirmed in April 2022 that operations at the Port of Durban have resumed; however, thousands of containers were still stuck in a backlog and awaiting processing. Durban Port is RSA's busiest port and plays a vital role in logistics and trade (Mkhabele, 2024). Following severe flooding that extensively damaged the roads leading to the shipping terminals, port activities were temporarily halted (Burgstahler, Goedhals-Gerber and Human, 2025). According to Mr Gordhan, the backlog was expected to be cleared within nine days.

The port had been non-operational to its optimum required level since the torrential rains in the eThekweni region washed away roads and bridges, disrupting access to the crucial trade hub (EMC, 2024). This infrastructure damage significantly affected both exports, such as grain and metals, and imports, including fuel (Mkhabele, 2024). In response to the widespread destruction, President Cyril Ramaphosa cited the port's closure as a key factor in declaring a national state of disaster.

1.1.3. Durban Port – Online Petition by Transport Companies to Improve Goods Movement

Transport companies operating at the Port of Durban launched an online petition demanding improvements in the movement of goods through the port. Many businesses reported severe delays, with waiting times of up to 24 hours (Magubane, 2021).

Figure 1.3: Online Petition on Durban Port Inefficiencies



Source: IOL, 3 December 2021, reported by Thami Magubane

The primary concern was the inefficiency of the TNPA booking system, which was designed to streamline traffic flow but has been widely criticised for being inconsistent and unreliable (Magubane, 2021; Sithole, 2025). According to the Minister of Transport, Barbara Creecy, road transport contributes significantly to backlogs at the country's ports, resulting in delayed deliveries to end customers. Transport operators argue that these inefficiencies disrupt logistics, increase operational costs, and reduce overall productivity, calling for urgent intervention to enhance efficiency at one of South Africa's busiest trade hubs (Magubane, 2021).

1.1.4. Durban Port Decongestion Task Team to Implement Long-Term Solutions

The Port of Durban Decongestion Task Team, comprising multiple stakeholders and disciplines, was established to implement long-term strategies aimed at addressing persistent challenges at the port. According to the state-owned ports agency, TNPA, the task team focused on sustainable solutions to improve operational efficiency. Over the past two years, significant measures have been introduced to reduce traffic congestion along Bayhead Road and strengthen the operational efficiency of the port. These developments reflect a concerted effort to address longstanding logistical challenges and enhance port performance (Comins, 2021; Burger, 2021). Moving forward, the team aims to implement more permanent measures to ensure smoother logistics and improved cargo movement through one of South Africa's busiest ports.



Source: Engineering Week: 15th December 2021

By: Schalk Burger - Creamer Media Senior Contributing Editor

Figure 1.4: Overall Ship Turnaround Time

KPI	Port		Target	Actual	Deviation %
Ship turnaround time	DCT Pier 1	Hours	55	69	(25)
	DCT Pier 2		53	90	(70)
	Cape Town		50	65	(30)
	Ngqura		30	32	(7)

At both Pier 1 and Pier 2, performance was poor and the set target for the 2020/21 year was not met overall:

DCT Pier 1: Poor performance was due to intermittent equipment breakdowns (cranes and rubber tired gantry cranes), adverse weather conditions, system downtime, yard clash, fumes, twist lock jams, yard shuffling and awaiting containers to exit the stack resulted in YTD performance remaining below target.

DCT Pier 2: Due to the low number of vessels arrival, berths were not fully utilised. Poor performance was due to intermittent equipment breakdowns (straddles and cranes), adverse weather delays (wind bound for 14hrs 30min), and stand-by for fumes, system error, shifting in the stack, awaiting boxes to exit the stack and twist lock jams.

CTCT: Target not met overall due to adverse weather.

NCT: YTD performance slightly missed due to weather conditions. The moor master is being revisited to mitigate this going forward.

In transitioning to COVID-19 Level 3, in line with the risk-adjusted strategy for economic activity, the Ports have conducted a comprehensive risk assessment which informs the TNPA COVID-19 Level 3 Human Resources Plan. The guiding principle is that where employees can work from home, they should. This principle will most likely continue for some time to ensure that the spread of COVID-19 is curbed.

Findings

Most of the terminals were affected by COVID-19, resulting in a shortage of gangs and stoppages. Equipment breakdowns also affected performance and weather challenges. The Joint Operations Committee meets regularly to help address both Durban and Cape Town ports regarding the ongoing equipment breakdowns and labour challenges that are affecting operations.

Recommendations

- TNPA to continue working closely with the terminals in monitoring and tracking their recovery plan from the effect of COVID-19 as well as remedial plans to improve performance.
- Terminals to conduct planned maintenance of equipment to reduce breakdowns.
- National Ports Authority to continue identifying and implementing of the improvement initiatives as per the Corporate Plan, namely:
 - International benchmarking and capacity simulations to ensure set targets are in line with the capacity of the terminal and international standards;
 - PIP and penalty/incentive to manage poor performing terminals; and
 - Create visibility of the supply chain.

Source: TNPA (2021)

There has been academic commentary on the new CCA (31 of 2014), including most recently Khuzwayo (2021) and Busse (2021), who analysed how the new Act amends the current legislation by removing legislative rights to deliver and transport containerised goods to a

terminal located inland while using a manifest. Effectively, Johannesburg and other “Inland Ports” will in the future not be places of customs entry/exit (SARS, 2019). Several scholars, including Khuzwayo (2021), Goodger (2022), and Barnard (2021), argue that these changes may have significant implications for every part of the freight forwarding and logistics industry.

It will also affect South Africa's “position as a transportation corridor” (Siphugu, 2020); Khuzwayo (2021) and Mkhabele (2024), while ultimately costing jobs and adding substantially to the cost of living. Contrary to one of the supporting arguments in favour of the Control Act 31 of 2014, namely, managing risks associated with hazardous goods and fraud, leading insurance experts note that the cost of cover will increase due to the added risk placed on shipping operators delivering re-consigned cargo to inland destinations (GMLS, 2020).

There is an increasing concern that South Africa may forfeit its competitive edge relative to other African ports, particularly in its role as a conduit between seaports and inland trade hubs. As efficiency declines, the country's capacity to facilitate cross-border transit traffic may also deteriorate, undermining its regional trade significance (Khuzwayo, 2021; Busse, 2021). This results from the requirement for customs clearance at the South African Republic's first port of entry (Khuzwayo, 2021). This study seeks to present the positive and negative aspects of the CCA 31 of 2014 to the RSA government to secure an outcome that ensures a robust future for the logistics industry and maintains the hard-earned reputation SA has in facilitating trade across sub-Saharan Africa.

It also considers the customs modernisation programme and global initiatives for compliance with the new World Customs Organisation (WCO, 2021) and World Trade Organisation (WTO) instruments (Busse, 2021). Although the Cabinet has approved the new CCA 31 and CDA 30 of 2014, there is still a narrow window of opportunity to address the detrimental aspects of the new Acts, and in particular, the problematic area of customs. Therefore, this research will concentrate on the issues that affect the effectiveness and efficiency of clearing and forwarding goods at Durban Port.

1.2. Introduction

Forwarding and clearing is the process of ensuring that goods are being shipped to and from overseas from particular seaports and airport terminals, by paying the necessary customs costs (e.g. customs & excise duties and taxes) (Uzzaman & Yusuf, 2011). This means that this

process is making a vessel free from transporting its freight by making sure that customs control requirements are being met; for example, signing documents, payment of customs duties and so on, so that a vessel can enter or exit a port fluently and unload and load cargo.

The clearance of merchandise through SARS Customs manages the requirements of customs, for example, the payment of any customs and excise duties (SARS, 2019). The forwarding process assists in forwarding, progressing, sending, or dispatching goods to the end user. The clearing and forwarding process is characterised as the procedure of trading merchandise through airports, seaports, land ports, postal services and customs control authorities via documentation processes to clients in another country (SAAFF, n.d.).

For cargo to be shipped effectively, it requires the documentation for clearance of products to be done on time and effectively (Matiya, 2013). When selecting routes and modes of transportation in international logistics, clearing and forwarding agents must evaluate a combination of cost, risk, transit time, and regulatory compliance. These factors collectively determine the operational efficiency and reliability of cargo movement from origin to destination. The efficiency of the clearance process is not solely influenced by infrastructure or port capacity, but also by the procedural clarity and responsiveness of regulatory agencies involved in cross-border trade (World Bank, 2021; Arvis et al., 2018). As such, this study evaluates these efficiency indicators within the context of the Port of Durban, adapting a framework initially developed by Matiya (2013) in her study of the Port of Dar es Salaam.

As stated before, SARS customs has introduced the new CCA 31 of 2014, which has already been phased in partially by Customs with an aim of removing the old CEA 91 of 1964 due to its inability to accommodate recent modern changes in trade and the WCO SAFE Framework.

According to the SARS, this is due to the regular evolution of international, regional, and national customs environments. Whilst customs administrations, particularly in African nations, grapple with attaining the status of modernised authorities in meeting and achieving global standards, the implementation methodology and lead times could have positive and negative impacts on trade facilitation, particularly clearance and release of goods.

The current customs legislation has struggled to keep up with shifting priorities in customs control and the rapid advancements in global trade, particularly the rise of Information and Communication Technology (ICT). Since 1997, the trade of ICT goods has grown significantly. According to the WTO, between 1996 and 2005, exports in the ICT sector more

than doubled (Strydom et al., 2021). The growth of the ICT trade has outpaced that of global trade overall, averaging a yearly growth rate of 8.5%. This increase raised its share of total trade from 12.2% in 1997 to over 14% in 2005 (Dreyer & Hindley, 2008). Additionally, it has been observed that the previous regulatory framework was unable to promptly address emerging risks, negatively impacting the profit margins of our country's ports. Furthermore, it was not conducive to business, as traders and travellers often found it difficult to understand (SARS, 2020).

It is advised that customs administrations implement mechanisms for monitoring compliance and assessing performance. The WCO RKC Standards emphasize the importance of systematically evaluating these aspects for both customs authorities and trade stakeholders. The latest equipment with capacity for minimal trade flow interruptions, such as X-ray detection units, cranes, and rail-mounted gantries at port terminals, ought to be procured. This kind of technology will increase vessel turnaround time and efficiency. An improvement of container movements and positioning in stack yards will also be required and achieved (Mkhabele, 2024 & Khuzwayo, 2021).

Furthermore, the incorporation into local customs legislation in compliance to global conventions, agreements, and the like, as acceded to by the RSA, should lead to uniformity, harmonisation, and simplification of “customs procedures, related to clearance and release of goods” (SARS, 2014) to facilitate trade flows in the major container Port of RSA, being Durban.

The researcher will explore the new CCA 31 of 2014 provision on its unique ways to remedy the inefficiency of the old Customs Act that caused port congestion, ineffective supply chain, ineffective and inefficient clearing processes in South African ports, with a specific focus on the Port of Durban. It is crucial to emphasise that customs is a key criterion area in terms of calculating the landed cost of an international shipment, promoting economic growth, job creation and social cohesion. Any delays in the performance of the customs clearance process, or obstruction in legislation, or procedure from the customs authorities, can be highly detrimental to trade (UNCTAD, 2020).

International trade relies heavily on customs to properly regulate and process every cross-border transaction. Without customs, global trade would lack essential oversight, leading to potential security risks, regulatory issues, and disruptions in the movement of goods. Customs

authorities help enforce trade policies, monitor goods entering and leaving a country, and ensure compliance with legal and taxation requirements. Their role is crucial in maintaining fair and efficient trade practices, as illustrated in the figure below.

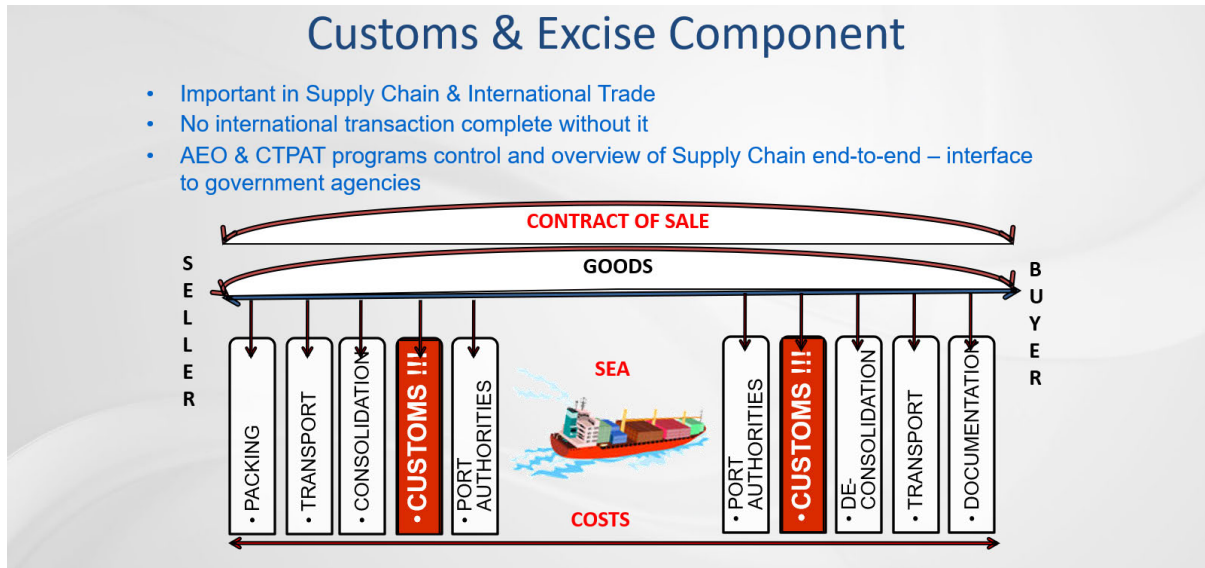


Figure 1.5: Customs Border Compliance in all aspects of International Trade

Source: GMLS (2020)

The whole trade process requires effective and efficient customs clearance from the supply chain of the buyer, including the seller, where hindrances in the process can affect the cost of the organisation transporting the cargo. In the trade process, from the seller to the buyer, it requires that, in their specific trade stages, a seller should comply with its customs export control requirements, and so too, must the buyer also comply with the customs import control requirements.

This can be governed according to the agreed-upon terms of delivery, as captured in the international contract of sale. To appreciate the precise and exact logical flow and sequence of customs compliances and procedures of the old Customs Act 91 of 1964, the flow, as indicated below, with numbered and reference steps of explanation, will be of fundamental assistance and guidance.

A cross-reference to the new and old South Africa customs legislation has been indicated where applicable. The researcher found it beneficial to describe terminology used for the reader's better understanding.

According to GMLS (2020) these steps include, but are not limited to, the following aspects:

i. Record Keeping

This process involves pre-contract negotiations, such as Pro-Forma Invoices, Cost Estimation, Contract of Sale, Purchase Orders, Commercial Invoices, including Post Customs Clearing (Importing) to final delivery, such as Freight Forwarder's Statements, Carrier Invoices, Terminal Invoices, or Depot Invoices, Clearing Instructions, Customs Clearance Declarations (CCD), Transport Orders, and Clearing Agents' Invoices.

The customs compliance is that all criteria that archives (evidencing the trail of events) need to be protected for five years (SARS Website: sars.gov.za). In terms of the new CCA, the period is 5 years, including the year in which the transaction occurred.

The RSA Value Added Tax (VAT) Acts are aligned to customs law and require all transaction requirements concluded for that trade to be kept safely for the aforementioned period.

ii. Costing (Estimated Landed Cost)

The total landed cost of imported goods typically includes several key components: origin-based handling and transportation expenses, international freight charges, import-related handling and domestic transport costs, as well as applicable taxes and duties. These combined elements contribute to the final valuation of the goods upon arrival (Khuzwayo, 2021; Busse, 2021).

Also, advanced rulings might be required for verification. Advanced rulings also pertain to ITAC permit applications in terms of restricted goods, other import permits and certificates required by other governmental bodies, the rules of origin must be observed, and the tariff classification of goods according to WCO Harmonised System of Classification, for the correct duty determination, with the potential review the of the customs Value for Duty Purposes (known as VDP), by adding dutiable charges, or deduction of non-dutiable charges, as contemplated within the customs Act.

iii. Tariff Classification

The HS classification system application requires knowledge of the product being traded, together with accurate information on the latter, to aid with the correct tariff classification of the product.

The goods should be classified when importers are conducting their market research, as it may be possible that such goods may not be able to be imported at all, due to an import prohibition (where such goods are not permissible), or subject to an import permit or licence on restricted goods. Clearing and forwarding agents, as well as consultants, may provide fundamental guidance as to the correct classification of goods declared.

iv. Customs Valuation (based in the RSA on the FOB Value)

It must be emphasised that most goods in the tariff book are subject to Ad Valorem rates of Duty. In other words, the “rate of duty” is based on a percentage of the “Customs Value (VDP)” of the goods (Siphugu, 2020). The Customs Value also plays a key role in the calculation of import VAT and excise duties on such imported goods. According to GMLS (2020), furthermore, the customs value will also be incorrect if the incorrect Rate of Exchange (ROE) information is utilised (currency and rate of exchange).

v. Custom Duty Calculation

Customs valuation and origin of goods play significant roles in duty calculation (Mishchenko, 2024). Factors like the mass of the goods, quantity, and, in some cases, the presentation of goods together in sets, also play a role, which is important due to specific rates and types of duties, such as Compound Duties and Formula Duties (Mishchenko, 2024). The General Rules of Interpretation, GATT Article 7 and the like, all have legal application to support the correct declaration and duty and tax payments.

Customs duty payment is such an important matter that most CEAs deal with this matter under separate headings and section notes specifically. The new Customs Duty Act singles out this framework in contrast to the Control Act, which deals only with other customs control functions.

vi. Import Prohibitions and Restrictions

According to GMLS (2020), during the procurement stage, the importer must know, in other words, prior to importation (a process termed “Self-Determination”), whether such goods are subject to any restrictions pertaining to both exportation and importation control measures, meaning such goods should first be classified under the correct Harmonised Tariff Sub-Heading, to ascertain any prohibitions or restrictions. During this process, the exporter or importer should consult the listings of such goods in the prohibited and restricted goods index to establish what the requirements are for that specific product.

By doing so, the international trader will be able to establish whether or not an import/export permit, other permits, certificates, or printed labels, are required from any other government department or organisation represented by such a statutory body’s administration (i.e., ITAC, Port Health, State Vet, Plant Inspector, SABS, NRCS, CITES, and SAPS).

viii. Goods deemed to be imported

According to GMLS (2020), Chapter III, Section 10 of the CEA 91 of 1964, as well as Chapter V under "Clearance and Origin of Goods; Liability for and Payment of Duties" (Sections 38 and 39), any goods deemed to be imported must be declared (Acts Online, n.d.). Once goods are classified as imported under customs legislation, all pertinent customs rules and regulations come into effect. Moreover, there is a specified timeframe within which a customs clearance declaration must be submitted.

For goods transported into the RSA by sea or air, they are considered imported once the vessel or aircraft enters the port or airport authority's specified control area (SARS, 2016). If the ship or aircraft does not dock at the intended destination within the RSA or if goods are unloaded before reaching their assigned location, the point at which the goods are discharged is considered the place of import.

ix. Place of Entry

As outlined in Section 6 of “Chapter III of the Customs & Excise Act 91 of 1964”, certain locations are designated as official points of entry into the RSA (SARS, 2016). These are the locations where goods may be imported, exported, or unloaded for transit

or coastal transport. Additionally, these points serve as docking locations for foreign-going vessels and as disembarkation or embarkation points for passengers entering or leaving the country. Goods must be entered at these authorised locations to comply with customs and excise regulations.

The RKC “standard procedure regulates by WCO to ensure harmonised and effective trade”, on Chapter 3 of the General Annex, provides that goods may only be entered at designated points. These were their designated points of entry where goods may be cleared for specific purposes and during designated office hours. The approved place of entry includes sea, air, road, and rail clearance, where the carrier reports the arrival of cargo and the departure of the vessel or aeroplanes.

x. Customs Clearance

Efficient customs clearance plays a pivotal role in balancing regulatory enforcement with the smooth movement of goods across borders, making it a core element of both customs administration and trade facilitation (Korea Customs Service, 2011). When goods are imported, duties are brought to account and trade statistics are collected. Customs clearance not only facilitates the legal entry and exits of goods but also serves to enforce restrictions on prohibited or regulated imports. Authorities assess compliance through documentation such as customs declarations, permits, and cargo manifests, ensuring goods are accurately classified and duties are appropriately levied.

As outlined in the RKC (WCO, 2006), effective clearance procedures are integral to minimising trade delays and reducing the cost of doing business. Every imported item needs to be reported to customs using a Bill of Entry (BOE) or CCD. When customs “receive a manifest or cargo declaration from the carrier”, they are informed that items will be imported (Khuzwayo, 2021). While Khuzwayo (2021) focused on legislative reforms impacting these processes, this study examines their practical implications on clearing agents' daily operations at the Port of Durban.

According to the SARS (2022), the “CCD Form (SAD 500)” is a crucial document required for all imported and exported goods. Its primary purpose is to ensure that goods moving across South Africa's borders are accurately declared. When importing or exporting, this form must be submitted to the Commissioner of Customs, a division of SARS (2014:4). Before goods can be exported, the declaration must receive approval

from customs. For imported goods, clearance is typically required in advance; however, a 7-day grace period is allowed for goods to be cleared after they have been offloaded and placed in a customs-controlled area.

In addition to the SAD 500, several other customs declaration forms are used for specific purposes:

- SAD 502 - Required for transit control, specifically for goods moving across borders.
- SAD 505 - Used for bond control, which applies to the movement of bonded goods within the country.
- SAD 507 - Serves as a supplementary form when additional details are needed beyond the space provided on the SAD 500.

These forms guarantee conformity with customs requirements and the efficient movement of goods through South Africa's trade network (SARS, 2022 and Khuzwayo, 2021). Where the cargo was not immediately cleared due to failure to produce required documents on time, such cargo is transferred to a SARS customs bonded warehouse where it is kept for a certain period up until it is released by "late" clearance or disposed of due to "non-clearance". It is important to note that the clearing instructions must be accurate and exact in terms of instructions issued to the importer by the customs broker/clearing agent.

The information required for goods and shipping declarations is primarily derived from trade and transport documents that accompany internationally traded items. These include essential records such as the supplier's commercial invoice, packing list, certificate of origin, and the carrier's master bill of lading or air waybill, along with any mandatory permits or statutory certificates depending on the nature of the goods and destination regulations (Korea Customs Service, 2011; & UNECE, n.d.).

xi. Clearance Documents

Documentation (e.g. Delivery Instruction Document, Cargo Dues, Release Letter, BOL & SAD etc.) is essential to both the creation of customs declarations and international trade. Importers and their service providers must understand their roles in international trade in relation to these documents, and they must also be able to communicate the

roles of exporters and freight forwarders in relation to the completion of declaration of customs declarations.

To avoid delays and possible penalties, documents must be prepared according to customs requirements, which are aligned with international instruments of the WCO and the WTO². The most important information that is required to assist in the preparation of the customs declaration is source documentation. Having the correct supporting documents ready at all times and transposing the information relevant to the clearance of goods correctly to the customs declaration is important to ensure the seamless movement of cargo in global trade transactions (SARS, 2022).

It is vital to note that documents such as import permits must be in the possession of the importer prior to the shipment of goods; this is part of the due diligence and compliance cheque. It is also important that importers are familiar with the documents that are required for customs declarations and what their role is in the completion of the CCD.

xii. Customs Clearance Code

Customs Procedure Codes (CPC) are structured into three key components:

- 1) Procedure Category Code (PCC) – This represents the category under which a customs declaration falls.
- 2) Requested Procedure Code (RPC) – This indicates the purpose of the customs declaration, specifying the intended customs procedure for the goods.
- 3) Previous Procedure Code (PPC) – This refers to the previous customs declaration associated with the movement of goods under customs control, such as Removed in Bond (RIB) or placement into a Bond Store (WH). The PPC is ultimately reconciled through the final RPC, ensuring that all customs obligations are properly completed.

² WCO Data Model

Figure 1.6: Procedure “Category” Code (PCC)

PCC (Procedure Category Code aka CPC Clearance Procedure Codes), A to L

- Category A = Goods entered for home use (home consumption)
- Category B to L = Goods entered for a specific Customs Procedure

A = Home Use

B = National & International Transit Procedure

C = Transshipment Procedure

D = Temporary Admission Procedure

E = Customs Warehouse Procedure

F = Stores Procedure

G = Tax-Free Shop Procedure

H = Export Procedure

I = Temp Export for Re-Importation

J = Inward Processing Procedure

K = Home Processing Procedure

L = Outward Processing Procedure

Source: *(R Barnard 2021)

The primary objective of Customs Procedure Codes (CPC) is to provide a clear framework for classifying goods based on their intended customs procedures. The CPC consists of three key components (SARS 2014:4):

- 1) Procedure Category Code (PCC) – Identifies the general category of the customs declaration.
- 2) Requested Procedure Code (RPC) – Specifies the purpose of the customs declaration.
- 3) Previous Procedure Code (PPC) – Refers to any prior customs procedure that was used on the products.

For example, in the case of A11.00 (Home Use of Imported Goods):

Table 1.1. Home Use of Imported Goods

Procedure Category	Requested Procedure	Previous Procedure
A	11*	0
Home Use	Home use of imported goods	None

Source: Barnard (2021)

The “1” series typically indicates goods designated for Home Use. In this case, the Previous Procedure Code (PPC) is “00”, meaning no prior customs clearance was applied. Simply put, the goods are being cleared for the first time. For example, if the goods were initially placed in a bonded warehouse under the E-Warehouse Procedure and later removed for Home Use under the A–Home Use Procedure, the corresponding codes would reflect this transition.

Figure 1.7: Customs Procedure Codes (CPC)

	Procedure Category	Requested Procedure	Previous Procedure
First Clearance	E	40*	00
Warehousing	Clearance of imported goods into a customs warehouse under the Warehousing procedure	None	
Second Clearance	A	11	40*
Home Use	Home Use of goods...	...previously placed under the Warehousing procedure	

Source: (Lennie, 2019)

The “4” series is typically used for warehouse goods. The “40” appears in both clearance codes, but its position determines its meaning.

- In the first clearance, the “40” appears in the middle, indicating that the goods are being placed into a bonded warehouse.
- In the second clearance, the “40” moves to the end, signifying that the cargo is being relocated from the warehouse.
- The “11” then takes the central position, meaning the goods are now cleared for Home Use.

Understanding how these codes are structured is essential, as their positioning determines the customs status of goods. In traditional purpose codes, the first clearance (E40.00) corresponds to WH (Warehouse), while the second clearance (A11.40) represents XDP (Ex Duty Paid).

Customs procedures indicate to the customs administration how to deal with the goods after importation. The structure of CCA is designed to reflect the procedural framework set out in the Specific Annexes of the RKC, enabling the effective regulation and processing of goods. Key procedures—such as home use, national transit, warehousing, excise transit, transshipment, and temporary admission—are organised in alignment with the RKC’s annexes to ensure harmonised and standardised customs practices (Rowbotham, 2025; Busse, 2021). These procedure codes allow for risk management data analysis to track the movement and final compliance of goods that are in the customs control territory.

xiii. Licensing

The amendments to “Section 64E of the Customs Act, 91 of 1964”, have expanded the participation of economic operators in the SARS AEO (Accredited Economic Operator) Programme, strengthening supply chain security and trade facilitation (SARS, 2021). The “WCO” council introduced the “SAFE Framework of Standards to Secure and Facilitate Global Trade”, aimed at preventing international security threats, ensuring efficient revenue collection, and promoting seamless trade operations (WCO, 2005).

The “AEO programme” is a fundamental component of this system, which recognises businesses involved in the “movement of goods across borders” that meet specific customs security and compliance standards (SARS, 2021a; SACU, 2018; UNECE, n.d.). AEO status is granted by national customs administrations to entities that adhere to WCO or equivalent supply chain security measures (SARS, 2021a).

Participants in the AEO programme include “shippers, importers, exporters, freight brokers, carriers, consolidators, middlemen, seaports, airports, terminal operators, integrated operators, in-transit warehouses, depot operators, bond operators, distributors, clearing agents, freight forwarders and customs brokers” (Rowbotham, 2025, UNECE (n.d.)).

In terms of the legislative licensing and registration prescriptions, importers and all agents must be registered with the customs administration, and their premises must be licensed accordingly (e.g., “customs compliance; systems control & accounting of goods; financial viability, sufficient customs knowledge, and licensing” (SARS, 2021a). Importers and all parties as abovementioned may be accredited by the customs

administration on application, provided they have verifiable customs compliance records. Applications must be regularly renewed and kept up to date to remain an accredited economic operator. A detailed discussion of the WCO SAFE Framework of Standards and the AEO programme will be presented in Chapter 2.

xiv. Customs Offences

If the CCD, also known as the BOE, is incorrect, then it will result in consequences to the customs broker or agent. This is due to the declaration deemed by customs to be non-compliant in terms of the Customs Act, which makes provision for penalties to be applied for such mistakes (Customs Penalties). This specifies the importance of accuracy in preparing the CCD in advance, following the guidelines.

A customs-compliant buyer/agent is crucial. However, compliance does not mean that the information provided is 100% correct, when goods are released by customs, hence such a clearance can still be subjected to a Post-Customs Audit or Inspection (PCA/PCI), meaning any incorrect information is still penalizable (refer to Chapter XI and Section Notes 78 to 96 of the Customs Act 91 of 1964, which match with Chapter 3 and 11 of the new CDA 30 of 2014). Chapter 39 of the CCA 31 of 2014 covers penalties in general; therefore, all information entered on the CCD during the Clearing process must be 100% correct.

Revised legislation, as contemplated in the new CCA 31 of 2014, aims to make the customs clearance process easier by providing a way for customs modernisation, such as e-filing. This new Act is on par with the country's legislature and other aspects, such as technology and globalisation, which assist the country in comparison to other countries' customs processes and international compliances in terms of the RKC and WCO SAFE Framework of Standards.

This CCA gives a clear requirement for every movement within the supply chain processes for SARS customs control, through the enforcement of advanced electronic communication with its stakeholders, inclusive of advanced cargo reporting, and the requirement of electronic notification on the entire clearing process.

With the introduction of the CCA 31 of 2014, significant changes will be made to the customs system, processes, and compliance requirements within the international

supply chain. The new legislation will establish stricter penalty regimes and outline specific areas where traders may be affected, particularly under the chapter on warehousing.

The following penalties are outlined in Chapter 39 of the CCA 31 of 2014 (SARS 2014:4):

- “Fixed amount penalties – As specified in Section 876”.
- “Prosecution avoidance penalties – As detailed in Section 878”.
- “Termination of seizure penalties – As outlined in Section 881”.
- “Withdrawal of confiscation penalties – Also covered under Section 881”.
- “Missing goods penalties – Defined in Section 882”.

Under the new Customs Act, fixed penalties will initially be reduced by 50% once the CCA is officially implemented (SARS, 2020). However, public review and comment are still waiting on the revised “penalty tables for the CDA, the CCA rules, and the CDA rules” (Siphugu, 2020). Offences under this new regulatory framework may result in monetary penalties, criminal prosecution, or the suspension/cancellation of a trader’s deferment account, registration, license, accreditation, or designation. Different traders and agencies that are involved in warehouse permits, licensed carriers, exporters and importers, customs agents, cargo owners and agents, will be affected by the changes in warehouse and other clearance compliance regimes.

Key warehousing compliance requirements under the South African CCA include the application and renewal of warehousing licenses, real-time electronic inventory reporting, and the segregation of goods under different customs statuses. Additionally, operators must provide advanced notification of receipts and dispatches, maintain detailed goods accounting records, and operate within the permissible conditions for bonded and free circulation storage. These procedures, which align with WCO’s Safe Framework and SARS warehousing policies (SARS, 2022), play a critical role in ensuring traceability and regulatory enforcement throughout the logistics chain.

The CCA 31 of 2014 will introduce stricter time constraints on certain clearing processes. Notably, the deadline for submitting “import clearance declarations will be reduced from seven days to three days after goods arrive” (Khuzwayo, 2021). This

change is driven by advancements in technology, which have significantly improved the speed and efficiency of customs processes compared to when the previous CCA 91 of 1964 was enacted.

Since then, trade and business practices have undergone significant change, and in the modern technological environment, information needed to clear items are instantaneously available (SARS, 2022). The different import and export operations involve many customs clearing processes with certain legislative regulations regulating each process, which includes “Home Use processing, Inward & Outward processing, Temporary Admission and Warehousing process” (Khuzwayo, 2021).

The above improvements on the CCA 31 of 2014 are expected to impact the following:

- Import clearance declaration, as the submission timeframe will decrease from 7 days to 3 days after arrival, because of improvement in technology (IT).
- Clearance declaration requires a transit rather than a Manifest document, as effective control by SARS, which can be exercised when it has all the required information.
- Prior to the loading of a container in the international seaports, a 24-hour advance cargo loading notification will be applied for containerised cargo to prevent potential cargo hazards. This supports advance clearance processing (Khuzwayo, 2021 and GLMS, 2022).

The above procedure helps assist the reader to understand the past operational processes as required in terms of the old Act 91 of 1964 versus the new operating processes, as well as contemplated with the adoption of the new CCA 31 of 2014. The “deeper analysis of the old versus the new Acts” will be discussed further to highlight customs procedural processes, old versus new, and their impacts, both positive and negative on international trade with the RSA. The study will help us to understand how the improvement of the new CCA will improve the process of clearing and forwarding.

This is also important for the researcher to further understand why clearing volumes of containerised goods is estimated to increase in many African countries, by as much as 8% proceeding following the strong development of 2017, since poor clearing processes will be

compounding the congestion “gagging” ports and hinterland associations over the continent (Khuzwayo, 2021).

The research objectives have required that the new and old legislation be compared to evaluate the previous legal rights to use carrier documentation, such as Manifests, versus the new requirement of a customs declaration – transit is compliance.

An evaluation of the “RKC and SAFE Framework of Standards” has also been conducted in order to ascertain international benchmarks and to interpret the conventions that relate to customs procedures for the “harmonisation and simplification of customs practices” (Korea Customs Service, 2011). The discontinued right for carriers to deliver containerised cargo to inland ports or terminals will interrupt traditional practices of trade while having negative impacts on Incoterms, Contracts of Carriage (CoC), as well as Contracts of Sale (CoS) (GMLS, 2020).

It is accordingly of great concern that multi-modal and through-transit BOL, as well as Incoterms, will have to be reconsidered in order for buyers and sellers to affect their compliance with customs standards. Other negative impacts have been determined, such as the loss of transport corridor status of South Africa, labour concerns in the Johannesburg City Deep area, an imminent decrease in real estate value and massive movements of traffic towards road transit instead of by rail (Khuzwayo, 2021). In addition, representations may be required in the coastal ports to attend to such customs compliance requirements.

All of these factors are expected to substantially increase the cost of transit through the Port of Durban, already well known for ongoing congestion problems. While the SARS believes that the containerised traffic will still continue to flow seamlessly and that there will be no interruption to trade, business owners is of the view that this may not be the case and the new legislation should not be approved (Siphugu, 2020).

Figure 1.8: The Impacts of Delays at the Port of Durban Causing Congestion.



Source: National Ports Authority Annual Report (TNPA) (2019)

As stated earlier, the global definition of the role of customs authorities and border agencies is the facilitation of legitimate international trade to the greatest extent possible, while adhering to pertinent international conventions and procedures developed by the WCO to ensure effective measures to combat illicit products trafficking in accordance with the strategic mandate (NPA, 2019 & UNECE, n.d).

The SARS customs authority is obligated to review its current legislation framework and bring it into line, particularly with the WCO RKC, and the WCO SAFE³ Framework of Standards Agreements. On 18 May 2004, South Africa acceded to the RKC (Khuzwayo, 2021 & SARS, n.d.). For the “WCO SAFE Framework of Standards” members deposited what is known as a “Letter of Intent” (LoI) with the WCO Secretariat. This letter was deposited by South Africa in June 2005 (SARS, 2022 & Siphugu, 2020).

The convention and agreement have been adopted by numerous South African global trading partners and accordingly incorporated into their customs legislation. The rewrite of the CEA 91 of 1964 is an undertaking to place increased focus on trade facilitation, modernise customs controls, facilitate regional economic integration and follow trends linked to the globalisation

³ WCO SAFE Framework of Standards utilised for this research is the (2021 version)

of trade. SARS is also concerned with supply chain security as part of its customs modernisation strategy.

SARS released the “Draft CCA and the Draft CDA”, then known as Bills, for public comment in 2009 (SARS, 2019 & SARS Website). In the interim, modernisation initiatives specifically catered for in the Acts were introduced under Section 119A of the current CEA, as trends in global trade and international obligations, brought about by the initiatives, although approval of the new Acts procedures was still in progress.

The purpose of this impact study is that the SARS customs division should receive adequate representation to be fully apprised of the situation. It is not the objective of trade to terminate RSA compliance with valuable instruments such as the RKC; however, the advantages and competitive edge of RSA as the most important trading nation in Southern Africa should not be eroded or disregarded. The research carefully examines all the key areas of legislation, facilitation versus security, CoC, CoS, and other detrimental commercial impacts, and concludes by providing recommendations and conclusions.

In this research, we will concentrate on the procedures followed by the clearing and forwarding agents, whether they are effective and efficient, taking a glimpse at the requirements before clearance, the clearing process, and the after-clearance process requirements. If there are after effects of disappointment in clearance and forwarding procedure, in what capacity can there be cures in utilising RKC system on clearance, including the new CCA 31 of 2014, to help improve clearing procedure within the supply chain in the landside Port of Durban, in order to diminish congestion issues in South Africa (Misra, 2021 & Khuzwayo, 2021).

The research focuses on customs modernisation developments and impacts on efficiency and effectiveness in the clearing and forwarding process in the port of Durban due to the old Customs Act, 91 of 1964’s clearing process provision, to explain the subject matter, and the way forward.

1.3. Research Problem/ Problem Statement

Despite the South African government’s efforts to enhance operational efficiency—such as the privatisation of key functions, including those within SARS Customs—significant challenges persist in optimising the clearing and forwarding processes at the Port of Durban. The maturity journey from a monopoly-based landlord model to an open-access, concession model continues

to play out in our logistics industry to this day (Buthelezi, 2025; Arnoldi, 2024). These difficulties continue to hinder the ports overall performance, even with strategies like Public-Private Partnerships (PPPs), which are intended to improve service delivery through shared responsibilities (Matiya, 2013; Department of Transport, 2025).

Long-term delays in container clearance at the Port of Durban have been caused by structural inefficiencies in the port's operations, ICT systems, and customs. In contrast to Cape Town's 4-day average and Coega's 3-day benchmark, Durban's container detention times average up to 17 days, per a logistics update (SCT, 2024c). These protracted delays are supported by reports of backlog-related congestion, which is made worse by ageing equipment, inadequate maintenance, and management inertia, and results in container vessels waiting almost three weeks to berth (Ryan, 2023 & Erasmus, 2023).

Moreover, trucking and logistics partners have identified operational issues as a primary cause of delivery delays and inefficiencies in clearance, including equipment failure, system failures, and restricted truck appointment availability (SCT, 2024b). These results give empirical support to assertions that import, and export clearance can extend beyond two weeks, underscoring persistent early-stage difficulties in the clearing and forwarding process at Durban (Zhuwakinyu, 2018).

Due in large part to limited port capacity and antiquated customs procedures under the CEA 91 of 1964, the Port of Durban has seen considerable vessel lines and clearance delays. Long anchorage wait times, sometimes exceeding two weeks, as well as longer container dwell times associated with berth restrictions and inefficiencies in clearance and ICT systems, were noted in industry logistics updates (SCT, 2024c & EWC, 2024). To lessen scheduling disruptions, some exporters and shipping lines are looking into alternate berthing options at regional ports, especially in Mozambique, because of these operational bottlenecks (Hutson, 2025).

Scholars contend that the limitations of the previous legislative framework, which impeded the adoption of contemporary, electronic, risk-based clearance systems, are partially to blame for these inefficiencies (Khanderia, 2016). The primary cause of the delays is that port customers are unable to use the outdated customs system that was put in place to run the port (Van Rensburg, 2024).

Hence the new CCA's failure to rectify the issue of legislatively eliminating the inland ports will further incur more congestion. Due to delays at every stage of clearance procedures

mandated by the former SARS Customs Act, 91 of 1964, goods handlers, interceding tasks, and C&fAs have complained that the time it takes far too long from arrival to discharge to remove the goods from customs control (Venter, 2021a) which this conquers with Matiya publication in year 2013. Therefore, this research analyses the effectiveness and efficiency in clearing and forwarding processes in the Port of Durban, as may be impacted through the introduction of provisions in the new customs legislation frameworks, as promulgated, but not yet entered into force.

1.4. Study Objectives

The purpose of this study is to assess customs modernisation developments and impacts on the efficiency and effectiveness of clearing and forwarding procedures at the Port of Durban, with a particular focus on the implications of recent legislative reforms. While the study is inspired by the framework applied by Matiya (2013) at the Port of Dar es Salaam and by Khuzwayo (2021) in his analysis of South African customs legislation, it expands the scope to evaluate how modernisation policies influence both port operations and trade facilitation outcomes.

From the main objective derived the following specific research objectives:

- (i) To assess within the constraints of a desktop study, what information is available regarding the operational efficiency of customs clearance procedures currently in use at Durban Port.
- (ii) To investigate the standard operating procedures (SOPs) and institutional practices employed by forwarding agents and customs officials during the clearance process.
- (iii) To identify key obstacles and bottlenecks affecting the clearing and forwarding processes, including regulatory, infrastructural, and administrative challenges.
- (iv) To explore the new Customs Acts, the Control Act 31, and the Duty Act 30, both passed in 2014, versus the old Customs & Excise Act 91 of 1964, and how the new Acts will improve efficiency or create Trade delays regarding the Clearing and Forwarding Processes at the Port of Durban.

1.5. The Research and Sub-Questions

The main research and sub-questions focus on the customs modernisation developments and impacts on effectiveness and efficiency in the forwarding and clearing processes in the Port of Durban. Study questions are inspired by the framework applied by Matiya (2013) at the Port of Dar es Salaam and by Khuzwayo (2021) in his analysis of South African customs legislation

The research and sub-questions are as follows:

- (i) How effective are the processes for clearing a shipment at the Port of Durban?
- (ii) How do both domestic and international shipments get cleared at the Port of Durban?
What procedures are followed?
- (iii) What difficulties does the Port of Durban's clearing and forwarding process encounter?
- (iv) How is the new Customs Act 31 of 2014 going to have an impact on decreasing congestion in the Port of Durban?
- (v) Will the new Customs Legislation provisions create negative Trade Facilitation as related to revised procedures?
- (vi) Will the new Customs Legislation provisions align with the Commercial Terms of Contractual Delivery?

1.6. Significance and Importance of the Study

Similar to Matiya (2013), the forwarding and clearing organisations, including traders, maritime specialists, law professionals, the findings of this research will be valuable as it may assist with identifying the difficulties that confront C&fAs and other impacted agencies pertaining to, and involved in the clearing and forwarding processes and suggesting how they can be resolved.

For the researcher, by engaging with the C&fAs, the shared information and the concerns highlighted by these agents, assisted the researcher in acquiring the profound information on the difficulties that are explored or to be explored by clearing and forwarding organisations with the clearing procedures of goods (Matiya, 2013), and how custom modernisations developments affects the efficiency and effectiveness of the custom clearing processes in the port of Durban.

In this research, we benchmarked the old CEA 91 of 1964, and the new CCA 31 of 2014, on the new impacts or changes of relevance in the clearing and forwarding procedures in the Port of Durban. Additionally, the discoveries of the research are helpful in providing suggestions for further research for those who are looking into a similar topic or other similar studies.

For the policy developers, the research could assist in developing better policies relating to port activities (Matiya, 2013 & Khuzwayo, 2021), improving South Africa's blue ocean economy and the customs authority's procedure of customs-clearing goods for international traders and other agencies, which are affected by the clearing and forwarding processes within the country by large, in other words, in other ports and terminals as well (Mkhabele, 2024). Finally, as the new customs legislative frameworks have not yet entered into force, it may be worth consideration that the negative commercial impacts could give rise to the amendment within the new legislation (Khuzwayo, 2021).

1.7. Scope and Limitation of the Study

This study focuses on identifying and analysing the customs modernisation development and its impact on the efficiency and effectiveness of the forwarding and clearing process at the Port of Durban. The research builds on the framework developed by Matiya (2013), who examined similar challenges at the Dar es Salaam Port. While Matiya's (2013) study assessed regulatory inefficiencies, manual procedures, and delays in the clearing process, this research applies a similar lens to the South African context, particularly in light of customs modernisation initiatives at the Durban port.

Further, the study considers the legislative analysis conducted by Khuzwayo (2021), who compared South Africa's former CEA (No. 91 of 1964) with the newly introduced CCA (No. 31 of 2014) and CDA (No. 30 of 2014). While Khuzwayo focused primarily on legislative reform and its implications for container flow and inland port congestion, this research extends that discussion by exploring how these legal changes have impacted the actual operational efficiency and effectiveness of customs processes for clearing agents and logistics stakeholders at Durban port.

The Port of Durban was selected not only due to its proximity to the researcher but also because it serves as busiest container port, making it a critical case for analysing customs clearance performance under the new legislative framework (Misra, 2021; Mkhabele, 2024).

Limitations

This study was conducted under significant constraints. Attempts to secure formal access and interviews with stakeholders such as SARS, Transnet, and the DPT were unsuccessful, despite repeated email and phone communication. Consequently, the research was carried out as a desktop study, relying on publicly available data, policy documents, and previous academic work.

Time and funding constraints further limited the scope, preventing extensive data collection or ethnographic observation. Due to the absence of gatekeeper letters and travel funding, the study could not incorporate direct fieldwork or interviews with port officials. As a result, findings are based on secondary data and the interpretation of operational procedures through existing documentation.

Despite these limitations, the study contributes meaningfully to the academic discourse by offering a port-specific, policy-informed analysis of customs modernisation in South Africa. It builds on previous studies (Matiya 2013 and Khuzwayo 2021) while introducing a new perspective on the impacts of legislative and procedural reforms on operational efficiency in customs and forwarding activities.

1.8. Methodological Rationale

This study adopts a qualitative, case-study-based methodology, similar to the approach used by Matiya (2013) in her research on forwarding and clearing processes at the Port of Dar es Salaam. A case study approach was considered acceptable because of the exploratory nature of the research questions and the complex institutional environment involved in customs clearance. However, unlike Matiya's study, which involved interviews and direct fieldwork, this research was conducted as a desktop study due to access limitations and resource constraints. The desktop method enabled a detailed review of policy documents, customs procedures, and academic literature relevant to the Durban port.

Durban port, which is South Africa's "busiest and largest cargo port", was chosen as the case study site due to its strategic importance (Khuzwayo, 2021 & Mkhabele, 2024). It handles a substantial share of the nation's global trade, making it an ideal setting to examine the practical impacts of customs modernisation and legislative reform (Khuzwayo, 2021). Durban also presents unique operational challenges distinct from those observed in Dar es Salaam,

especially concerning South Africa's recent regulatory changes.

The study further draws from the legislative analysis conducted by Khuzwayo (2021), who compared the old CEA of 1964 with the new CCA 31 and CDA 30 of 2014. While Khuzwayo's work focused primarily on statutory interpretation and legal compliance issues, this study extends the discussion by investigating how these legal changes have affected day-to-day customs operations and trade efficiency. By combining procedural, operational, and legal perspectives, this research offers a more holistic view of customs modernisation in the South African port context.

This research was conducted as a desktop (doctrinal) study, focusing on the analysis of legislative and regulatory instruments relevant to customs procedures in South Africa. No original data was gathered through methods such as interviews, direct observations, or the collection of statistical datasets. Instead, the study relied on documentary and legal analysis to evaluate the implications of the CCA 31 of 2014 on clearance efficiency at the Port of Durban.

In a doctrinal research context, *primary data* refers to authoritative legal and regulatory texts. The key primary sources examined in this study include:

- Customs and Excise Act 91 of 1964
- Customs Control Act 31 of 2014
- Customs Duty Act 30 of 2014
- SARS Customs Operating Procedures and Official Notices
- World Customs Organisation (WCO)
- Revised Kyoto Convention Guidelines

These documents were critically analysed to assess their alignment with international standards and to interpret their impact on clearance processes, port efficiency, and South Africa's broader trade facilitation objectives. Secondary literature, such as academic articles, government reports, and trade publications, was used to provide context, comparative insights, and stakeholder perspectives. This methodological approach supports a rigorous, text-based evaluation of customs legislation and its practical implications without the use of empirical fieldwork.

1.9. Research Structure

This study is structured into five chapters, each focusing on different aspects of the research to ensure a clear and logical flow of information.

- Chapter 1 introduces the study, outlining the historical background, research context, objectives, research questions, and significance. It also explains the methodology used for data collection, with a focus on secondary sources of information.
- Chapter 2 provides an analysis of relevant literature, examining the theoretical foundations that shape the study. This chapter explores agreements and inconsistencies with existing theories and identifies best practices in clearing and forwarding processes within South Africa.
- Chapter 3 describes the research methodology, detailing the data collection process, which includes both primary and secondary sources. It also highlights the key instruments used for gathering data to ensure accuracy and reliability.
- Chapter 4 analyses the research findings, comparing them with insights from the literature review. It critically examines the results and discusses their implications in relation to the challenges and inefficiencies in clearing and forwarding.
- Chapter 5 concludes the study by summarising key findings, drawing meaningful conclusions, and providing recommendations. It also highlights study limitations and suggests areas for future research to improve efficiency.

1.10. Conclusion

Chapter 1 introduced the background and context of the study, highlighting the importance of customs clearance and forwarding processes in facilitating international trade. The chapter explained how modernisation, trade modernisation, and advances in ICT have transformed global supply chains, while inefficiencies at the Port of Durban, South Africa's busiest port, remain a major concern. Persistent delays are linked to congestion, outdated legislation, infrastructure limitations, and inefficiencies in customs procedures, all of which increase costs and disrupt trade flows.

Recent legislative reforms, particularly the transition from the CEA of 1964 to the CCA 31 of 2014, were reviewed to illustrate their potential impacts on efficiency, competitiveness, and compliance with global standards such as the WCO SAFE Framework. The research problems, objectives, and guiding questions were clearly outlined, alongside the significance for traders, policymakers, and customs agents. Finally, the scope, limitations, and methodological rationale of the desktop study were discussed, establishing the foundation for subsequent chapters.

CHAPTER 2: LITERATURE REVIEW

2.1.Introduction

This chapter provides a critical review of literature relating to customs clearance, freight forwarding processes, and the broader impact of customs modernisation. The purpose is to examine the theoretical and practical frameworks that inform the clearing and forwarding industry, with a particular emphasis on efficiency, effectiveness and trade facilitation. Drawing on academic research, government policy documents, institutional reports, and global customs frameworks, this review synthesises diverse perspectives to build a foundation for understanding the South African context. The review also highlights relevant trends, challenges, and reform initiatives, including the role of digital technologies, regulatory frameworks, and stakeholder coordination in enhancing customs operations. Special attention is given to the Port of Durban, as a major trade gateway impacted by legislative and operational shifts.

The chapter is structured into several thematic sections. It begins with definitions of key concepts and theoretical foundations relevant to customs administration. It then reviews the evolution and current state of the clearing and freight forwarding industry in South Africa, including SARS's modernisation efforts. This is followed by an exploration of global best practices, stakeholder roles, operational challenges, and finally, the identification of research gaps justifying the current study.

2.2. Conceptual and Theoretical Framework

In this section, the study presents the conceptual and theoretical foundations underpinning customs clearance and forwarding. It draws from logistics theory, trade facilitation models, and public administration frameworks to explain operational dynamics, stakeholder roles, and institutional reforms within port-based customs systems.

2.2.1. Conceptual Clarification

In order to understand the dynamics of the customs clearing and forwarding processes at the Port of Durban, it is essential to define and clarify the core concepts that frame this study. These include terms "clearing and forwarding agents," "customs duty," "freight forwarding," and other key terminologies used in international trade logistics.

2.2.1.1. Clearing and Forwarding (C&F)

Clearing and forwarding (C&F) involves coordinating the movement of goods across borders, ensuring compliance with customs regulations, and managing documentation and logistics from origin to destination (Balasubramaniam & Sasirekha, 2025; Puengpradit, 2010)). According to SARS (2022), a clearing and forwarding agent is a licensed entity authorised to act on behalf of importers or exporters to facilitate cargo movement, secure customs clearance, and ensure tax compliance. These agents serve as intermediaries between traders, shipping lines, customs authorities, and logistics firms (Matiya, 2013; SAAFF, 2024). Freight forwarding plays a significant role in international trade, in making sure that goods are transported efficiently between countries through well-organised logistical processes (Rowbotham, 2025). This includes managing shipments via airports, land ports, and customs authorities to ensure timely delivery.

At its core, freight forwarding facilitates international trade, ensuring that goods reach their destination (Egyankosh.ac.in):

- ‘‘At the right place’’
- ‘‘At the right time’’
- ‘‘In good condition’’
- ‘‘At the lowest possible cost’’

To achieve this, freight forwarders must have expertise in several key areas:

- *Customs Duty*: Customs duty is an indirect tax levied on goods entering or leaving a country (Cites, 2019). It functions both as a revenue stream and as a tool to regulate trade. Duties may be based on transaction value, weight, volume, or other criteria (Safmarine, 2020; Matiya, 2013). This concept is central to understanding state controls and the economic impact of modernisation.
- *Logistics*: Freight forwarders play a vital role in coordinating transportation across various modes of transportation. They negotiate routes and freight rates to ensure timely together with cost-effective movement of cargo across international and domestic networks (Coyle et al., 2022).
- *Regulatory Compliance*: Managing cross-border shipments requires navigating complex trade regulations, including customs laws, licensing, and documentation requirements. Freight forwarders ensure compliance with national and international standards, such as those set by the WCO (Grainger, 2017).

- *Risk Management*: International trade involves multiple risks, cargo damage, theft, currency fluctuations, and legal disputes. Freight forwarders develop mitigation strategies such as insurance coverage, secure packaging, and contract safeguards to reduce exposure and ensure reliable trade flows (Rushton et al., 2022).
- *Finance and Payment*: Freight forwarders facilitate secure transactions by preparing accurate documentation (e.g., BOL, commercial invoices) and ensuring timely payment processing between buyers and sellers. Their services foster trust, especially in transactions between unfamiliar parties (Tseng et al., 2005).
- *Cross-Functional Integration*: As businesses increasingly outsource logistics functions, freight forwarders act as integrators, managing warehousing, transport, customs clearance, and IT systems. Their role in orchestrating end-to-end supply chain solutions boosts efficiency and adaptability in global trade (Wieland, 2023).

The CF&A's industry monitors economic activities and supply chains that are associated with all shipping of products going in or out of South Africa. The forwarding and clearing firms fill in as contribution to almost every company in the national economy as well as companies in the rest of Africa. Forwarding and clearing firms use all modes of transportation engaged in the movement of products, be it sea, air, or railroad (Rowbotham, 2025).

The CF&A is also a supplier of distribution warehouses, transit sheds and the related administration of shipment tracking, costing, and bookkeeping information. They also act as agents or principals in various global trade transactions linking global traders in the performance of delivery. It is assessed that the worldwide forwarding and clearing firms handle around 75% of general cargo loads moving between all continents (M6T_C@rg0, 2023). The measurement for South Africa will be equivalent to that, if not more than that (Ginindza, 2023).

The most vital areas of administration or services provided internationally by cargo forwarders are the arrangement and the taking care of through-transport to importing goods, exporting goods, and transit customers, as well as the performance of customs declarations. As an ever-increasing number of organisations start to redistribute their non-core operations, the job of forwarders in giving all-encompassing supply chain services turns out to be progressively critical to both national and global economic development.

The forwarding and clearing process is critical to the ongoing performance of South Africa as an international trading nation. Its operations encourage all types of physical trade internationally. In spite of the fact that there are numerous areas of business and industries critical to the long-standing performance of the economy, there are few more than in this specific industry. The clearing and forwarding industry is populated by both large organisations with substantial resources and related global networks, and specialised agents, attending to smaller or specific tasks in the industry; however, they make up roughly 80% of absolute industry members (Matiya, 2013).

2.2.2. Theoretical Framework

This study adopts a queuing theory approach to evaluate customs clearance delays at the Port of Durban. This theoretical grounding serves as the cornerstone of the study, offering a structured and coherent framework that maps the relationships among key variables related to the research problem (Matiya, 2013; Khuzwayo, 2021). The Port Authorities are required to adopt various strategies to address port congestion.

Several scholars have highlighted that congestion remains a common challenge at ports, where vessels often experience delays due to the need to wait in queues before receiving service (Adedayo et al., 2006). This queuing—referred to as waiting lines—typically arises when the port's capacity to provide timely services is outstripped by the volume of incoming traffic. Sanish (2007) & Manoj (2020) emphasise the relevance of *queuing theory* as a structured and analytical method for addressing port congestion.

Their work underscores the importance of understanding vessel arrival patterns and service mechanisms, which are generally modelled using probabilistic distributions. Specifically, vessel arrivals are often characterized by an exponential distribution, while the time taken for servicing tends to follow a Poisson distribution. These models are instrumental in diagnosing and managing inefficiencies in port traffic flow. The relevance of such approaches is echoed in broader transport logistics research, as they offer practical insight into service delays and port performance (Khuzwayo, 2021; Matiya, 2013).

Queuing theory proves to be a valuable analytical tool for predicting key operational metrics at ports, such as the average vessel waiting time, queue length, number of vessels at the port, and berth utilization rate—often yielding estimates that closely align with real-world

observations (Adedayo et al., 2006; Sanish, 2007 & Matiya, 2013). Its application is particularly relevant for managing port congestion and addressing associated inefficiencies. In the context of this study, queuing theory was employed to bridge gaps in clearing and forwarding services, optimize cost management, and minimize client waiting time. By enhancing the design of service delivery systems, the model contributes to more efficient allocation of port resources.

From the stakeholders' standpoint, especially importers and exporters, resolving queuing challenges directly enhances customer service, reduces operational costs, and promotes loyalty—factors that collectively improve trade competitiveness (Matiya, 2013; Khuzwayo, 2021). The findings of this research also highlight that specific elements within the clearance process, such as security checks, represent persistent operational bottlenecks for freight forwarding agencies. Supporting this, Wilson et al. (2006) and Matiya (2013) noted that factors influencing port performance—especially in the realm of customs procedures—have a direct impact on the efficiency and reliability of clearing and forwarding operations.

As highlighted by Nchimbi (2019) and reinforced by Matiya (2013), the timely clearance of goods at ports is essential for several critical reasons:

- Firstly, operational disruptions can arise from delays in processing uncleared cargo, often resulting in demurrage charges that may strain a company's financial liquidity.
- Secondly, extended port dwell times increase the risk of damage or deterioration to goods due to repeated handling, adverse weather conditions, exposure, pilferage, and other environmental or logistical vulnerabilities. Delays of this nature not only compromise the physical condition of goods but also impact supply chain efficiency and cost-effectiveness—issues echoed in broader logistics research.

This prompts port traffic (congestion), and delays in off-stacking cargo results in port authorities charging the vessel owners for the problem of port congestion.

Haralambos, Holborn and Heald (2004) argue that a conceptual framework plays a critical role in helping researchers establish meaningful connections between prior scholarly literature and the specific objectives of their own studies. As further emphasized by Matiya (2013), this framework not only provides structure to the research inquiry but also supports the logical alignment of theory with empirical investigation.

This research has sought to reflect on emerging customs legislation and significant changes which can have detrimental impacts on trade. According to Matiya (2013) and Mkhabele (2024), the conceptual framework incorporates measurable elements, including independent variables such as:

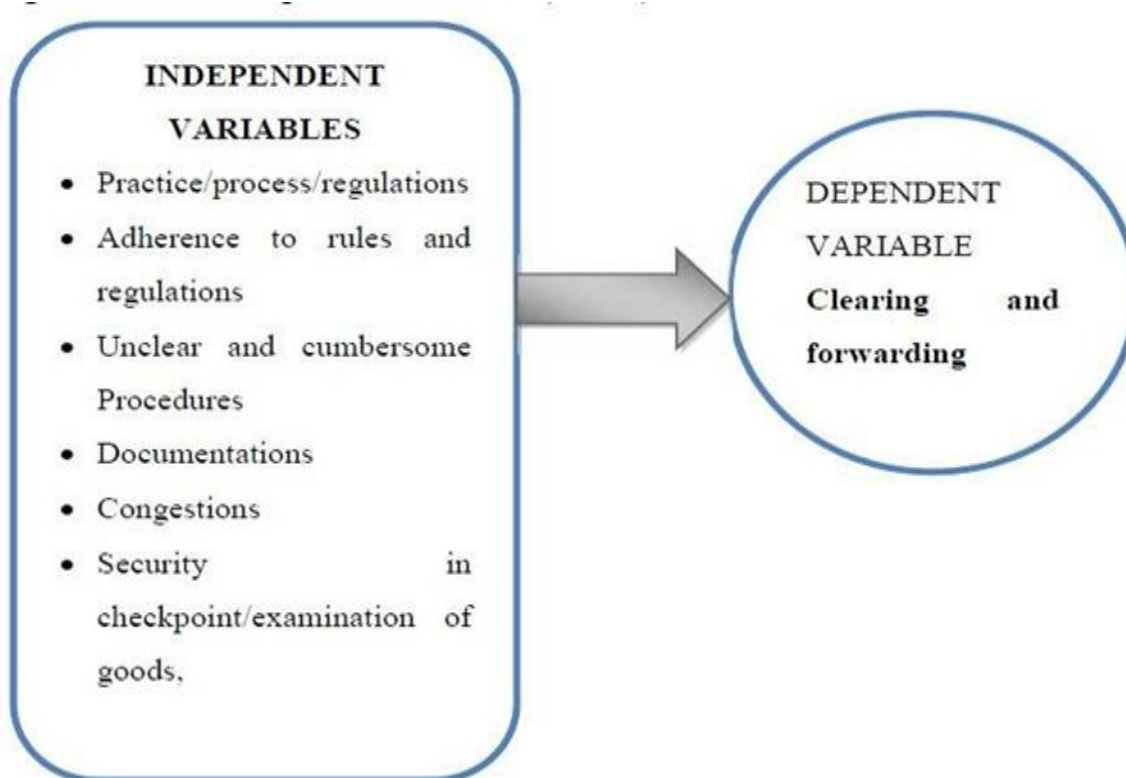
- The current documentation procedures employed by the Durban Port Terminal and SARS Customs. Customs guidelines and systems,
- Clients' needs arising from Port of Durban and SARS Customs,
- A way-forward to achieve value for investment,
- Lawful system,
- Government Policy and Political Will,
- Level of education, and
- Innovative perspectives.

Dependent factors impacting clearing and forwarding are:

- Lead time of client orders,
- Level of consumer loyalty acquired from SARS Customs & DPT,
- On-time clearing of goods, and
- Achieving trade facilitation.

In regard to this specific research, a conceptual framework discussed hereafter assists with demonstrating the connection among dependent and independent factors.

Figure 2.1: Conceptual Framework Model



Source: Matiya (2013)

The potential negative impacts of customs legislative changes which lead to increased costs has been identified, as well as the role of the customs authority in trade. It is clear that there will be some fundamental impacts of negative consequences to traders and the supply chain. A review of literature related to modernised customs controls has taken place accordingly.

The current and emerging legislation has been reviewed and carefully analysed, and it is clear that the new legislation is voluminous and complex, especially for new customs officers to grasp it in any significant detail. Perhaps, this is why, after so many years (2014) it has still not entered into force.

2.3. International Customs Frameworks

This section reviews the key international frameworks that guide customs reforms globally. It focuses on the standards and instruments developed by the WCO, including the RKC and the SAFE Framework, and their relevance to South Africa's customs modernisation.

2.3.1. World Customs Organisation (WCO)

The WCO is a global intergovernmental body comprising 186 member states, dedicated to enhancing the efficiency and effectiveness of customs administrations worldwide. It sets international standards to facilitate lawful trade, ensure revenue collection, and secure global supply chains (WCO, 2021). The WCO plays a critical role in shaping global customs reform agendas, particularly through the development of key instruments such as the RKC and the SAFE Framework. These tools aim to simplify and harmonise customs procedures, emphasising risk management, modern technology, and cooperative engagement between customs authorities and private sector actors (Makrusev & Lyubkina, 2020).

In the South African context, the former CEA 91 of 1964 failed to adequately align with the WCO standards, resulting in persistent inefficiencies in customs clearance and trade facilitation. This misalignment contributed to delays, increased costs, and administrative burdens for both customs authorities and traders. In response, the introduction of the CCA 31 and the CDA 30 of 2014 marked a significant legislative reform aimed at harmonising South Africa's customs framework with modern international standards (Khuzwayo, 2021; SARS, 2022).

At the Port of Durban, aligning customs procedures with the standards and best practices set out by the WCO is essential for enhancing operational efficiency, ensuring compliance with international trade norms, and improving overall service delivery. The WCO promotes simplified, harmonised, and technology-driven customs processes that are critical for ports operating in highly competitive global trade environments. By adhering to these frameworks, including instruments like the RKC and the SAFE Framework, the Port of Durban can facilitate faster cargo clearance, reduce bureaucratic delays, and enhance transparency and coordination among customs stakeholders (de Wulf & Sokol, 2004).

2.3.2. Revised Kyoto Convention (RKC)

The RKC, developed by the WCO, is a key international instrument aimed at harmonising and simplifying customs procedures globally. Originally adopted in 1974 and revised in 1999, the RKC entered into force in 2006 to align with the demands of modern trade and customs efficiency (WCO, 2022a; Weerth & Carsten, 2010). South Africa became a contracting party to the RKC in 2004, ratifying it in 2006 to promote trade facilitation and regulatory coherence (Khuzwayo, 2021; Busse, 2021).

The RKC establishes core principles that guide modern customs administrations, including transparency, predictability, simplified procedures, greater use of technology, and risk-based controls. As summarised by UKZN scholars and the WCO, these include consistency in customs actions, simplified documentation, facilitation for authorised traders, post-clearance audits, inter-agency coordination, and effective risk management strategies (WCO, 2022a; Rowbotham, 2025).

In South Africa, the transition from the outdated CEA 91 of 1964 to the CCA 31 and CDA 30 of 2014 was a response to the misalignment with RKC standards. While these new laws aim to modernise customs, issues such as clearance delays and limited technological readiness remain challenges at the Port of Durban (Khuzwayo, 2021; SARS, 2022).

The RKC advocates for customs systems that support trade facilitation without compromising regulatory control. It promotes effective risk management, encouraging customs to prioritise compliance through post-clearance audits and improved stakeholder cooperation. These reforms, when implemented alongside frameworks like the WCO SAFE Standards, are designed to strengthen public-private partnerships, reduce cargo dwell time, and enhance economic competitiveness (WCO, 2025a & IMF, 2022).

Despite these intentions, implementation gaps persist. For instance, SARS has faced criticism for delays in rolling out its AEO programme and for relying on outdated control mechanisms, which contradict the review-based control model proposed by the RKC (PMG, 2014; Siphugu, 2020). Nonetheless, SARS has taken steps under its modernisation programme to improve port clearance efficiency, including automation initiatives and collaboration with port authorities (Engineering News, 2021).

Ultimately, aligning with the RKC remains crucial for customs modernisation in South Africa. The convention not only provides a legal and operational benchmark but also encourages customs authorities to adopt a customer-oriented, risk-sensitive approach that aligns with global best practices.

Given the preceding analysis, it is essential to critically assess and understand the core principles underpinning the new customs control policy, particularly in relation to trade facilitation, compliance, and operational efficiency:

- **1st Principle: Post-Clearance Controls**

The RKC promotes a shift from movement-based to audit-based customs control. SARS has begun investing in compliance monitoring and audit capacity, but its continued interventionist approach at ports, particularly Durban, leads to delays and inefficiencies (WCO, 2006; SARS, 2021; Fourie, 2020). Despite major public investments in Transnet's infrastructure, the logistics corridor to Gauteng lacks the predictability needed for inland transit. Moreover, the new CCA restricts inland transit contracts, undermining this principle.

- **2nd Principle: Risk Management**

Risk management, a key RKC standard, aims to prioritise enforcement on high-risk goods while streamlining low-risk trade (WCO, 2006). Although the principle is embedded in SARS' strategy, trade stakeholders are concerned about its execution, especially after the removal of the manifest allowance for automatic inland transit under the old Act. This change disrupts trade flows and undermines facilitation efforts, showing a gap between policy and practice (De Wulf & Sokol, 2005; SARS, 2021).

- **3rd Principle: Performance Metrics and Compliance Support**

Customs controls should include performance indicators to ensure process efficiency. Businesses report frustration with delays and a lack of updates when goods are held by SARS. Regular reporting and communication would help trade partners align with compliance expectations and reduce economic losses due to hold-ups (GMLS, 2014).

- **4th Principle: Public–Private Collaboration**

Modern customs rely on “strong cooperation with the private sector to improve transparency”, compliance, and efficiency (Puengpradit, 2010). The AEO programme embodies this principle by facilitating trusted trader initiatives under the WCO SAFE Framework (WCO, 2005; SARS, 2021). However, businesses remain concerned that collaboration is insufficiently institutionalised (Nguyen, Aquino & Le, 2019).

- **5th Principle: Good Legislation and Institutional Support**

A successful customs system depends on skilled personnel, modern processes, and supportive legislation. Stakeholders argue that the new CCA is problematic, particularly in its removal of the manifest document, which formerly enabled in-bond transits (GMLS, 2014).

- **6th Principle: Mutual Administrative Assistance**

Customs must cooperate with foreign counterparts to tackle globalised trade challenges and improve data sharing. However, stakeholders say there is little evidence of such mutual recognition or consultation (World Bank, 2021). The lack of meaningful engagement on policy changes has led to trade disruptions and mistrust.

- **7th Principle: ICT and Digital Processes**

Digital systems are crucial for efficient customs clearance. Despite efforts under SARS’ modernisation programme, many traders are still unable or unwilling to submit pre-arrival declarations. Moreover, space constraints at Durban’s terminals make forced cargo releases impractical. While the new Procedure Codes introduced under the CCA offer improved data analysis and control, traders remain uncertain why older systems, such as Removed in Bond (RIB) and Removed in Transit (RIT), together with manifest data, cannot continue to support modern risk management engines (WCO, 2022b; SARS, 2021c; GMLS, 2020).

In conclusion, while the RKC sets a clear framework for customs reform, its success in South Africa hinges on coherent policy implementation and effective stakeholder engagement. The principles outlined require consistent application, transparent communication, and strong institutional backing. Without addressing gaps in execution and trade cooperation, customs modernisation efforts at the Port of Durban may fall short of their potential. Aligning national

reforms more closely with the RKC standards remains essential for improving efficiency and facilitating trade.

2.3.3. The WCO SAFE Framework of Standards

In response to the 9/11 terrorist attacks, the WCO launched the SAFE Framework of Standards in June 2005 (which stands for Security and Facilitation in a global Environment). It aims to improve trade security, ensure efficient customs revenue collection, and streamline global trade operations (Barnard, 2021). The Customs-to-Business partnership programme, especially the AEO programme, is central to this, strengthening supply chain security while facilitating legitimate trade (African Union, 2019).

The SAFE Framework is constantly evolving to reflect the needs of modern trade. The 2021 revision added a third pillar, Customs-to-Other Government Agencies cooperation, and introduced systems such as Pre-loading Advance Cargo Information (ACI) for air freight, further bolstering trade security and regulatory coordination (Allende, 2022; African Union, 2019). SAFE incorporates elements from RKC, particularly around ICT use, risk management, and simplified customs procedures.

Its core aims include:

- Strengthening Customs-to-Customs collaboration through information sharing and mutual recognition of controls.
- Enhancing Customs-to-Business partnerships for efficient compliance and faster processing.
- Promoting inter-agency cooperation to create a unified trade security approach (WCO, 2022b).

2.3.3.1. Pillar 1: Customs-to-Customs Network Arrangements

This pillar focuses on international collaboration between customs authorities to manage risks, facilitate secure trade, and recognise control measures and AEO statuses across borders. Effective Customs-to-Customs coordination enhances security through real-time information exchange and mutual support in enforcement. One example is Kenya's implementation of the "Simba" customs clearance system in 2005, which enabled continuous data sharing with

Uganda. This transparency helped identify discrepancies in cargo flow and improved enforcement outcomes, such as recovering duties for unreceived shipments (Sanctions Practitioners, 2019).

Despite such successes, many African countries still face challenges in fully realising Pillar 1 due to resource constraints and competing policy priorities. Regional collaboration remains essential to overcoming these limitations and improving border management (Sanctions Practitioners, 2019; Jasper, 2015).

Key standards under Pillar 1 include integrated supply chain management, risk management systems, high-risk cargo identification, EDI, and customs staff integrity (WCO; UNECE & OSCE, 2012b).

2.3.3.2. Pillar 2: Customs-to-Business Partnerships

This pillar emphasises structured collaboration between customs and the private sector. The goal is to promote supply chain security through trust, compliance, and the recognition of reliable traders. Businesses that meet AEO criteria benefit from simplified and expedited customs procedures. Vietnam offers a powerful case study. Between 2010 and 2016, its import-export volume rose from \$203 billion to \$349 billion, driven largely by active participation in 17 Free Trade Agreements (FTAs) and strong policy implementation (Nguyen, Aquino & Le, 2019; Source of Asia, 2025). To support these goals, Vietnam strengthened its Customs-Business Partnerships via a national action plan that enhanced transparency, predictability, and compliance.

CBPs lower transaction costs and facilitate efficient border processing. They also increase voluntary compliance through mutual trust. Theoretical and empirical studies confirm the benefits of Customs-Business collaboration for improving trade competitiveness and customs performance (Nguyen, Aquino & Le, 2019; Zhang & Preece, 2011). Standards under Pillar 2 include security measures, trader authorisation, technology adoption, enhanced communication, and facilitation for compliant companies.

2.3.3.3. Pillar 3: Customs-to-Other Government Agencies Cooperation

Added in the 2021 revision, Pillar 3 addresses the growing need for collaboration between customs and other regulatory agencies involved in border control. Harmonising policies among

multiple entities reduces duplication, speeds up trade, and ensures consistent enforcement (Allende, 2022). The importance of risk-based coordination is emphasised by the IMF and customs scholars, who argue that outdated, resource-heavy procedures must be replaced by smarter, data-driven models. Customs should focus enforcement on medium- and high-risk goods, while allowing low-risk goods to move freely (IMF, 2022; Mikuriya, 2012).

Zambia's customs risk management model provides an example of this approach. The Zambia Revenue Authority (ZRA) uses a risk-based system to encourage voluntary compliance among trusted traders while targeting high-risk activities. This strategy improves enforcement efficiency and supports trade (Mikuriya, 2012).

Pillar 3 also encourages the development of Single Window Systems, digital platforms that centralise customs and regulatory data, to streamline compliance (IMF, 2022). Inter-agency agreements, joint inspections, and data standardisation are also key priorities.

Standards under Pillar 3 include:

- Coordinated Border Management (CBM)
- Single Window interoperability
- Mutual Recognition Agreements (MRAs)
- Joint risk management protocols
- Unified regulatory frameworks
- Real-time inter-agency information sharing (WCO, 2022a; IMF, 2022)

The SAFE Framework of Standards represents a critical global initiative that integrates security and trade facilitation into a cohesive customs strategy. Strengthening collaboration among customs authorities, private sector actors, and government agencies creates a unified and risk-sensitive system for global trade. While countries like South Africa have adopted the framework through legislative reform, successful implementation hinges on overcoming resource challenges, institutional inertia, and stakeholder trust deficits. Aligning national practices with the SAFE Framework, and particularly its risk-based, technology-enabled approach, remains essential for modern customs management and global trade integration.

2.3.3.4 The Authorised Economic Operator (AEO) Programme

The AEO programme is central to Pillar 2 of the WCO SAFE Framework, fostering collaboration between customs and businesses to strengthen supply chain security and promote trade facilitation (Asylum Design & Development, 2024). SARS defines an AEO as any business in international trade that complies with WCO or equivalent security standards (SARS, 2021a).

Entities eligible for AEO status include manufacturers, importers/exporters, freight forwarders, carriers, warehouses, airports, and customs brokers (UNECE & OSCE, 2012a; SARS, 2021a). Certification rewards compliant businesses with benefits such as faster customs clearance and reduced inspections (Barnard, 2021).

Aligned with the RKC, the AEO programme is vital to customs modernisation and global best practices (Rowbotham, 2025; IMF, 2022). Initially introduced in South Africa as the Preferred Trader (PT) programme in 2010, it was limited in scope, focusing mainly on compliance. While seen as restrictive, it laid the groundwork for a broader, security-oriented AEO model.

By 2021, SARS replaced PT with a more inclusive regional AEO programme, built on international standards. Notably, Ms Rae Vivier of SARS was appointed Vice Chairperson of the WCO SAFE Framework Committee, marking South Africa's increased commitment to global customs reform.

Figure 2.2: Proposed SARS/PS Collaboration



Increase AEO Enrolment



2nd Proposal – **Associations recruit** existing AEO's to extend AEO to their trade supply chain

Participants:

AEO sets criteria for all supply chain entities that do business with them & require customs registration to be AEO

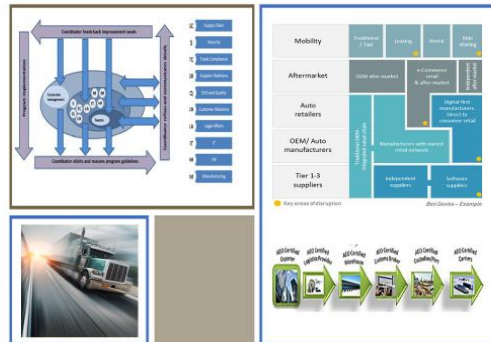
AEOs' Role:

- Awareness & education
- Self-assessment assistance to members
- Pre-assessment prior to submitting to SARS
- Liaise with SARS during the entire process

Supported by dedicated SARS capacity on every step of the process

OKRs:

- Certify all qualifying participants as AEO by end 2022/23 FY
- Improved voluntary customs compliance & supply chain security
- Improved relations between AEO & suppliers
- Improved quality and continuous improvement



Proposed by the SARS/PS AEO Collaboration Group – space reserved for image

Source: SARS (2022)

Section 64 E of the CEA (91 of 1964) has been amended to accommodate the participation of AEOs. This amendment enables traders, freight forwarders, and other stakeholders within the supply chain to participate more actively in customs compliance and security frameworks. The revised rules introduced two levels of accredited client status: Level 1 – AEO (Compliance) and Level 2 – AEO (Security), with the latter coming into effect in July 2021. These changes align South Africa's customs practices more closely with the standards of Pillar 2 of the WCO SAFE Framework of Standards (SARS, 2021c).

According to the WCO (2018u), as reviewed by Busse (2021), the implementation of the AEO programme is guided by six core standards under Pillar 2 of the SAFE Framework. These include self-assessment, requiring businesses to evaluate their internal controls and security systems, and securing the supply chain across all operational areas. Validation and mutual recognition ensure that trusted traders are identified internationally. The use of advanced technology supports real-time tracking and integrity monitoring. ICT systems enhance secure and efficient data communication. Lastly, trade facilitation aims to reduce customs delays for compliant operators. Together, these standards ensure that AEO-certified businesses benefit from

streamlined customs procedures while contributing to global supply chain security and compliance.

Benefits of AEO Accreditation

SARS offers two levels of AEO status:

- *Level 1: AEO (Compliance)*. Offers a dedicated relationship manager, reduced security demands, fewer inspections, fast-tracked classification, and on-site clearance without fees.
- *Level 2: AEO (Security)*. Builds on Level 1 with extended license validity, audit relief, fee exemptions, access to training, faster refund claims, and greater international recognition.

Both levels encourage mutual recognition agreements (MRAs) with foreign customs agencies, improving global trade confidence. In terms of Section 64E.17 of the CEA 91 of 1964, as reflected on the SARS website, accredited clients that wish to benefit from such recognition are required to provide consent for the sharing of relevant information with foreign customs authorities (SARS, 2021b). This provision allows accredited traders to be recognised in international agreements, reinforcing compliance and trade facilitation.

Synopsis of the SAFE Programme:

- I.* Customs Authorities are responsible for End-to-End Safety & Security,
- II.* It aims to unify all Global Customs Procedures via all WCO Members to promote and streamline International Trade (to facilitate trade and not become a barrier to trade),
- III.* The ultimate goal is to have a “ONE VIEW”, or single view of all Trade events as set out in the AEO Programme, and mutual recognition of AEOs.
- IV.* The emphasis on Point III (3) is advanced data intelligence, (a) prior to Exportation, (b) prior to Carriage, and (c) prior to Importation,

- V. In terms of Point IV (4), is to make use of advanced ICT integrated systems, and
- VI. The importance of data recovery (data storage, data security, and the speed of data retrieval).

The business that receives AEO special status naturally has a substantial compliance programme to meet, so that the customs authority can ensure that the above criteria of SAFE will be complied with.

2.4. South Africa's Customs Legislation and Procedures

After outlining the international frameworks guiding modern customs, this section turns to South Africa's domestic customs legislation and procedures. It examines how national laws, particularly the CCA and related regulations, align with global standards like the RKC and SAFE Framework, and explores their effectiveness in facilitating trade, ensuring compliance, and modernising border operations.

2.4.1. South African Revenue Services (SARS)

The SARS⁴ functions as the national revenue authority, tasked with administering taxation as well as regulating customs compliance (Mkhabele, 2024 & Siphugu, 2020). The South African Revenue Service Act 34 of 1997 allowed for its establishment as a separate legal organisation. SARS is tasked with ensuring compliance with tax and customs laws while maintaining an efficient and transparent revenue system (SARS, 2019 & Busse, 2021).

Instead of placing undue burdens on companies or trade activities, SARS is tasked with promoting equitable tax contributions and facilitating lawful trade. Its goal is to match compliance regimes with economic efficiency (SAICA, 2025 & SARS, 2024). For the 2020–2025 timeframe, its strategic intent places a strong emphasis on voluntary compliance, with responsible enforcement as needed (SARS, 2024). The claim that SARS aims to enforce regulatory standards without imposing needless bureaucratic restrictions is supported by this stance.

⁴ SARS is a member of the WCO. WCO is an intergovernmental organisation. Membership is for countries, but for practical purposes, the Customs agency represents the governments.

By integrating digital systems and reforms, SARS also keeps improving its customs operations. Through changes that are in line with international trade standards, it has improved customs transparency and integrity, which has increased cross-border processes' predictability and accountability (WCO, 2025b). The implementation of EDI as a “paperless” trading system has allowed SARS to streamline data submission to various agencies, lowering associated costs for importers and exporters, reducing non-tariff trade barriers, and speeding up clearance times (Evans, 2022; Mohanlal, 2022).

Furthermore, the long-standing CEA of 1964 was superseded by the CCA 31 of 2014, which specifically sought to modernise customs control for all vehicles, goods, people, and vessels entering or leaving the RSA while making it easier to implement laws pertaining to taxes (SARS, 2022; South African Government, 2018 & WTO, 2015). SARS's regulatory framework is now in line with modern trade practices and technological advancements, thanks to these legal reforms (SARS, 2022).

It is essential to develop clearer and more accessible explanations of customs rules and procedures so that users of the Act can interpret them with greater certainty (SARS, 2021c). While the new legislative Acts have not yet been officially enacted, certain provisions have already been integrated into the existing legal framework. However, this transitional arrangement remains problematic, creating ongoing uncertainty and concern for traders navigating compliance requirements (Siphugu, 2020; & SARS, 2021a).

2.4.2. Custom and Excise Act 91 of 1964 Procedures

The first chapter of the CEA 91 of 1964 outlines the procedural steps established under the previous legislative framework to facilitate effective and efficient customs clearance. These steps highlight the roles and compliance responsibilities of both buyer and seller in ensuring the smooth processing of goods. This overview serves to provide the reader with foundational insight into the legacy clearance system, which is essential for benchmarking against the provisions introduced under the new CCA. In this chapter, a more detailed examination of these processes is undertaken, particularly in relation to how they impact the declaration and submission procedures within the current regulatory context.

2.4.2.1. Places of Entry, Authorised Roads, and Routes.

Sections 6 to 14 of the CEA 91 of 1964 establish the framework for compliance with customs procedures, specifically governing the submission of declarations and the applicable timeframes. These provisions define the authorised routes, by road, rail, sea, or air, through which goods and persons may enter or leave South Africa. They also identify designated places such as customs warehouses, container depots, transit sheds, and airports where goods may be stored, examined, packed, or cleared prior to release. Furthermore, the Act specifies the offices where customs clearance may be conducted, including their prescribed working hours. Collectively, these procedures establish the legal foundation for regulating cross-border movement of goods and people, supporting trade facilitation while maintaining effective customs control.

All of the above is again motivated as customs-controlled areas, and the customs legislation is quite explicit in defining them for entry and declaration purposes. CEA states that “If any places, roads, routes, means of carriage, sheds, entrances, exits, or container terminals, as the case may be, have been appointed or prescribed by the commissioner under any paragraph of subsection, only such places, roads, routes, means of carriage, sheds, entrances, exits, or container terminals, so appointed or prescribed may, subject to the provisions of subsection, be used or employed, for the purposes for which they have been so appointed or prescribed under such paragraph”.

The concern is the lead time in each, as to the release and clearance of goods. Section 18 of the CEA allows for removal under the cover of the manifest (SARS, 2022). It is believed that removing this facility does not lead towards the practice of advance electronic information and contends that it removes the document of an important service provider within the supply chain. Although reconciliation between declarations and manifests is intended to take place, it is felt that the manifest should remain a document of principal focus for early risk detection.

After a thorough investigation of the control Act, it was noted that a “Carrier Manifest” declaration no longer facilitated the movement of inbound containers. This is a fundamental departure from the current position in terms of Section 18⁵ of the current Customs Act, which

⁵ Section 18 (1) (d)

deems the manifest to be due entry in bond of containerised cargo consigned to an inland terminal or depot⁶ and exempt the container operator from having to furnish security.

Commercial interests regarding the potential effects of the adjustment in policy, which will no longer permit usage of the manifest, were cited in the minutes from commercial business, by the National Economic Development and Labour Council (NEDLAC) under Areas of disagreement.

According to Khuzwayo (2021), anticipated congestion at the Port of Durban may result from legislative reforms that significantly diverge from the provisions of the current Act (CEA). The concerns outlined below highlight the key issues arising from these changes:

- a) Reservations to end vessel manifests – clearance must be done at the first port of entry.
- b) Development of merchandise from rail to street.
- c) Congestion, Ports, and Inland.
- d) Issues in regard to customs security and control at Inland Ports.
- e) Flexibly chain interference.
- f) Vulnerability of customs discharge.

On the other hand, SARS has its own views of wishing to implement this departure, which this research does not concur with, such as the SARS, in its correspondence of 22 July 2013, SARS featured these main concerns:

- The need to get quality data for customs control and risk management.
- Security along the worldwide flexibly chain.
- There is no expectation of SARS to close terminals.
- That all products will be risk evaluated before being permitted to continue to an inland goal.
- To check risk pointers to determine worth and tax, which are at present not proclaimed at all on a Manifest.

⁶ For containerised cargo destined to Inland Container Terminals recognised as places for Customs entry. ¹⁰ Especially in the view of modernisation ¹¹ By SARS

- That clearance will be required at the primary port of entry, as conceived by the CCA 31 of 2014.
- That a bearer is not in control of this data as wanted.
- That SARS will coordinate data from the manifest and declaration and flag inconsistencies.
- That SARS have considered changes and remarks that were essential as far as reactions to the two unique events when the Bills were released.
- That accord could not be reached through the NEDLAC procedure, bringing about this issue being recorded as an area of contradiction.
- That SARS workers would lamentably not have the option to take an interest in the research impact evaluation.
- Inviting further support in the parliamentary procedure for any intrigued individual to express their case on an issue.

From the SARS perspective, various maritime organisations were excluded when the CCA was introduced to organisations. Subsequently, this information was derived from the media and NEDLAC, which was used to distinguish and introduce the concerns of SARS.

2.4.2.2. Report of Arrival or Departure of Ships or Aircraft at Port

In terms of Sections 8 and 9 of the CEA, the master of any ship arriving at a designated port of entry in South Africa — whether carrying cargo or not — must, within 24 hours of arrival (unless otherwise authorised by the controller), submit a manifest and a written report of the vessel's arrival. Similarly, the pilot of any aircraft arriving in South Africa must, within three hours of landing at a designated customs and excise airport, submit a manifest and report. These reports must be made in the prescribed form, with any required copies, and be supported by a declaration of accuracy before the controller. Masters and pilots are further obliged to answer any questions regarding the vessel or aircraft, its cargo, crew, passengers, and journey, and produce relevant documents such as logbooks or stowage plans if requested. This requirement was amended by Section 4 of Act 98 of 1980.

A foreign-going ship may not call at any place in South Africa other than an officially appointed port of entry, and an arriving aircraft must make its first landing at a designated customs and excise airport, unless special permission to do otherwise has been granted by the commissioner. However, if circumstances beyond their control force a master or pilot to call or land at a non-

designated location, they must report to the nearest customs controller, or to the first designated port of entry or airport subsequently reached.

In such cases, they must also take all necessary steps to safeguard goods on board and prevent breaches of customs law. Furthermore, in terms of Section 9, any undeclared cargo or items not listed on the official manifest or container list must be declared and surrendered to customs authorities.

According to Section 5 of the CEA, any ship or aircraft departing South Africa for a foreign destination must submit an outward report to the controller, including a full account of cargo on board. This must be accompanied by a signed declaration of accuracy and compliance with any questions posed by the controller. Despite the strictness of these provisions, emphasis has increasingly been placed on the use of advance information as a risk-management technique.

2.4.2.3. Goods Deemed to be Imported

Section 10(1)-(2) of the CEA specifies exactly when goods are considered to be “imported” for legal purposes, which in turn determines when an import declaration must be filed with the customs authority.

According to the Act:

- Goods consigned to a place in South Africa by ship or aircraft are deemed imported as soon as the vessel or aircraft enters the control area of the destination port or airport, or when the goods are landed at the place of discharge if the vessel or aircraft did not call at the intended destination.
- If goods are unloaded before the vessel or aircraft reaches their stated destination, they are deemed imported at the time of unloading.
- Goods not consigned to South Africa but landed there from a means of transport are deemed imported when they are landed.
- Goods brought into the country by land are deemed imported at the time they cross the border.
- Goods brought in by post are deemed imported according to the rules set out in Act 91 of 1964, depending on the means of carriage.

- For goods entering by any other means not listed above, the time of importation is as specified in the General Notes to Schedule 1 of the Act. If no time is specified, importation is deemed to occur at the time determined by the commissioner.

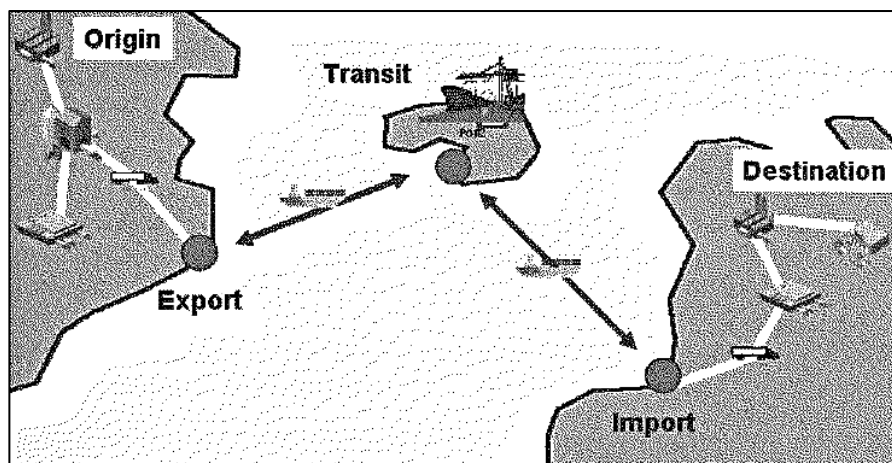
Documentation Requirements for First Port of Call in South Africa

To meet these obligations, revenue authorities must adopt what has been termed a “Paradigm Shift in Supply Chain Security.” This shift necessitates relocating the focal point of risk detection to the point of export, rather than relying solely on inspections at the point of import. The approach initiates early intervention and pre-emptive screening of cargo.

“Paradigm Shift in Supply Chain Security”

Khuzwayo (2021) and Busse (2021) note that global supply chain security practices have evolved significantly. Historically, customs inspections occurred predominantly at the point of import, with limited interventions during the export phase. Unlike initiatives such as the Container Security Initiative (CSI), earlier frameworks did not prioritise export-side enforcement. The contemporary paradigm, however, places equal, if not greater, emphasis on export border controls to enhance pre-emptive risk management throughout the supply chain.

Figure 2.3: Supply Chain Security Measures Stretch from Origin to Destination



Source: Page 21: The Practitioners Guide to Safety & Security, Straits Time Press. Author: Captain Andre Khir, published by the Singapore Logistics Association (SLA).

However, this has evolved significantly. In addition to rigorous checks at land borders, international frameworks such as the International Ship and Port Facility Security (ISPS) Code

and the International Civil Aviation Organisation (ICAO) standards have extended safety responsibilities to cover maritime and aviation entry points, thereby tightening overall border controls (Busse, 2021; Rowbotham, 2025; & Khuzwayo, 2021). The broadening of the security framework has led to a transition toward comprehensive, end-to-end supply chain oversight, extending “from the point of origin to the final inland deconsolidation destination” (Busse, 2021; Mkhabele, 2024 & Khuzwayo, 2021).

Ensuring comprehensive security along such a complex route remains a significant challenge due to the multiple transportation modes and handovers involved. Each logistics operator involved in the transit of goods faces distinct vulnerabilities, and thus, the level of risk varies across the supply chain. This research contends that SARS should follow this guidance and not burden customs legislation with security concerns when goods arrive at the import border, which only serves to delay shipments, particularly sea freight shipments.

According to the procedures outlined by TPT, any customer seeking to call at a South African port for the first time is required to submit the Standard Operating Procedure for Container Terminals (SOPCT) to the TPT National Planning division via email at least twenty-one (21) days prior to the scheduled arrival of their initial vessel. Import container release via the NAVIS system will only be permitted if the customer, or its appointed agent, is registered as a SARS-approved container operator. A copy of this SARS approval must be submitted concurrently with the SOPCT documentation (TPT, n.d).

This process highlights a critical question: To what degree are SARS and Transnet systems integrated? Any lack of interoperability between the two may impede trade facilitation efforts and disrupt port operations. Furthermore, if a vessel fails to arrive within six (6) hours beyond the seven-day Estimated Time of Arrival (ETA) specified in Clause 3.1, and its designated berth has either been reassigned or overlaps with a slot already allocated to another vessel, it will lose its initial slot. In such cases, the vessel will be rescheduled for the next available berth opportunity at a suitable berth, as determined by the updated berth plan at the time of actual arrival (TPT, n.d.). However, suffice it to say that all vessels in terms of customs modernisation should submit advance manifests for risk detection.

2.4.2.4. Entry of Goods and Time of Entry

Section 38 of the CEA 91 of 1964 stipulates that every importer must, within seven days of the date on which goods are deemed to have been imported (as defined under Section 10), submit

a formal entry declaration in the prescribed format. This declaration must be made truthfully and submitted to customs authorities unless extended by the Commissioner. Amendments introduced through Section 5 of the same Act provide for exemptions under certain conditions. With the controller's approval, containers temporarily brought into the country or items classified by the Commissioner as non-commercial may be exempted from standard entry protocols. Importantly, the Act allows goods to be entered at designated customs points even if the vessel or transport vehicle has not yet arrived.

However, Section 45(2) clarifies that failure to load goods as declared renders the importer liable for an offence and the goods as not duly entered. Furthermore, once a release order is granted, the importer has seven days from the date of that order, or from the arrival date, whichever is later, to present the release documentation to the authority in possession of the goods for clearance. Recent legislative updates require that customs procedures now be finalised at least three days prior to the vessel's arrival (Khuzwayo, 2021).

Inland-bound cargo must be declared up to 10 days earlier than was previously required under the Act. While this aligns with global security practices and enhances customs control, it imposes substantial financial pressures on traders, particularly through forced advance payments of duties and VAT, negatively affecting working capital and cash flow.

In line with international norms, countries such as the United States and members of the EU require advance cargo manifests. These enable authorities to pre-screen and, if necessary, remove high-risk cargo from loading schedules. SARS is expected to adopt similar practices. For exports, Section 40(1) of the CEA requires exporters to lodge a BOE in the prescribed form prior to the exportation of any goods. While there are allowances for flexibility where no duties or legal obligations exist, this remains at the discretion of the commissioner.

For imports, Section 39(1) outlines that any person entering imported goods must provide full and accurate details through BOE. This must be accompanied by supporting documentation such as:

- Transport documents
- Invoices and shipper statements
- Confirmation of sale or purchase contracts
- Importers' clearing instructions
- Any other documentation deemed necessary by the Controller

The declaration must be truthful, and multiple copies may be required. Duties must be paid at the time of submission unless deferment is granted under specific conditions set by the Commissioner. Provision is made for the use of digital documentation, including microfilmed or scanned copies, which are accepted as legally valid substitutes for original paperwork. For specific goods or circumstances defined by the Commissioner, samples, technical drawings, and descriptive literature may also be required.

In cases where export duties apply, these must be indicated in the BOE and paid upfront. Exporting goods without fulfilling this requirement constitutes an offence. The Act also governs removals from customs warehouses. As per Section 38(4), any person removing goods based on a certificate or invoice must validate the removal through a prescribed BOE. This bill must contain full particulars and be supported by all required documentation. Failing to comply with this provision can lead to penalties.

Section 38(1)(a) further authorises the Commissioner to allow certain excise or levy goods to be removed from a customs warehouse based on the issuance of specific documents (e.g., certificates or invoices). These documents are treated as “due entry” for regulatory purposes and must be issued before the goods are used or removed. The Act defines the moment of “exportation” to occur when goods are handed over to a port authority, shipmaster, depot operator, or similar responsible party, not necessarily when the goods leave South African territory.

To enhance oversight, the Commissioner may also require exporters to submit additional documentation or follow special procedures for certain goods, destinations, or trade scenarios. These requirements may be specified through supplementary rules and directives.

In summary, the entry and clearance of goods, both import and export, under the CEA 91 of 1964 involves a highly regulated process requiring precise timing, full disclosure, and comprehensive documentation. While the system increasingly mirrors global best practices, such as advance declarations and pre-arrival screening, it also imposes procedural and financial demands that impact trader operations and cash flow. As the CCA comes into full implementation, balancing security, compliance, and facilitation will remain a central challenge.

2.4.2.5. Valid Entries

Section 40(1) of the CEA 91 of 1964 stipulates that for any import or export entry to be valid, the details declared must correspond with the goods being moved. This includes an accurate description of the goods, their tariff heading and item numbers, as well as the marks and particulars of the packages. The entry must also declare the true customs value, the correct “territory of origin and export, and the means of carriage” (Khuzwayo, 2021). Where applicable, invoices or supporting documents such as certificates or permits must be submitted to the controller to authorise the importation or exportation.

It is a requirement that the applicable customs duties be accurately declared and settled; however, a BOE shall not be deemed invalid solely on the basis of any authorised deferment related to the payment process provision to Section 39 (1) (b) of CEA 91 of 1964 (SAFLII website).

Section 40(3) of the CEA 91 of 1964 provides that goods removed from a ship, aircraft, vehicle, transit shed, container terminal, depot, or warehouse on the basis of an invalid entry are treated as if they were landed or taken without due entry. However, if the invalidity affects only part of a consignment and it can be shown that the error occurred without negligence or wilful default, then only the affected packages are deemed to be improperly entered.

In line with Sections 76 and 77 of the Act, the commissioner may permit importers, exporters, or manufacturers to correct an invalid BOE. This may be done through a voucher of correction, substitution with a fresh BOE, or other prescribed methods, provided the goods still qualify under the relevant duty rebate provisions. Such corrections, however, do not exempt parties from penalties under the Act.

These provisions demonstrate that adequate legal controls already exist to safeguard customs compliance. With the application of modernisation measures such as post-clearance audits, enhanced risk detection systems, and alignment with RKC standards, trade facilitation can be strengthened while maintaining regulatory integrity.

2.4.3. Customs Control Act 31 of 2014 Procedures

In 2003, the SARS initiated customs reform to align with the RKC and global trade norms. This was necessary to modernise legal structures, promote transparency, and support new

customs control mechanisms (SARS, 2019). Given the complex update of the CEA 91 of 1964, SARS chose to separate customs from excise reform, publishing the CCA 31 and CDA 30 in 2014, alongside the Customs and Excise Amendment Act (Zhuwakinyu, 2018; & Siphugu, 2020). Though passed, these Acts await formal implementation pending presidential assent. SARS has been drafting rules, consulting stakeholders, and hosting compliance workshops (Louw & Tomasek, 2015; Khuzwayo, 2021; & Busse, 2021).

2.4.3.1. Regulatory Revisions and Stakeholder Feedback

Draft rule consultations led to changes in EDI and e-filing distinctions, goods in transit procedures, and off-site record-keeping. Export timelines, notification protocols, and transshipment diversions were also revised (SARS, n.d.; Louw & Tomasek, 2015). SARS received requests to expand designated ports for transshipment. While not fully adopted, it allows case-by-case expansion with motivation (Khuzwayo, 2021).

Section 241(2) of the Tax Administration Laws Amendment Bill permits the movement of goods between customs seaports, provided both fall under the same office (Louw & Tomasek, 2015). Transshipments regulations now allow a 72-hour commencement window and 21-day completion period, replacing the 24-hour and 7-day limits, respectively (SARS, 2019; Khuzwayo, 2021; Solomon et al., 2017).

To support pre-arrival clearance, SARS introduced advance loading notices (rule 3.3(1)) to substitute formal declarations. This aligns with the clearance-before-arrival strategy for inland-bound cargo (Busse, 2021). The CCA's clear, user-friendly structure in plain English enhances stakeholder usability and reflects alignment with South Africa's National Development Plan 2030 (Khuzwayo, 2021; Siphugu, 2020). However, concerns remain about trade disruptions, especially regarding manifest use and inland ports (GMLS, 2013).

2.4.3.2. Inland Ports and Legislative Risk

Inland terminals like City Deep face existential threats under the CCA, which removes legal recognition of "inland port" (Siphugu, 2020; Busse, 2021). The Gauteng MEC warned that capital investments in inland hubs like Tambo Springs are at risk. Trade stakeholders urge inflation impact studies and the development of rail corridors to support multimodal freight.

Figure 2.4: The Effect of Amendment



Source: Global Maritime Legal Solutions “GMLS” (2013)

Current law permits movement to inland terminals under a manifest. The proposed law ends this practice, requiring full clearance at the first port of entry. This threatens multimodal logistics chains (Busse, 2021; Khuzwayo, 2021).

2.4.3.3. CCA Section 32: Entry and Exit Points

The Act designates seaports, airports, and rail crossings for entry/exit:

- Section 32(1): Seaports/Airports for vessel and cargo movements
- Section 32(2): Rail border crossings for train transport

GLMS (2013) stresses the risk of congestion and logistics bottlenecks if cargo is delayed at ports due to the removal of inland port status. Inland ports balance supply chains and prevent container pileups. Business sectors argue that removing the manifest impedes trade. Issues include:

- Immediate clearance at first port
- Transport delays
- Inland congestion
- Customs control limitations inland

- Disruption of established supply chains

SARS maintains that changes are for better data quality, risk management, and tariff compliance. However, industry stakeholders fear negative trade impacts (Van Twisk, 2015). Chapter 3 of the CCA mandates digital submission of customs documents via EDI. Reports from vessel operators, ports, or agents must be submitted under strict timelines. For example:

- Advance loading notice: 24 hours before container loading
- Advance arrival notice: 96 hours prior if voyage >96 hours; 6 hours if <96 hours
- Vessel arrival report: Within 30 minutes post-arrival
- Export sea cargo departure notice: Within 3 working days after vessel departure

For trains, reports must be submitted at least 1 hour before arrival at the first RSA station. Outturn reports for offloaded cargo must be submitted within 24 hours (containers) or 7 days (breakbulk). The CCA's strict timelines may hinder pre-clearance, particularly in air cargo, and challenge long-standing carrier agreements.

Timeframe Extensions

SARS expanded timeframes:

- Transshipment commencement: from 24 to 72 hours
- Transshipment completion: from 7 to 21 days
- Export from vessel: 21 additional days

These may be extended for specific cargo categories under Section 908 (SARS, 2021). President Ramaphosa's June 2021 port reform announcement aims to modernise and decentralise Transnet's structure. The new system supports reinvestment and private participation but must align with customs control reforms to prevent bottlenecks. SARS' legal amendments impact traditional through-transport models. Under CEA 91 of 1964, Rule 16.1 allowed 12 hours for depot delivery before stack closure. The CCA removes this, shifting timing burdens onto exporters. Airfreight timelines are similarly tightened, reduced from 9 to 5 hours.

Clearance options under the new Act:

- Home use (SACU entry)
- Warehousing
- Transit
- Temporary admission
- Internal processing for manufacture

2.4.3.4 Clearance, Ownership Transfer, and Record-Keeping

Section 412 clarifies procedures for internal processing. SACU (2018) recommended deleting outdated "undertaking" requirements and refining rules on internal processing premises.

Ownership transfers require compliance with Section 604, submission of amended clearance declarations, and relevant contracts (SARS, 2022). Records must be maintained for five years.

2.4.3.5 Transport, Sealing, and Loading Procedures

When goods in and not in free circulation are transported together, they must be identifiable and not co-loaded post-sealing. Release notifications must be shared with:

- Transporters under Section 12©
- Customs-controlled area licenses

Redirection of goods must follow Section 208, 230, 304, 322, 415, or 442 by amending declarations under Section 174(2). This adds complexity to advance clearance.

To sum up, the CCA 31 of 2014 marks a decisive shift digitisation, compliance, and port security. While it aligns with global best practices and national development strategies, it poses serious challenges for inland terminals, multimodal trade logistics, and long-standing industry practices. Regulatory clarity, infrastructure development, and inclusive stakeholder engagement will be essential for successful implementation.

2.4.3.6 General Principles Governing Transport, Sealing and Loading of Goods

If goods not in free circulation are transported as contemplated in Section 124 of the Control Act, with goods in free circulation on the same vehicle. The goods not in free circulation and

the goods in free circulation must be separately identifiable, and once a container containing goods not in free circulation has been sealed, the seal may not be broken to load goods in free circulation. When goods have been released for a customs procedure involving the transport of the goods, the following persons are entitled to request and receive a copy of the release notification from a person referred to in Section 180(1)(a) or (b) of the Control Act to whom the release notification has been transmitted or issued:

- A carrier or another person permitted under Section 122(c) to transport the goods under the customs procedure, and
- The licensee of a customs-controlled area where the goods are received after transportation.

Application for permission to redirect transport of goods under customs procedures to places other than authorised places. Such application to the customs authority for permission contemplated in Sections 208, 230, 304, 322, 415 or 442 of the Control Act to redirect the transport of goods under a customs procedure to a place other than a place referred to in the applicable Section, must, before the goods are redirected to that other place, be made by the person clearing the goods for the customs procedure under which the goods are transported by submitting to the customs authority an amended clearance declaration as required by Section 174(2) reflecting the amended particulars.

Therefore, the requirement to clear 3 days in advance of vessel arrival is further complicated by an additional administrative redirection process. When a carrier transporting goods under permission granted in terms of rule 5.8 delivers the goods at the premises to which the goods were redirected, the carrier must comply with rule 5.4.

2.4.4 Customs Clearance and Declaration Importance

The customs clearance and declaration process is the critical stage in the clearing process that ensures trade goes smoothly without affecting the buyer or seller, agents' costs and ability to trade can obviously also have impacts. Customs clearance is one of the most important measures of customs control and trade facilitation. When goods are imported, duties are brought to account and trade statistics are collected. Customs clearance also serves other purposes, for example, to ensure that *illegal products do not enter the country or that restricted*

commodities are imported only within particular limitations, permits, certificates, or licenses (SARS, 2021).

In line with statutory requirements, “importers and their appointed customs brokers” are obligated to undergo formal registration, while operating premises are required to secure the necessary licenses (Khuzwayo, 2021).. ***“All imported and exported goods must be declared to Customs on a BOL/ CCD/ CN/ BOE/ AWB/ Goods Declaration” (GMLS, 2020).***

Customs is alerted that goods will be imported when they receive a manifest/cargo declaration from the carrier. It is important to note that the clearing instructions must be accurate and exact in terms of instructions from the importer to the customs broker/clearing agent. If goods are not declared within the prescribed period, the goods will be removed to a designated state warehouse, where they will remain until the goods are declared properly.

Khuzwayo (2021) explains that a goods declaration constitutes an official statement submitted in the form required by customs, through which the declarant—whether the importer or an appointed agent—specifies the customs procedure applicable to the goods and provides all information necessary for duty assessment and compliance with the Act. For such declarations to be valid, they must include accurate data derived from trade and transport documentation associated with the international movement of goods. These typically encompass the commercial invoice, the Master Bill of Lading (MBOL), Master Airwaybill (MAWB) or Master Waybill (MWB) issued by carriers, as well as the packing list, certificates of origin, and relevant import permits (UNECE, 2018)..

House bills pertaining to ocean group age and air consolidations, including waybills for road and rail consolidations, must be produced together with master bills or waybills (i.e., HBL or HAWB). These records must accompany the customs declaration upon submission and are therefore classified as supporting or source documentation.

Documentation plays a key role in international trade and in the preparation of customs declarations. Importers and their service providers must understand their roles in international trade in relation to these documents, and they must also be able to communicate the roles of exporters and freight forwarders in relation to the completion of a declaration for customs declarations. To avoid delays and possible penalties, documents must be prepared according to customs requirements, which are aligned with international instruments of the WCO and the WTO.

The most valuable information that is required to assist in the preparation of the customs declaration is source documentation. Having the correct supporting documents ready at all times and transposing the information relevant to the clearance of goods correctly to the customs declaration is important to ensure the smooth flow of goods in the international trade transaction. In order to complete a valid and correct CCD and ensure its acceptance by the customs authority, importers/agents must be able to identify the documents that are required, interpret the information on the documents, and transpose the relevant information onto the clearance declaration. Currently, a through transit BOL, or combined transport BOL, with an inland port of destination is permitted.

The Customs Clearing Instruction (CCI) is an instruction from the importer to the customs broker and needs special attention to detail to ensure that clearance is conducted in accordance with the requirements of the Act. It is important to note that the CCI (as it is now called) is a declaration that a responsible person in the service of the importer is required to sign, and that the person signing the declaration is familiar with all technical aspects relating to the contents that are required to be completed on the clearance instruction. Importers should provide their brokers with:

- An accurate description of the goods.
- Customs procedure codes of the goods.
- Origin of the goods and any origin determination of the goods.
- Tariff Heading/Sub-Heading of the goods & any tariff determination of the goods.
- Customs valuation method.
- Any value determination that may have been put in place.
- Destination of goods.
- Trade agreement; and lastly
- Tax payment method.

Currently, through the EDI interface to SARS, it allows and facilitates that declarations can be made by representation to any port of entry. However, if goods are manifested only at the Port,

there will be fewer staff required at the Inland destination. Matiya (2013) states that the BOL, AWB and CN are an understanding of conveyance by means of sea/air/road and rail carriage for moving goods under the business trade.

After the shipments are released for importers by the customs investigation institution, for instance, the SARS customs control office import organisation will issue a release or detention notification to the CAs. CAs will make payment of duties and taxes and go for the last stage, meaning the release of goods from the carriers and subsequent delivery to the importer. Import customs, the duty of SARS and TNPA, on the other hand, is to guarantee talented and well-acquainted staff are continually capacitated to effectively manage the process.

2.4.5 The Customs Control Act 31 and Customs Duty Act 30 of 2014 Impacts on Trade

NOTE: The current Customs Act 91 of 1964 will eventually become the Customs Excise Act.

The CCA and CDA are modern legislative frameworks designed to simplify customs administration and drive customs modernisation. These laws align with South Africa's constitutional principles and international customs standards, particularly the RKC, which promotes the “harmonisation, security, and facilitation of global trade” (Rowbotham, 2025 & Busse, 2021). The new regulations enhance “supply chain visibility for SARS”, ensuring end-to-end security as outlined in the WCO SAFE Framework of Standards (Busse, 2021). This is accomplished by requiring electronic submissions, reporting goods in advance, improving sealing regulations, and providing electronic notifications at every stage of the customs procedure.

As previously highlighted, the Acts are drafted in accessible language, and their content is systematically structured into thematic chapters, subsections, and explanatory notes for ease of reference (SARS, 2021c). To improve accessibility, CCA and CDA are composed in simple Language. and follow a systematic structure, with specific topics categorised into chapters, parts, and sections. The accompanying rules mirror the structure of the Acts, linking each regulation to its corresponding provision.

This approach simplifies navigation for stakeholders, making it easier to find relevant regulations, particularly regarding reporting, clearing procedures, and AEO registration (SARS, 2023). The new legislation also introduces more adaptable manufacturing and

warehouse choices, strengthening RSA position as a “regional distribution centre and promoting industrialisation” (Khuzwayo, 2021 & SARS, 2021c). Furthermore, through encouraging local manufacturing, increasing corporate competitiveness, boosting exports, and supporting small and medium-sized businesses (SMMEs), the Acts promote the National Development Plan (NDP).

The CCA establishes a requirement for a ***24-hour advance notice prior to the loading of containerised cargo***. This provision, which is consistent with the WCO SAFE Framework of Standards, reflects South Africa’s commitment to strengthening supply chain security (Rowbotham, 2025 & SARS, 2021c). By mandating early reporting, customs authorities are able to detect potential risks before containers are loaded at foreign ports, thereby enabling the interception of high-risk shipments and preventing their entry into South African ports (SARS, 2021c).

Under the new CCA, traders are required to submit clearance declarations for containerised cargo at least three days before the goods arrive at a licensed container terminal or inland depot (SARS, 2021c). This provision was introduced to strengthen planning within the secure supply chain. However, it has created complications for traders, as it necessitates advanced cash flow payments to customs and negatively affects cargo destined for inland locations.

Additionally, the CCA mandates the submission of ***clearance declarations three days or more before the goods arrival*** destined for an inland container terminal or depot. This reform enables SARS to conduct advance risk assessments and, where appropriate, issue a provisional release notice specifying the designated point of delivery—such as a depot in Durban or a terminal in Johannesburg (SARS, 2022 & SARS, 2021c). As a result, traders gain greater certainty in planning the logistics of cargo movement before the consignment’s arrival. Once the goods reach the port, they are either released to the location stated in the provisional notice or detained. In cases of detention, the provisional release is automatically withdrawn and substituted with a detention notice, which identifies the facility to which the goods must be transferred (SARS, 2021c). This practise and new objective of SARS, however, will have negative impacts to Inland-bound and booked cargo.

Another key modification under the CCA is the reduction of the ***import clearance declaration period from 7 days to 3 days after arrival***. This change reflects advances in ICT since 1964, when the CEA 91 of 1964 was first implemented. With the digitalisation of customs processes,

real-time access to trade information has made faster clearance feasible. To accommodate the shortened timeframe, the CCA allows for the temporary release and clearance release of cargo based on insufficient data. However, this may increase financial strain on businesses due to the requirement for advance payments on early declarations.

According to SARS (2021c) the CCA introduces a requirement that transit goods be accompanied by a clearance declaration rather than a manifest or transport document. This change is driven by the need for SARS to obtain sufficient information to effectively monitor cross-border movements and assess potential risks. A manifest merely summarises the cargo on board, often using vague descriptions such as “freight of all kinds,” and therefore lacks critical details such as tariff classification, customs value, and country of origin (SARS, 2021c).

Transport documents often depend on data provided by carriers outside South Africa, which may lack accuracy or completeness (SARS, 2021c). By contrast, a clearance declaration is submitted locally by a licensed trader or registered agent and includes essential details such as tariff codes, customs value, and origin of the goods (SARS, 2021c). This requirement not only enables more reliable risk assessment but also legally obliges the declarant to guarantee the accuracy of the information provided (SARS, 2021c).

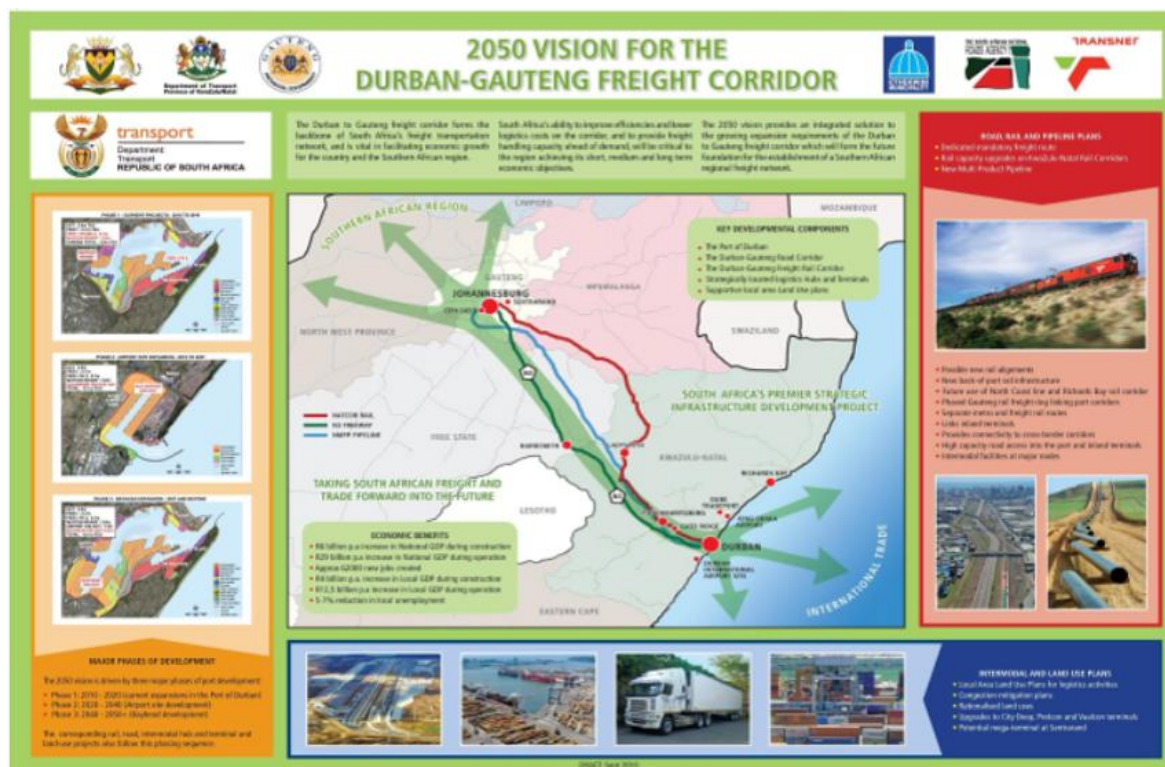
Submitted electronically via EDI, the “declaration” is processed by means of through “SARS risk engine” within seconds (Khuzwayo, 2021 & SARS, 2021c). Since the submitting party attests to the accuracy of the information, they can be held liable for false declarations. A detailed review of the new control Act also revealed that the "Carrier Manifest Declaration" is no longer a valid method for facilitating the movement of inbound containers under the new regulations.

This is a fundamental departure from the current position in terms of Section 18 of the current Act 91 of 1964 that deems the manifest to be due entry in bond of containerised cargo consigned to an inland terminal or depot and exempts the container operator from having to furnish security. This raised many questions on whether the implementation of this policy facilitates trade, whether the trade-off in the gain of customs control satisfies the reduction in facilitation. It is observed that the business had suggested that research was to be done through a cross-sector study in order to gain a better perspective of the possible consequences that the removal of inland ports may have on sufficient and quick trade flow. The consequences of

being obliged to move containerised cargo in terms of declaration rather than a manifest need to be identified and considered.

Discussions in NEDLAC regarding the proposed changes to the current Act 91 of 1964 confirmed that the new customs Acts of 2014 require that imported goods in containers must be authorised for “customs control purposes” in that “coastal port of entry” and in terms of a “policy change” (Khuzwayo, 2021). SARS will no longer allow containerised cargo to move under the cover of the manifest to Inland Terminals and Depots. The research contends that this policy change is not in line with the Transnet 2050 vision pertaining to the Durban Gauteng Corridor (GLMS, 2022). (See diagram below).

Figure 2.5: 2050 Vision for The Durban-Gauteng Freight Corridor



Source: TNPA (2022)

2.4.6 Old CEA Changes that Impact Trade

The view of SARS is that the suggested changes will reduce illegitimate trade and ensure that suspicious targeted cargo is properly treated at seaports before moving inland. Business is concerned that the introduction of the new legislation and the rules pertaining thereto will essentially terminate customs declarations to inland terminals, removing their status as inland places of entry/exit, and resulting in increased congestion of ports, the curbing of multimodal

container deliveries, increased freight traffic on the roads and creating a more inefficient import system. Containerised cargo manifested to neighbouring states could suffer the same implications, potentially causing such traders to seek alternative transport routes or solutions via other countries. Delays or prevention in the process of clearing to any inland destination point will have various adverse effects on business and increase the cost of doing business for firms.

According to researcher Tim (2013), a massive logistics corridor will culminate in the building of a R2,3 billion container terminal at City Deep in Johannesburg, where the building of a R3,9 billion project to upgrade Pier 2 at the Port of Durban and a R14,9 billion procurement of rolling stock for the rail line that will service the corridor between the two Hubs. Accordingly, it is very clear that these new projects become subject to any congestion and interference. The concern is to demonstrate to SARS that, unless they operate with cognisance of the fluid and rapid processes, any intervention by them will be detrimental to the capacity of cargo volumes destined to flow inland, where the main economy of RSA is situated. We need to take cognisance of countries such as Mexico and Spain, where the capital cities are inland and cargo is routed to these capitals seamlessly.

Thus, the motivation of this study is to assess the economic and strategic impact of the proposed regulatory change. The study is further aimed at determining if the Commissioner has lost the discretion to approve inland ports or designate inland destinations as places of entry or export. In view of the anticipated implications of these changes within the new Acts of 2014. The focus of the assessment conducted will be on the impact on business efficiencies, including port efficiencies, congestion on the roads and rail, as well as the impact on the process of business transactions by importers in the context of customs compliance. Against this background, it is examined if the abolishment of “inland ports” as places of customs entry & exit will indeed improve customs controls.

This study’s objective is to investigate and substantiate whether business concerns merit SARS reconsidering its change in Policy, or if the change in Policy warrants amendment of long-standing legislative provisions. The proposed changes to the current Act indicate that the new customs Acts require that imported goods in containers should be cleared for customs purposes at the coastal port of entry and no longer manifested to inland ports. Customs contend that cargo may still be manifested for inland ports (as set out in the ICC Incoterms®); however, without prior release, they may not proceed for delivery to Inland destinations. One can only

imagine the dilemma of an overseas seller who delivers on a DAP basis to an inland destination, particularly if their cargo is grouped with cargo that is not permitted to move inland.

The current Act designated a number of “inland ports” in South Africa as official “places of entry” with concomitant practices relating to transport and clearing of imported goods (Khuzwayo, 2021). Importers and exporters have the option to consign internationally on a multi-modal BOL to these ports without any fear of administrative intervention. Carrier agreements, traditionally known to trade as COC accommodate the collection and delivery of containerised cargo to recognised and licensed inland container terminals in a process whereby the manifest serves as clearances for such shipments, to either transit or be delivered to, or from, such inland ports/places of delivery/terminals.

Fundamentally, the aim of the study is to provide insight into the potential impacts arising from recent legislative and procedural changes. In this context, inland ports play a critical role as hubs for managing international shipments, ensuring the smooth movement of goods through South Africa’s inland logistics network.

The flow of incoming cargo can be likened to a barbell structure, with substantial numbers of containers converging at seaport terminals (Khuzwayo, 2021). If these shipments are not moved quickly, congestion builds up, creating bottlenecks that slow down the entire distribution process. Containers may remain stuck on ships, waiting for space in warehouses, or for transfer onto trains and trucks for final delivery. Inland ports help balance this logistics system, reducing congestion at major ports and ensuring the seamless flow of goods. As port networks expand, maintaining this balance becomes increasingly complex but remains essential for the efficiency of global trade.

Accordingly, the companies’ concept is very clear if these new projects become subject to any congestion and interference. The concern is to demonstrate to SARS that, unless they operate with cognisance of the fluid and rapid processes, any intervention by them will be detrimental to the capacity of cargo volumes destined to flow. ***Business is concerned that the SARS focus is more on controls rather than on facilitating these increases in trade.***

Whilst the need for SARS controls is recognised, the concern is that the amendment will not meaningfully improve or enhance the control. Whatever benefit is gained by the additional control, it is far outweighed by the negative impacts that follow on the amendment to the legislative position, in order to cater for the change in SARS Policy. The study has thus looked

into the operational and contractual criteria of BOL, which are issued by carriers for the purposes of through transit, door-to-door delivery, and multimodal services.

The Explanatory Memorandum 2.2 of the new Customs Act offers further guidance on the designated locations where importers are required to clear goods, whether for “Home Use or another Customs Procedure”, before the customs authority authorizes their release for the intended purpose (SARS, n.d.). Similar to this, only certain locations known as "places of exit" may be used to export products after they have been approved by the exporter and released for export by the customs authority.

The current Act No. 91 of 1964 provides that the commissioner may appoint places of entry and exit. One such currently appointed place is a container terminal, such as City Deep. Business’ concerns regarding the potential impacts of the change in policy, which will no longer allow utilisation of the manifest as documented in the minutes from business by NEDLAC under “areas of disagreement” (GMLS, 2013). Although the need for controls are recognised, the research conducted in the study observed that the controls are already incorporated and found in other measures and amending the long-standing statutory position does not increase or improve the control, rather it impacts negatively on established trade practise and patterns to the detriment of the national economy, international trade, and South Africa’s position as hub for regional trade.

2.5. The Status of South African Port Authority

The TNPA is responsible for owning, operating, and managing South Africa’s port system, which consists of eight commercial seaports along the country’s coastline. Acting on behalf of the state, TNPA ensures that ports function safely, efficiently, and economically. Its role includes overseeing port operations in a landlord capacity, providing port infrastructure and marine services to the ports of Richards Bay, Durban, East London, Ngqura (located within the Coega special economic zone in Gqeberha), Gqeberha (PLZ), Mossel Bay, Cape Town, and Saldanha (TNPA, 2018).

These ports support various industries, including the automotive sector, bulk cargo (dry and liquid bulk), breakbulk cargo, and containerised liner shipping. TNPA is also responsible for marine services such as dredging, ship repairs, navigation aids, pilotage, tugboat operations, ship docking, and mooring services. The National Ports Act of 2005 (Act No. 12 of 2005)

regulates TNPA's functions, and under Section 56, an open application process allows service providers to apply for port facility and service contracts (TNPA, 2018).

The Role of the Port of Durban

The Port of Durban is a key driver of economic growth, trade facilitation, and enterprise development within South Africa's maritime sector (Mkhabele, 2024). As a strategic gateway to Africa and global markets, the port plays a crucial role in facilitating international trade (Mkhabele, 2024). Its primary objective is to ensure the efficient delivery of port services, maintain effective logistics networks, and optimise cargo handling capacity to support smooth cargo flow (Venter, 2021a).

Durban is regarded as the busiest maritime hub in Sub-Saharan Africa and serves as South Africa's primary gateway for containerised cargo, liquid bulk, cruise liners, and automotive shipments (TNPA, 2018). Beyond these core functions, the port also manages dry bulk, breakbulk, and multipurpose cargo, while offering a range of auxiliary services including ship chandling, dry-docking, bunkering, commercial fishing, and various recreational activities (TNPA, 2018).

As the port's owner, TNPA has the authority to enter into contractual agreements with private and public entities to ensure efficient port operations. These partnerships can take the form of concessions, joint ventures, Public-Private Partnerships (PPP), or other collaborative arrangements. TNPA may also assign some of its operational responsibilities to private port operators to enhance efficiency and service delivery.

Port Efficiency and Modernisation

In 2016, the Port of Durban processed approximately 86 million tons of cargo, representing around 60% of the nation's overall containerised import and export trade (Scholtz, 2017).. A major development in improving port efficiency is the implementation of the "Integrated Port Management System (IPMS)" (TNPA, 2018). This web-based system provides a comprehensive operational platform that integrates marine and terminal activities, real-time reporting, and port-wide coordination across all eight South African ports. The IPMS allows users to access up-to-date operational data, enabling informed decision-making to improve efficiency and port management (Scholtz, 2017).

To maximise trade facilitation, SARS systems should be integrated with IPMS to enhance coordination and streamline customs processes.

SARS and the Digital Transformation of Customs

In line with modernisation efforts, SARS Customs is increasing its focus on digital transformation and data-driven operations to enhance trade facilitation, revenue collection, and compliance among importers and exporters. On January 27, 2022, during International Customs Day (ICD)⁷, SARS Commissioner Edward Kieswetter reaffirmed the agency's commitment to digital transformation. He emphasised that leveraging technology and data analytics is essential to countering the growing sophistication of organised crime and effectively managing the increasing complexity of global trade.

Kieswetter also reported that the customs modernisation programme has significantly improved efficiency, reducing the average turnaround time for customs interventions by 22% as of December 2021. This progress reflects SARS' ongoing efforts to digitise operations, enhance risk management, and ensure smoother cross-border trade processes. The Port of Durban, alongside other South African ports, faces significant operational challenges due to inadequate infrastructure, equipment shortages, and suboptimal leadership. TPT, responsible for port operations, has been criticised for failing to recognise the gravity of these issues, leading to decisions that adversely affect port users. Significantly, in 2023, more than 60,000 containers were left stranded offshore near Durban as a result of equipment malfunctions compounded by severe weather disruptions (USDA, 2024).

Despite efforts to improve operations, such as the introduction of the AEO programme in 2021, progress has been hindered by persistent leadership and operational inefficiencies. Studies on leadership at Transnet's DCT have highlighted issues in middle management, including stress and insufficient support, which negatively impact performance (Nxasana, 2019). These systemic challenges have led to a decline in port performance metrics. For example, cargo dwell times, a key indicator of efficiency, have been adversely affected by logistical constraints and equipment shortages (Kgare, Raballand and Ittmann, 2012). Additionally, the World Bank's annual port performance rankings have consistently placed Durban among the lowest-

⁷ International Customs Day (ICD) is 26 January every year. Celebrations can be held any day around the actual day.

performing ports, reflecting ongoing challenges in infrastructure and management (Maritime Executive, 2023a).

In summary, the operational crisis at the Port of Durban is a multifaceted issue exacerbated by leadership shortcomings, inadequate infrastructure, and persistent logistical challenges. Addressing these problems requires comprehensive reforms, including investment in infrastructure, leadership development, and strategic planning to restore the port's efficiency and competitiveness.

This is the view of many senior individuals in the maritime industry recognised, and was recognised when the acting CEO of TPT, Adv. Michelle Phillips stated that on the television investigative show, Carte Blanche, on Sunday, 20 October 2019. Adv. Phillips stated that the issue of cause in port delays that was happening in the Port of Durban, should be resolved in 18 months, since to date there has been no improvement in port delays, re-iterated by Venter (2021b), that more problems and loss of revenue were caused due to lack of efficiency by customs and port administration.

The Department of Public Enterprises has announced a Master Plan for the expansion of the Port of Durban, projecting potential private investments of approximately R100 billion over the next decade. This ambitious initiative aims to enhance port capacity, improve infrastructure, and strengthen Durban's role as a regional trade hub. However, the success of such developments could be significantly influenced by the implementation of the new customs legislation. Any misalignment between infrastructural expansion and regulatory reforms may undermine the efficiency gains anticipated from the master plan. According to former and late Public Enterprises Minister Pravin Gordhan, stated that the port master plan is currently undergoing consultation processes to guide future investment. He emphasised that the plan would serve as a blueprint for infrastructure development, covering port facilities, terminals, and freight infrastructure, all of which fall under the governance of the TNPA.

This initiative is part of Transnet's broader transformation strategy, which the Minister described as a "recovery, reconstruction, and reform plan". One of the key reforms is the establishment of TNPA as an independent subsidiary, which is progressing steadily. Minister Gordhan highlighted that significant strides have been made in defining the subsidiary's structure and role in facilitating investments across South Africa's ports to enhance operational efficiency.

The Covid-19 pandemic has exacerbated congestion across global ports, leaving nearly 12.5% of international shipping capacity idling outside harbours (Venter, 2021a). On the South African trade route, Venter (2021a) notes that shipping lines responded by cutting capacity—either by withdrawing services, substituting smaller vessels for larger ones, or reducing frequency. Since South Africa’s principal trading corridor is with the Far East, the country has been particularly vulnerable to these disruptions, intensifying challenges and frustrations among stakeholders in the maritime sector. According to Comins (2019) and Misra (2021), the poor customs-clearing process for containerised cargo in the Port of Durban resulted in a container surcharge of around 7315 ZAR being charged per six million containers (TEU) transported by various vessel companies. This cost is the same as being charged in Nigeria’s Port of Apapa in Lagos due to issues of congestion caused by a poor customs clearance process.

The lack of attending to this issue by TPT meant that 3 million containers attracted a surcharge of 22 billion ZAR in the cost of conveying cargo for 1 year, for the Port of Durban only (Comins, 2019). The Port of Durban does not lack port infrastructure, but rather does lack in servicing the TPT handling equipment, coupled to a poor clearance process for goods forwarded, both of which had a negative impact in costs versus profits for vessel owners (and trader alike), simply because their vessels were queuing (lying at anchor) outside the Port of Durban for about 25 or more of all types of vessels waiting to dock and to discharge their cargo.

Some vessels can wait up to 7 or more days before docking, which results in ships bypassing the Port of Durban. According to the chairperson, Captain of MSC Shipping line, Mr Salvatore Sarno, and Mr Peter Besnard, CEO of SASSOA, the issues with poor Port Clearance delays and poor maintenance of infrastructure have not yet been resolved to date (2021). According to Comins (2019) and Misra (2021), there was no permanent executive management to lead TPT; therefore, there should be a call to resolve these issues as a matter of economic urgency.

2.6. Inland Port/Terminal importance in South Africa

According to GLMS (2022), in consideration of the requirement to investigate the value and relevant infrastructure and services of inland ports/terminals, it became apparent that the topic has been widely researched on a global scale. South Africa, obviously, has not been the only country with inland port challenges. It has been enlightening to review previous research conducted internationally and to note the various challenges, strategies, concerns, motivations, recommendations, and conclusions that were arrived at.

This information will be useful for comparison purposes with our own impact assessment study. Engineering News (2013) stated that in the year 2017 there would be a requirement for an additional container terminal capacity when the hub of Johannesburg reached capacity.

Engineering News (2013), the volume was projected to grow to over 3 million TEUs by the year 2021. Which to the former MEC of economic development, Mr. Qedabi Mahlangu stated that by the “year 2018, Tambo Springs would handle 500,000 TEUs” and prioritise job generation and economic growth, being an incubator for small and medium-sized and microenterprises, as well as to create 150,000 new jobs. MEC concluded that the ultimate goal “is to optimise Gauteng as the gateway to the emerging African market”. It is important to reiterate the importance of Gauteng as an inland commercial hub and, furthermore, the significance for the Gauteng Provincial Government to plan appropriately in terms of accessibility of this inland economy, in order to have access to competent international transport gateways.

City Deep is currently regarded as a licensed container terminal in the current customs legislation. Neither the current Customs Act 91 of 1964, nor the new Control Act 31 of 2014, defines inland ports. A statement has been made by SARS, which interprets the removal of City Deep as a place of entry. This could be inferred that it would just be a normal container terminal. Customs has stated that one of the main aims of the control Act and the modernisations programme is to regain control over the supply chain through information, and in the process, also to facilitate trade. This research suggests that SARS should conduct an impact study on the consequences and negative impacts due to amended legislation.

The new CCA defines a container terminal as premises, whether located within a customs seaport or elsewhere, where packed and empty containers are received and temporarily stored. From these premises, containers may either be delivered to container depots, released directly to consignees for home use once cleared, or processed under a customs procedure following the clearance and release of their contents.

The concern is that the existence of an inland port is not dependent on its recognition in the customs legislation, and the clearance of goods at an inland port has always been listed as one of the necessities (UNCTAD, 1991). We noted from this research that the UN researcher supported the avoidance of clearing fees at seaports and contended that “through transport”

BOL be utilised and further that customs inspections at marine ports or any similar places may cause delays and should be removed (United Nations, 2021).

In one of the research reports pertaining to the Mesoamerica solutions, it relates to Mexico City, which is similar to Johannesburg, due to its inland location, and thus Mexico City has also been searching for out of the box solutions to improve its trade relationships, facilitation and access to ports and international gateways (WCO, 2012:28). Inland terminals are considered so strategic in the European Union (EU) that the research revealed that the 7th European Conference and Exhibition of Inland Terminals were held at Strasbourg on 15 & 16 November 2012.

The accelerated development of port infrastructure, along with the expansion of regional road and rail networks across Africa, has brought increased attention to the strategic role of inland multimodal hubs. These hubs are becoming vital components in strengthening logistical integration and enhancing the competitiveness of inter-African port systems (Mkhabele, 2024; Busse, 2021). Their relevance is further underscored by the anticipated rise in intra-African trade flows, particularly in light of the implementation of the African Continental Free Trade Area (AfCFTA), which aims to facilitate seamless cross-border commerce and economic integration (Mene, 2025).

In this context, concerns have been raised in public and policy discourse regarding South Africa's diminishing influence as the continent's traditional entry point, often referred to as the "Gateway to Africa." With increasing uncertainty surrounding its policy environment and the rapid development of ports along Africa's east and west coasts. Many of these competing ports have received substantial investments, some funded by major resource companies, leading to shifting trade patterns in the region. If these trends continue, Durban port may evolve into just one of many regional ports, rather than maintaining its position as the primary trade hub.

As global trade has expanded, ports such as Durban have grown significantly, yet limited space and increasing congestion on access routes have restricted further expansion. The lack of sufficient infrastructure upgrades has become a pressing issue.

According to an article in West (2012), Hamilton Nxumalo, General Manager of Infrastructure, Port Planning, and Development at TNPA, acknowledged the delays in infrastructure development at Durban harbour as a major oversight. One of the key challenges highlighted is that road congestion to and from the port must navigate heavily congested highways and

smaller urban roads, which worsens traffic bottlenecks and deteriorates road infrastructure. The excessive reliance on road transport for port operations further compounds these issues, creating inefficiencies at seaport gateways and container terminals.

To ease congestion and improve cargo movement, the growth of dry ports and inland container terminals has become essential. These inland logistics hubs help alleviate pressure on seaports by facilitating the multimodal transportation of goods, allowing for seamless transfers between sea, rail, and road transport. The rise of containerisation has played a pivotal role in enhancing trade efficiency, enabling quicker and more streamlined freight transfers between different modes of transport.

Therefore, inland dry ports are crucial to guaranteeing the effective transportation of products. Any installation of new infrastructure causes delays and interventions in any event. The expected berth deepening in the “Port of Durban” will lead to the introduction of liner vessels with a greater TEU capacity calling at Durban and creating additional volume pressures (Khuzwayo, 2021).

Customs need to research the current barbell developments, and we are confident they will become convinced that customs declaration preventing onward inland transit is not the ideal solution. One aspect that was identified by the UN study that must be highlighted is the fact that the operation of dry ports seeks to provide a planning guide for the universal application of the general procedures in the involvement of the establishment of dry ports, which are also known as inland clearance depots (UNCTAD, 2020).

This study has revealed growing concern within the trade sector regarding the potential removal of Johannesburg’s City Deep as a designated inland place of entry for customs clearance. There is limited clarity on the extent to which SARS engaged with global trade relation bodies—such as the UN—or drew upon established research to evaluate the operational significance, key success factors, and potential negative implications associated with revoking inland port or dry port status (Khuzwayo, 2021; Busse, 2021; SARS Website). The absence of transparent consultation raises questions about the broader trade and logistical consequences of such a policy shift.

It was also revealed that the coastal ports rely on their continued existence and future success is directly as a result of their utilisation by inland port infrastructure. Ultimately, the inland

structures have a choice of the port of entry, and an unexpected potential negative consequence could be Gauteng province utilising the Maputo Port, instead of Durban as its inland corridor.

Inland ports research studies conducted globally include:

- Increased Trade flow.
- Lower door-to-door freight rates.
- Avoidance of fees for clearing and forwarding agencies at seaports.
- Avoidance of storage, demurrage & late paperwork fees, among other things.

Our focus was particularly on cities such as Mexico and Madrid, which are located inland. South Africa is unique in that the heart of our industry is located 600km from the nearest main feeder seaports. We are also the corridor to a lot of landlocked countries, and we can easily lose this status as the most important corridor.

The removal of inland terminals will cause a loss in the transit market as nearly one in three African countries is landlocked. Importers and exporters are unlikely to tolerate delays or inefficiencies that lead to congestion and disruptions in cargo movement. When such challenges arise, trade flows are quickly redirected to alternative ports offering more reliable and efficient services. This pattern was clearly emphasised during discussions at the 3rd Annual Africa Ports, Logistics, and Supply Chain Conference, where stakeholders acknowledged the growing responsiveness of the market to logistical bottlenecks (Rowbotham, 2025; & Van Rensburg, 2024).

We will see an increase in the cost of delivery as warehouse-to-warehouse insurance premiums are likely to increase. Transnet might receive negative consequences for new rail infrastructure and increasing fuel prices are driving rail solutions for inland ports. As mentioned before, competition for industries located in Gauteng is essential to the national and regional economy.

Due to the potential negative consequences, it is recommended that research relevant to inflationary impacts be conducted.

2.7. New Automated Customs and Control Act Link

In the world of trade, there are many changes from old to new powerful international trade instruments and rules, which worldwide have led to an increase in volumes of trade and relieved the tremendous complexities of global trade, which require normalisation according to the requirements of specific nations. RSA needs to adjust to a new business plan of action, of a specific nation which considers expanded security, dangers, crime, and requests from the general public, based on new trade patterns and “WTO TFA” (Shumba, 2025).

This moves further through local and national reality where the expansion in trade volumes is prompted by the trade mutual understandings for example SADC nations and through related high vessel traffic which leads to so-called port blockage and high customs burden where association like SARS through the expansion in supply chain dangers result exercises that dangers in economic trade (e.g. Pirating of cargo and risky product) (Nze & Onyemechi, 2018).

Such supply chain dangers results impact on trade consistence which result absence of transparency inside the trading accomplices and tests to mis-declaration and further influence poor trade downplaying to importers or exporters which results inadequate communication with trade however through update on the administrative and legitimate objectives which is RKC, SAFE framework, TFA and regional integration this assistance in through cooperation and network via CBM this helps between understanding the necessities and prerequisites to help on adjustment on the adjustments in time (Nze & Onyemechi, 2018).

This helps through making custom and clearing procedure viably and productively in trade facilitation which assists in consistency decision through making automated customs and clearance system this will through trade expense for SARS Customs as well as for all other affected partners on customs and clearing process; however, Port of Durban as well as for all ports of South Africa which such is happy to be coordinated to other trade agreements.

The customs control procedure is described by the unique, non-connected frameworks which were dependent on huge human intervention and trade confirmation. The RSA customs preceding modernisation comprises three (3) different structures, which are border, imports and exports, which are little aligned with the WCO Data Model (Figure 3.2 below).

Figure 2.6: South African Customs Prior Modernisation Model



Source: Georgia (2017)

Through old customs control model above there was a requirement for normalization of the old South African customs model through a single data model for customs control clearing, this was through by means of merging all inheritance framework information fields which is the imports, export and cross border this was to be done into a single data table.

A mapping was carried out on all declaration information fields to the WCO Data Model which determined a declaration "CUSDEC" a subset from the WCO Data Model through inferring this declaration will help through characterising code records which helps in defining information restrictions for utilisation across customs process however separating all such will result the new RSA customs control data model (Georgia, 2017).

Advancement in 2009 saw a need of consolidation and normalisation, where the RKC promotion in 2005 perceived the need to modernise which is solidifying all clearance and discharge prerequisites, single information model for export, cross border and import and new method for coding system which such perceived the need to normalise and smooth out clearance and discharge procedure the upgraded automated risk management and electronic supporting (e-supporting) archives (WCO, 2019).

The introduction of end-to-end digital processing has significantly reduced unnecessary manual interventions in customs procedures, primarily through enhanced risk management systems. This includes advancements such as mobile inspection capabilities and streamlined “proceed-to-border” processes, which contribute to operational efficiency. Furthermore, efforts have been focused on improving the reporting framework to unlock trade facilitation benefits.

These include the consolidation and standardisation of trade data, as well as the enhancement of cross-border customs-to-customs (C-2-C) data exchange mechanisms (Georgia, 2017; SARS Website; & WCO, 2017).

For SARS, electronic commerce and pertinent partners through the new control act has handled accentuation of automation interface with their partners where has arrangement of EDI utilis manual which incorporates information mapping guides, drafting outlines for technical services suppliers for the assisting businesses and assist in understanding the lawful arrangements and commitments through CEA consists of Section 101A which commits the partners for electronic correspondence with SARS and should be a piece of the RSA revenue services' framework and important archives required for e.g. certificates etc.

The SARS has recognised the critical importance of standardisation in customs processes, particularly through its active and ongoing participation in the development of data exchange standards led by the WCO (Siphugu, 2020). SARS has also demonstrated a proactive role in global customs initiatives such as GNC. At the national level, it engages in collaborative platforms like the TSF and works closely with other government departments. Additionally, SARS maintains bilateral customs cooperation with neighbouring countries, notably through the SACU, and contributes to broader regional and international trade efforts under frameworks such as SADC and the AU (Georgia, 2017; SARS, 2021).

In summary, the implementation of automated customs control systems fosters interconnectedness across various levels, linking individuals, institutions, and data in ways that enhance the effectiveness of customs operations. These linkages span national (business-to-customer, customer-to-customer, and customer-to-government), regional (customs-to-customs), and international (customs-to-customs) interactions. Such integrated digital networks enable the collection and analysis of customs-related data, equipping customs officials with valuable insights and promoting fairness in trade processes. Ultimately, this connectivity supports more efficient and streamlined border management, particularly in the forwarding and clearance of goods (Georgia, 2017; SARS n.d.; WCO, n.d.; Sing, 2017).

2.8. Impact of the Customs Policy Change in International Sales

In this research, during a considerable number of the meetings, a key concern that was raised was the view that SARS did not comprehend, welcome, or perceive the ramifications of the

interruption of multimodal, door-to-door, or through transit delivery conveyance trade practices affected by a global transportation main carrier or vessel line. Besides, the commitments for importers and exporters, pertinent to the chosen business delivery term commonly known as the ICC Incoterms®, which oversee the terms of conveyance and represent various costs, risks, and obligations of sellers or buyers, additionally require comprehension and recognition by SARS. This significant aspect was likewise recognised everywhere where other global research reports were carried out.

The **ICC Incoterms® 2020 Rules**, which are commonly incorporated into contracts of sale, serve as a globally recognised framework designed to clarify a series of “three (3)-letter trade terms” used in “business-to-business” delivery transactions (ICC, 2020). These rules clearly outline the respective responsibilities, costs, and risks assumed by both the seller and the buyer during the transportation of goods.

As outlined by the ICC (2010), accurately specifying the delivery location or port is essential, as it defines the moment when responsibility for the goods—including the risk of loss or damage—transfers from the exporter to the importer. Although the term "delivery" can carry various meanings in commercial law and trade practise, within the context of the Incoterms® rules, it specifically refers to the moment and place where risk is transferred (PMG, 2013; SARS Website; Eiselen, 2013; ICC, 2010 & GLMS, 2013).

As is obvious in the ICC Incoterms® 2020 rules for regional and global trade terms, the principle includes an emphasis on the delivery obligations. This is currently used in the mirror rules under Article A8 and states that a report or communication is used to demonstrate that a conveyance has happened. For a number of the ICC Incoterms® rules 2020, the conveyance archive is a Transport document or, in relating to an electronic record.

It is worth highlighting, particularly for customs control purposes, that the ICC Incoterms® 2020 rules place increased emphasis on security requirements associated with the movement and clearance of goods. As noted in the latest version of the rules, heightened global concerns regarding the safe transport of goods, beyond risks inherent to the nature of the items themselves, have necessitated stricter verification processes to ensure cargo does “not pose a threat to life or property” (ICC, 2020).

The Incoterms® 2020, as issued by the ICC (2020) and GLMS (2013), clearly assign obligations to both the buyer and the seller regarding the procurement or facilitation of required

security-related authorisations. These duties may include the provision of chain-of-custody data, as outlined in Articles A2 and B2 (concerning delivery obligations), and A10 and B10 (concerning information provision and compliance) across the various terms of trade (ICC, 2010; & GMLS, 2013⁸).

While the concept of “delivery” is often interpreted differently across international trade law and commercial practice, the Incoterms® rules establish a precise definition, identifying it as the moment when the risk of loss or damage to goods shifts from the seller to the buyer. (ICC, 2010; GLMS, 2013; PMG, 2013; Brodie, 2013 & Eiselen, 2013). This standardised understanding is critical for ensuring clarity and consistency in cross-border transactions.

Under the Cost, Insurance, and Freight (CIF) arrangement, the buyer—such as a South African importer—assumes the risk as soon as the goods are placed on board the vessel. However, the seller is still obligated to pay the expenses associated with transporting the goods to the agreed destination, in line with the contract of carriage (Baudin & Netland, 2022).. This distinction underscores how any disruption or misapplication of Incoterms® could adversely affect stakeholders across the global supply chain (GLMS, 2013; PMG, 2013 & Eiselen, 2013).

Furthermore, although requiring a customs declaration for bonded containerised cargo, rather than accepting the shipping line’s manifest as the basis for due entry, may appear to have no bearing on the international contract of sale between a foreign exporter and a domestic importer, it introduces complications. This change could influence the operational efficiency of multimodal transport arrangements under a unified Bill of Lading, particularly for South African importers, members of SACU, SADC, and broader international trading partners relying on transit flows^[1].

A more detailed analysis reveals that the legislative transition from the CEA to the CCA represents a significant transformation in trade procedures, particularly affecting established practices related to the multimodal transportation of containerised cargo. This regulatory change alters the conventional flow of trade for stakeholders who rely on coordinated transport systems.

⁸ Note the order of Articles in the Incoterms® 2020 Rules version that has changed. However, there is still an obligation to provide Security-related information between the Seller and the Buyer.

^[1] Certain Incoterms® Rules such as Delivered Duty Paid (DDP) place the obligation for Customs Clearance on the Seller.

These trade flows are not merely logistical but are embedded in the legal framework of international transactions through standardised clauses found in model contracts and codified under Incoterms® Rules (GLMS, 2013; PMG, 2013; Eiselen, 2013)^[2]. This impact will require reconsideration of these trading patterns and should caution traders when entering into these types of agreements. The legislative amendment has significant implications for certain Incoterms® delivery conditions, potentially rendering some terms impractical or unsuitable for affected traders (WCO, 2018u; GLMS, 2013; PMG, 2013). Specifically, the adjustment could necessitate a shift in the designated point of delivery, compelling international sellers to limit their delivery obligations to Durban, the designated customs control point, rather than extending beyond it. This restriction may arise from the reluctance of overseas suppliers to assume responsibilities past the initial port of entry, given the tightened regulatory framework.

Such a revision affects how terms of carriage under Incoterms® are applied, especially as these terms are often embedded in contractual agreements between exporters and importers. Under the Incoterms® framework, the agreed-upon delivery point defines not only the transfer of risk but also the respective responsibilities of both parties concerning documentation, insurance, and customs clearance (Eiselen, 2013). The reform could, therefore, force a reassessment of trade terms, particularly for containerised cargo, as sellers may refuse to contract beyond the Durban port.

Understanding this impact requires recognising that Incoterms® rules govern critical obligations within international sales contracts—including the duty to notify, package goods appropriately, arrange insurance, and secure both export and import clearance. These responsibilities help establish whether proper delivery has occurred and when risk and cost liabilities shift between parties. As highlighted by Professor Jan Ramberg in the Guide to Incoterms® 2010, these clauses are essential to the functional integrity of global trade agreements (Ramberg in ICC, 2010; PMG, 2013).

The use of standardised model contracts that incorporate standard clauses and the Incoterms means that the impact will be felt on most trade, and these standardised model contracts incorporate the long-standing trade patterns, terms, and conditions. For containerised cargo, particularly in the South African context, where the primary industrial zones are located inland,

^[2] The Incoterms® Rules explain a set of three-letter trade terms reflecting business-to-business practice in contracts of the sale of goods. The Incoterms rules describe mainly the tasks, costs and risks involved in the delivery of goods from sellers to buyers. The Incoterms® Rules are known as the ICC Rules and the latest version is the Incoterms® 2010 Rules version.

far from key maritime gateways—established trade patterns hold significant importance. These patterns influence, among other things, which party bears responsibility for customs clearance. The allocation of this responsibility has broader implications, as it affects the determination of the point of delivery, the transfer of risk, and the allocation of associated costs between contracting parties (GLMS, 2013; PMG, 2013; Eiselen, 2013).

In addition, customs clearance requires presentation of certain documentation and moving the time when this declaration must be made forward will impact the ability of traders to have the documentation ready and available at that stage to perform customs clearance^[1]. Availability of these documents to obtain release from the shipping line is often dependent on payment or the conclusion of payment and moving the customs clearance requirement forward and earlier than the initial trade practice is in conflict with existing trade patterns. Earlier payment to the bank and customs again impacts cash flow, which has a direct bearing on the commercial viability of the transaction. All these considerations will impact the existing trade patterns.

The process of clearing goods for import and export involves more than operational efficiency or financial considerations—it fundamentally influences the allocation of risk between the contracting parties. Specifically, it helps establish whether the importer or exporter assumes liability in the event of logistical or regulatory complications (Schoeman, 2024; Van Rensburg, 2024; & Mkhabele, 2024). Delays often occur due to inaccurate or incomplete information provided to customs authorities, errors in customs procedures, or unnecessary regulatory interventions. In some cases, customs involvement in trade is simply due to limited capacity or resource constraints^[1].

Providing incorrect information can lead to customs fines or even result in unexpected trade restrictions, preventing goods from entering or leaving a country. Such obstacles can disrupt contractual obligations and delay the fulfilment of a sale agreement. Therefore, ensuring that customs clearance is completed at the right time and place is critical to avoiding disruptions and maintaining smooth international trade operations (Face, 2025).

As required, in terms of the RKC, transparent compliance and performance measurements for both customs and trade should be introduced. These should be evident across the supply chain

^[1] We were not able to determine from SARS the measurement of successful interventions in relation to the total volume of containers detained for Customs purposes. ⁹⁰In respect of goods in transit forced to be moved by road.

to all role players, and the ongoing validation and capacity building programmes should resonate with yielding improvements in relation to the performance measurement results.

2.9. Conclusion

The scope of this chapter does not focus exclusively on the provisions of the CISG or the ICC Incoterms® Rules. Rather, these instruments are referred to only insofar as they provide context for understanding international trade practices, contractual obligations, and the allocation of risks and responsibilities, which are relevant to the broader discussion on customs modernisation and trade facilitation. It is therefore obvious that the revisions will have sweeping effects on recent trade patterns, and the specific nature and impact of these effects might be definable in time since traders should not be subjected to determining the issues by means of lawful contest resolution. The effects will show when issues corresponding with the changes go into force, and importers & exporters understand that the current trade changes, as exemplified in the model agreements, and that the ICC Incoterms® do not satisfactorily shield them from outcomes of the alteration.

The view is that the CCA benefits secured by the amendments are not of such a nature and significance that they legitimise the comprehensive effects on existing trade patterns in line with global agreements for the sale of cargo, and that the standardised rule of such contractual understanding is obtained in the ICC Incoterms® rules document. It must be emphasised that containers currently manifested at an inland port have not shown any unusual hazard or security impacts.

This is on the grounds that *the carrier transporter and inland transporters (rail/road) are both liable for protecting the inland movement of the cargo, themselves being global carriers, and they are not conveyed and delivered by the shipping line, unless such goods have been customs-cleared.*

The new provision exists almost as a punishment and the customs management have enough powers to guarantee consistence, especially from international transporters who, regardless, can also become AEOs as the multimodal accomplice to convey in a secure global supply chain. It was before demonstrated that the most recent ICC Incoterms®, comparable to BOL as contracts of carriage, as far as the commitments contained in the CISG can interface and still ensure secure shipments.

The National Ports Act of 2005, along with the Private Sector Participation (PSP) Framework approved in December 2023, establishes a formal regulatory basis for private sector involvement in financing port-related infrastructure projects. As trade remains a cornerstone of national economic growth and given that ports play a central role in facilitating this exchange, enhancing port performance is vital. Public-Private Partnerships (PPPs) are therefore instrumental in improving operational efficiency and reducing costs within South Africa's port system—ultimately benefiting both businesses and consumers (Department of Transport, 2025; Matiya, 2013; Van Rensburg, 2024; & Mkhabele, 2024).

It is on this foundation that the South African government plans to pass the law to encourage the PPP model. The PPP enactment is energetically welcome as TNPA and the Department of Transport Minister Ms Barbara Creecy, endeavours to encourage trade growth through improved and low-cost administrations (Department of Transport, 2025 & South Africa Freight News, 2024).

Techniques to improve administration conveyance involve modernisation of port offices and infrastructure (Matiya, 2013). Similar to Matiya (2013) the TNPA sees public private partnership as the majority encouraging “vehicle for sustainable advancement of ports (Freight News, 2024). It is in this line that TNPA leads a few activities under its objectives to be controlled by or partnered with privately owned businesses. SARS must take a wider look at security and partner trade correctly to achieve this objective.

CHAPTER 3: RESEARCH METHODOLOGY

3.1. Introduction

This chapter outlines the research methodology adopted to investigate the impacts of customs modernisation on the efficiency and effectiveness of the forwarding and clearing process at the Port of Durban. The methodology provides a structured framework for understanding how the study was designed, how data was collected and analysed, and how the authenticity and trustworthiness of the results were ensured.

The chapter is organised into several key sections. It begins with a discussion of research philosophy and approach, followed by an explanation of the research design. It then details the study area, data sources, sampling procedures, data collection methods, and techniques used for data analysis. In addition, the chapter addresses issues of validity, reliability, and ethical considerations. Each component has been included to demonstrate methodological rigour and alignment with the study's objectives.

3.2. Research Philosophy

Research philosophy is the set of guiding principles and presumptions for the production, interpretation, and application of knowledge in a study (Thanh & Thanh, 2015 and Hurskainen, 2025). It shapes how researchers view the world, how they approach data, and what methods they consider appropriate. Saunders et al. (2019) and Hurskainen (2025) describe research philosophy as a system of beliefs that guides the researcher's interpretation of data, "the role of knowledge (epistemology), and the nature of reality (ontology)".

This study adopts an interpretive philosophical stance. Interpretivism is concerned with understanding the meaning and context of human experiences rather than seeking universal laws or objective truths. It is most appropriate when studying complex social processes, such as customs clearance, where multiple stakeholders and evolving policies interact (Thanh & Thanh, 2015).

Given the exploratory nature of this study and its focus on understanding the real-world implications of customs modernisation from various perspectives, interpretivism allows for a flexible and in-depth interpretation of secondary data sources such as reports, legislation, and

policy documents. This philosophy supports the use of qualitative methods to explore the procedural, institutional, and operational dynamics of the Port of Durban's clearing and forwarding processes.

3.3. Research Approach

This study adopts a qualitative research approach, which is most suitable for exploring complex, real-world issues where context, meaning, and human experience play a central role. Qualitative research focuses on understanding how and why certain phenomena occur, rather than quantifying variables or testing hypotheses (Barroga & Matanguihan, 2022). It allows the researcher to interpret patterns, perspectives, and narratives that emerge from rich textual data (Creswell & Poth, 2018).

The qualitative approach aligns with the objectives of this research, which seeks to explore the impacts of customs modernisation on the effectiveness and efficiency of the clearing and forwarding procedure at the Port of Durban. Rather than relying on numerical data, the study draws from documents, policies, reports, and expert commentaries to gain insight into institutional practices and regulatory changes. This method supports a deeper, more contextual understanding of the challenges and implications involved (Barroga & Matanguihan, 2022 & Schoeman, 2024).

3.4 Research Design

A research design serves as a comprehensive strategy that systematically integrates the various components of a study to ensure the research problem is addressed effectively and coherently (Hunziker & Blankenagel, 2021 & Sung, 2025). It outlines the methods, procedures, and tools used to collect, analyse, and interpret data. According to Kumar (2019), a research design acts as a framework that guides the collection and analysis of data in a way that ensures the credibility, validity, and reliability of the outcomes. Similarly, Saunders et al. (2019) describe it as the general plan for answering research questions, detailing the types and sources of information to be collected and the approach for analysing them.

This study adopted a qualitative case study design, which was suitable for exploring complex, context-specific issues in-depth. As defined by Yin (2018) and Yin (2003), using a case study made it possible to examine a current occurrence in the context of actual life, especially when it was difficult to distinguish between the context and a phenomenon. The qualitative case

study approach supported the study's goal of understanding how customs modernisation policies were implemented and experienced at the “Port of Durban, a major hub” of RSA international trade (Mazibuko, 2020).

Due to institutional barriers and access limitations, this case study was conducted as a desktop (doctrinal) study. A desktop study involved the collection and analysis of secondary data, existing information that was publicly available or documented, rather than direct, empirical data such as interviews or surveys (Tenny, Brannan & Brannan, 2022). As such, the study relied exclusively on documentary sources, including legislation, academic literature, institutional reports, and media commentary. No original data were gathered through methods such as interviews, direct observations, or the collection of statistical datasets.

This design allowed the researcher to critically evaluate the operational implications of the transition from the CEA of 1964 to the CCA 31 of 2014 and CDA 30 of 2014, specifically within the context of Durban’s customs clearance system. Although limited by its reliance on available documents, the approach enabled a focused and policy-driven analysis of modernisation reforms and their potential impacts on efficiency and effectiveness in the clearing and forwarding process.

3.5 Study Area/Focus

This study was conducted at the Durban Port, RSA’s busiest and largest maritime hub for containerised cargo. The focus was on agents and institutions involved in forwarding and clearing processes at the Port of Durban, such as the SARS and TNPA. The research involved analysing publicly available reports, policy documents, expert interviews (accessed via online platforms like Engineering News, IOL, and others), and publications relevant to operations at the DPT under the framework of customs modernisation.

The CCA 31 of 2014 has had a significant impact on the way containerised cargo is cleared at South African ports. This study specifically examined how these legislative reforms influenced port congestion and the efficiency and effectiveness of cargo movement from Durban to domestic and international destinations.

In addition to institutional actors, the study also considered the role of cargo owners and clients who interact with customs administrations through DPT. The Port of Durban was purposefully selected as the study site due to its central role in national and regional trade, as well as the

high volume of import and export activity it handles. Its strategic importance and exposure to ongoing legislative reform made it an ideal location for examining the real-time and potential impacts of customs modernisation on clearing and forwarding processes.

3.6. Data Collection

As noted by Taherdoost (2021) and Adika (2023), collecting data involves a structured approach to obtaining information that directly relates to the research question. This process relies on clearly defined sources and methodologies to maintain the quality, trustworthiness, and pertinence of the information gathered. It is a foundational component of any research design, as it enables the researcher to examine the topic through credible evidence and draw valid conclusions (Creswell & Poth, 2018).

Since this study was conducted as a desktop (doctrinal) study, all data was obtained from publicly accessible secondary and primary sources. The approach did not involve direct empirical techniques such as surveys, interviews, or observations. Instead, the research relied on documents, literature, and regulatory texts to explore the impact of customs modernisation on clearing and forwarding efficiency at the Port of Durban.

3.6.1 Primary Data Sources

Primary data in the context of a doctrinal study refers to authoritative legal and regulatory texts. For this research, the primary sources included:

- Customs and Excise Act 91 of 1964
- Customs Control Act 31 of 2014
- Customs Duty Act 30 of 2014
- SARS Customs Operating Procedures and Notices
- World Customs Organisation (WCO)
- Revised Kyoto Convention Guidelines

These documents were analysed to understand how statutory and procedural changes influence customs clearance processes, particularly with regard to trade facilitation, risk management, and document submission.

3.6.2 Secondary Data Sources

A structured literature review was conducted to supplement the doctrinal analysis and provide broader perspectives from academic, institutional, and professional sources. The process was as follows:

3.6.2.1. Databases and websites used:

- Google Scholar
- Scopus
- ResearchGate
- South African government websites (e.g., SARS, ITAC, TNPA)
- Trade and news platforms (e.g., Engineering News, IOL, Business Tech)

3.6.2.2. Search strategy and terms:

Boolean operators and filters were applied using search terms such as:

- “Customs Modernisation South Africa”
- “Clearing and forwarding Port of Durban”
- “Customs Control Act 2014 + implementation”
- “Freight congestion + Durban”
- “Logistics policy South Africa”

3.6.2.3. Number and Type of Results:

The initial search yielded over 120 sources. After screening for relevance, 38 high-quality sources were selected for detailed review. These included:

- Peer-reviewed journal articles
- Government reports and white papers
- Trade publications
- Industry commentaries
- Legal analysis

3.6.2.4. Inclusion Criteria:

- Sources published between 2015 and 2024
- English-language only

- Relevance to South African customs policy or Durban Port operations
- Academic or institutional credibility

3.6.2.5. Exclusion Criteria:

- Blogs or opinion pieces without sources
- Duplicated content or outdated studies
- Studies unrelated to customs, ports, or freight forwarding

3.7.3 Identification of Stakeholders

As part of the desktop research approach, stakeholders involved in customs clearing and forwarding were identified using Google Search, LinkedIn, and organisational directories. This helped the researcher map the sectoral landscape and triangulate findings. Key stakeholder categories that were reviews by other scholars, such as Khuzwayo (2021), included:

- Government Agencies: SARS, TNPA, Department of Trade, ITAC
- Private Sector: Freight forwarding firms (e.g., Bidvest, Grindrod)
- Industry Associations: “South African Association of Freight Forwarders (SAAFF), Southern African Customs Union (SACU)”
- Media and Research Outlets: Engineering News, Business Tech, Daily Maverick

By tracing online reports, published interviews, and regulatory documents from these actors, the researcher was able to gather insights into the practical implementation of customs laws and the perceived impact on port operations.

3.7. Data Analysis

Data analysis is used to describe the methodical process of arranging, analysing, and combining data to provide insightful findings that support the goals of the study. In this study, which followed a qualitative desktop approach (doctrinal)analysis, the analysis focused on documents, policies, statutes, and literature related to customs modernisation and the forwarding and clearing processes at the Port of Durban.

Given the absence of empirical or numerical data, the study did not involve statistical testing or coding of interview transcripts. Instead, analysis was conducted through thematic content review, identifying recurring patterns, concepts, and contrasts across the selected documents.

The researcher manually sorted and categorised materials according to emerging themes such as policy change impacts, trade facilitation, operational delays, and institutional responses.

Primary legal sources (e.g., the CEA 91 of 1964 and the CCA 31 of 2014) were carefully read and compared to understand procedural shifts. This involved evaluating key differences in clearance processes, such as changes to manifest handling, inland port access, and entry declarations. The impacts of these legislative changes were further assessed using contextual analysis of secondary sources, including stakeholder commentaries, media reports, and expert reviews.

The researcher also triangulated findings from multiple document types (e.g., policy briefings, industry publications, and international conventions) to ensure credibility and robustness. Online tools like Google Search, news archives, and institutional portals supported cross-verification of key facts, particularly in identifying stakeholder positions on customs reforms.

The analysis culminated in a synthesis of findings that highlight how modernisation has influenced customs clearance, efficiency and effectiveness at the Port of Durban, offering a grounded and policy-informed interpretation despite the study's documentary limitations.

3.8. Ensuring Trustworthiness

In qualitative research, trustworthiness ensures that the findings are credible, dependable, and applicable beyond the immediate study context (Ahmed, 2024). “Credibility, transferability, dependability, and confirmability” are the four essential criteria that Lincoln and Guba (1985) suggested be followed in order to guarantee the integrity of the study's findings.

3.8.1 Credibility

According to Chere (2024) & Ahmed (2024) state that “credibility” means having faith that the results are accurate. In this study, credibility was achieved by using multiple secondary sources from reputable platforms, including SARS, TNPA, WCO, and peer-reviewed journals. Cross-verification of documents helped reduce bias and allowed for consistent interpretations. Triangulation of legislation, academic literature, and media commentaries further enhanced the reliability of insights.

3.8.2. Transferability

Transferability concerns the extent to which the findings can apply in other contexts (Bang, 2024). While this study focused specifically on the Port of Durban, its findings may inform customs modernisation efforts in other ports with similar operational structures. The detailed description of the study context and processes ensures that future researchers or practitioners can determine their relevance to their own settings.

3.8.3. Dependability

Dependability, according to Bang (2024), involves consistency of the research process. This study documented each step of the data collection and analysis process, including database searches, search terms, selection criteria, and sources used. A clearly defined research design (desktop doctrinal analysis) and structured literature review helped ensure that the process was logical and traceable.

3.8.4. Confirmability

As noted by Ahmed (2024) & Chere (2024), confirmability “guarantees that the data, not the researcher's prejudice, shapes the conclusions. The use of publicly accessible, verifiable documents and clear references helped minimise subjectivity. All interpretations and conclusions were directly linked to the analysed materials, and personal judgments were avoided through systematic review procedures.

3.9. Ethical Considerations

Although this study did not involve direct human participants, ethical standards were strictly observed throughout the research process. The research was granted ethical clearance by the University of KwaZulu-Natal's Research Office on 30 October 2020, under Ethical Clearance Number: 00003594 (see Appendix C). This approval signified that the study met the university's ethical guidelines, particularly in relation to the responsible use of publicly available information.

Because the study adopted a desktop-based (doctrinal) methodology, no interviews, surveys, or observations were conducted. Instead, the research relied exclusively on secondary sources such as legislation, government reports, institutional publications, media articles, and academic

literature. These sources were selected and cited with care, in full compliance with academic integrity policies.

All documents analysed were publicly accessible, and no confidential or restricted information was used. In cases where documents included stakeholder opinions (e.g., policy briefs, government submissions, media interviews), appropriate attribution was given. In line with academic standards, proper referencing was applied using a consistent citation style, and all efforts were made to avoid plagiarism through careful paraphrasing and acknowledgement of intellectual property.

The study also complied with ethical norms concerning accuracy, transparency, and fairness. Bias was minimised by incorporating diverse perspectives, including those from industry, government, and international institutions. As part of the ethical responsibility, the researcher remained aware of the potential implications of findings on public policy discourse and avoided speculative or unsupported conclusions.

3.10. Chapter Conclusion

This chapter presents the research methodology adopted to examine how customs modernisation influences the efficiency and effectiveness of forwarding and clearing operations at the Port of Durban. The research adopted a qualitative, desktop-based (doctrinal) case study approach, which was suitable given the access limitations and the documentary nature of the subject matter. Key sections included research philosophy, design, data collection methods, analysis techniques, and ethical considerations.

The study relied entirely on secondary sources, including legal statutes, government reports, academic literature, and media publications, to ensure a comprehensive and credible evaluation of customs reforms. The methodology was carefully designed to align with the research objectives, ensuring trustworthiness through transparency, rigorous document analysis, and systematic source selection. With this foundation established, the next chapter presents and discusses the findings derived from the collected data.

CHAPTER 4: DISCUSSION, PRESENTATION AND DATA ANALYSIS OF THE FINDINGS

4.1 Introduction

This chapter presents the research findings and discussion, which are based on perceptions and a documentary study. The chapter examines changes to South African customs regulations and the new provisions introduced in the recent Acts that affect SARS and its stakeholders. It highlights the importance of considering additional factors driving these reforms, beyond those associated with the current CEA. The discussion aims to explain how these provisions are expected to influence the efficiency and effectiveness of procedures at the Port of Durban.

The findings discussed in this chapter are structured around the four previously stated research objectives:

- To assess the operational efficiency of customs clearance procedures currently in use at the Port of Durban.
- To examine the standard operating procedures (SOPs) and institutional practices employed by forwarding agents and customs officials during the clearance process.
- To identify key obstacles and bottlenecks affecting the clearing and forwarding processes, including regulatory, infrastructural, and administrative challenges.
- To explore the new CCA 31 of 2014, and the CDA 30 of 2014, both passed in 2014, versus the old CEA 91 of 1964, and how the new Acts will improve efficiency or create trade delays regarding the forwarding and clearing processes at the Port of Durban.

4.2 Goods Arrival Time and Removal Time

In terms of the CCA, customs officials are mandated to carry out inspections to confirm the accuracy of the value, quantity, and other information declared by the importer or their authorised agents.. In this procedure, an assessment must be conducted within sight of the shipper or CAs and delegates of other pertinent government offices whenever legally necessary to control the importation of specific analysed products (Van Rensburg, 2024). Now and again, these departments may test products at their research facilities for further examination.

According to Van Rensburg (2024) and Matiya (2013), in this way, the findings in this study focus on the time taken for customs inspections conducted with the involvement of customs officials and other relevant government representatives.

The assessment process includes:

- Receiving and reviewing the required documentation for goods marked for inspection.
- Coordinating with relevant parties for assessment readiness.
- Allocating goods to the inspection area.
- Conducting the physical assessment, including recording observations on official documents.

According to the TPT (2018) & TPT (2024), the entire process of clearance at Durban Port, including free storage days up to seven days depending on congestion, takes three (3) days from the time the products arrive until they are removed from the customs zones. It was found that cargo release filing proved ineffective (Khuzwayo, 2021 and Mkhabele, 2024).

Usually, it refers to the amount of period that customs control must spend supervising clearing processes, such as:

- Face vetting,
- Information entry,
- Lodgement and assessment,
- Archives screening (evaluation and valuation), and
- Product discharge approval.

Pre-Lodgment vs. Post-Lodgment Clearance

The study categorised lodgment into two types:

1. Pre-Lodgment – The shipper or CA submits the Standard Operating Procedure Container Terminal (SOPCT) documentation before the vessel arrives.
2. Post-Lodgment – The shipper or CA submits documentation after the arrival of goods.

Van Rensburg (2024) reports that, on average, the clearance and evacuation of goods with delayed entries before vessel arrival took approximately 15 days, with customs procedures

responsible for about 90% of the overall delay. The Maritime Executive (2023b) further intensifies this as it reported that the Port of Durban warned that with 60 ships waiting, clearing the bottleneck might take about 15 weeks to be cleared in 2023.

Table 4.1 illustrates the average duration containers remain at Durban Port, encompassing the procedural steps required for imports, exports, and transshipments. According to Transnet Port Terminals (TPT, 2024; TPT, 2023), imported goods typically require approximately three days from arrival to removal, encompassing classification, lodgement, discharge, and evacuation. This finding aligns with earlier studies by Matiya (2013) and Khuzwayo (2021), confirming that the import clearance process consistently averages three days. For exports, the clearance process from lodgement to release generally takes around five days, while transshipments take an average of six days from discharge to evacuation (TPT, 2024; TPT, 2023; Matiya, 2013; Khuzwayo, 2021).

These timelines reveal the procedural complexities inherent in port operations. Factors such as limited road and rail infrastructure, constrained staffing, and the intricacies of customs documentation contribute to delays beyond the recorded averages (OECD/ITF, 2014). The convergence of TPT data and independent studies demonstrates that while Durban Port has maintained relatively stable clearance times, systemic bottlenecks continue to impede optimal operational efficiency (TPT, 2024; TPT, 2023). Addressing these infrastructural and procedural challenges is therefore critical to improving throughput and reducing port congestion, which remains a major concern for importers, exporters, and other maritime stakeholders.

Table 4.1. Operational Productivity and Efficiency

CONTAINER DWELL TIME	2019	2020	2021	2022	2023	2024
Import Dwell Time	2.9 days	3.2 days	3 days	3 days	3 days	3 days
Export Dwell Time	5 days	5.5 days	5 days	5.4 days	5 days	5 days

Transshipment Dwell Time	5.6 days	6.2 days	6.5 days	5.6 days	7 days	7 Days
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Source: TPT (2023) & TPT (2024)

The statistics appear to contradict media reports and other research findings on delays. Khuzwayo (2021) explains that TPT has introduced the back-port initiative, which allows cargo to be redirected to rail yard storage facilities outside the port. However, the time spent in these back-ports is not tracked, resulting in an incomplete picture of delays. Similarly, DCT has service-level agreements with container shipping lines to move cargo to their depots, where demurrage charges are then incurred by clearing and forwarding agents (CF&As) and customs brokers. Such arrangements are not consistently reported by SARS Customs, even though cargo is initially transferred to container depots before clearance and final delivery to clients (Khuzwayo, 2021).

The Port of Durban's average customs clearance times show some degree of conformity to set efficiency standards. The average clearance time for imports at the port is three to four days, which is marginally longer than the two-day standard, indicating that some delays still occur even with recent process changes (Van Rensburg, 2024). According to the World Bank, the average time to clear exports through customs in South Africa is 8 days (World Bank, 2024). This is slightly above the standard clearance time of 7 days, indicating room for improvement in the efficiency of export procedures (WCO TRS, 2025 & World Bank, 2022). The typical export clearance time of 8 days in South Africa underscores the need for continuous improvements in customs procedures, infrastructure, and inter-agency coordination. Addressing these challenges can enhance the efficiency of the export process, benefit exporters and contributing to the overall competitiveness of South Africa's trade sector. This underscores the continuous difficulties in documentation, inspection, and liaising with inland transport operators. Even though these numbers show quantifiable improvement of 5 to 6 days over previous averages of 8 to 9 days, more actions are required to reach maximum effectiveness and completely conform to international best practices (SARS, 2023; World Bank, 2022).

Table 4.2. Summary of Customs Clearance Benchmark Comparison – Port of Durban

Clearance Type	Average Duration at Durban	Benchmark Duration	Status
Imports	3–4 days	2 days	Slightly above benchmark (Kgare, Raballand & Ittmann, 2011)
Exports	8–9 days	7 days	Above benchmark (WCO TRS, 2025 & World Bank, 2022)

When compared with the hourly dwell times reported in Chapter 2, the variance becomes more evident. For example, sources noted that containers often remain in stack yards for extended periods, sometimes exceeding 72 hours, before clearance is finalised.

This suggests that while daily averages may appear broadly aligned with benchmarks, the actual hourly dwell time highlights deeper inefficiencies in the clearance process, particularly in relation to port congestion and document handling delays. Deferrals or numerous delays in the Port of Durban can, to a great extent, be laid at the door of the TPT rather than SARS customs clearance procedure (Mkhabele, 2024). This is not something new at all; over many years, traders, agents, carriers, and all involved within supply chains have encountered continuous issues with Port deferrals pertaining to different issues.

The circumstance that caused such delays at certain times, being a valid example, was apparently a “go-slow” by terminal staff and resulted in vessel owners coming on the last free three days (Misra, 2021 and TPT, 2018). The deferrals are brought about by different issues practically, which can all be laid at the doorstep of the container terminals or activities encompassing access to them.

For instance, climate stoppages when winds surpass 70 kilometres per hour, computer system downtime, the NAVIS Framework was disconnected in 2019, and labour issues. The

executive's changes and the positioning of individuals who lack experience in senior positions, and the deployment of "acting" positions, all resulted in a general level of poor assistance for traders and agents and management of facilities (TPT, 2023 and Magubane, 2021).

According to Mkhabele (2024) and Misra (2021), outside the port, the lack of direct communication with truck operators, the absence of an electronic call-in system, and the low utilisation of the truck appointment system significantly impede container movement. Additionally, the inadequate condition of access roads—such as those at Bayhead and Langeberg, which are affected by port congestion—as well as limited railway infrastructure and transport capacity, result in less than 20% of containers being efficiently processed, further contributing to road blockages (Khuzwayo, 2021; Van Rensburg, 2024). In spite of the fact that customs control does include clearance, the customs authority can also detain shipments for different issues, for example, shippers not providing documentation or not wanting to pay for services, which can likewise cause late discharge; however, the previously mentioned issues far exceed real Customs delays as a reason for aggravated delays (Magubane, 2021 & Van Rensburg, 2024).

Ships are not affected because whether the products are discharged or not, uplift can be postponed if containers are not pre-discharged, as this causes extra handling in container yards, which is referred to as "shuffling", and it is a tedious and expensive process. The researcher's view would be that there has been no material change in clearing times because of many of the current Customs Act issues (Engel, n.d.). These could be the result of other staffing problems at customs. Engaging with different CA's data would be the best way to obtain relevant data. Even though the CCA 31 of 2014 has been proclaimed, many of the provisions, which will quicken clearance, pre-declaration, and so forth are not yet in force.

Review on time taken on clearing of absolved products prohibits absolved products under SARS customs control and clearance, since time impediment to oversight of different procedures directed by other functions.

The time it takes from lodgement of a declaration to discharge of absolved products achieving release was seven days, in contrast with the time taken by the shipper (WCO TRS, 2025 & World Bank, 2022). Review of absolved products demonstrates that it requires some investment to finish the clearing procedure from lodgement to approved discharge. The customs official is required to direct an assessment to confirm the value, the amount of goods

and different pieces of data provided by the Shipper or CA's. In this procedure, an assessment must be led within sight of the shipper or agents and a delegate of the OGD who is responsible for the control of the importation of specific inspected products. At times, such departments may take samples of the products to their labs for additional examination (SARS, 2019).

Research results and conclusions extracted for assessment of information introduced in this report were drawn from some engagements with Customs Authorities, with the presence of representatives from other Government Offices and Border Agencies. In the research led by Misra (2021) characterise the assessment drawn at the time from information gathered was also carefully evaluated to incorporate into the research, which gave a Private Sector view.

An actual assessment conducted by SARS (n.d.) according to a Time Release Study, which is the study that determines how long it takes to complete a physical evaluation that includes a customs authority procedure and an assessment record. The study discovered similar findings to Matiya (2013) and Busse (2021) that the planning of the evaluation took a day for every product that was sent through the Port of Durban, where it was inspected using an X-ray scanner and the risk profiling system.

It took three days from the moment the declaration was filed until the goods were removed from Customs Control and directed to the green channel, according to the study (SARS, n.d.; TPT, 2024b; Van Rensburg, 2024). The results indicate that products steered to the red channel for physical assessment, as set aside, generally took longer to clear and release, compared to other assessment procedures, which definitely do not achieve the objectives of trade facilitation.

Delays in cargo release experienced by traders were also influenced by factors beyond the formal assessment process, as indicated by slight differences in processing times between goods routed through the “green channel for immediate clearance” and those subjected to additional risk assessments. This has been an issue that affects maritime sectors in Africa, as most other scholars (Matiya, 2013 and Van Rensburg, 2024) reveal similar procedural irregularities.

4.2.1 Service Timelines and Delivery

According to Van Rensburg (2024) ports and customs authorities are reliant upon quick and expedited procedures to achieve port clients' shipment releases. To effectively respond to the

dynamic needs of port users, it is essential for SARS customs and port authorities to continuously assess and understand client expectations. This ongoing evaluation facilitates the development of efficient procedures tailored to those needs. As emphasised by Mkhabele (2024) and Schoeman (2024), fostering consistent communication and meaningful social engagement between customs officials and port stakeholders enhances service responsiveness. Moreover, regular stakeholder meetings serve as critical platforms for such dialogue and were a focal point of assessment in recent evaluations (Matiya, 2013; & Busse, 2021).

Rowbotham (2025) emphasises that a port perceived as unsafe in its cargo handling practices risks losing both prospective and current clients. Ensuring security in trade operations is therefore critical. To counter negative perceptions and strengthen a port's image, customs officials can engage in targeted marketing and promotional strategies that highlight the port's strengths and milestones. According to Mkhabele (2024) and Busse (2021), showcasing consistent performance and notable achievements helps build client confidence in the port's reliability and quality. This perception is particularly influential in port selection decisions, as client impressions often outweigh objective assessments of actual port efficiency (Matiya, 2013).

It is therefore clear, from the research, that ongoing stakeholder forums are crucial, and that customs legislative changes must foster the cooperation between such parties, so that goods release may be expedited.

Customs procedures inherently influence points of entry and have been identified as key factors in assessing port efficiency. Timely service delivery is essential for both SARS and port clients, as it reduces operational costs and can lead to increased trade and commercial activity. As noted by Mkhabele (2024) and Matiya (2013), improving the speed and reliability of customs processes contributes significantly to enhancing overall port productivity and client satisfaction. As indicated by a study conducted by Matiya (2013) on the 100 samples interviewed, 75 per cent of the sample demonstrated their anxiety about poor services delivery at the Port in which this study was led in Dar Es Salaam Port in Tanzania, where she expressed that, speedy and in time service delivery, is a very significant aspect in assessing Port effectiveness.

Van Rensburg (2024) emphasises that the timeliness of service delivery remains a critical factor under continuous assessment in port operations. Efficient turnaround times provide a

competitive edge by minimising costs associated with delays, particularly those linked to port congestion and demurrage. The persistence of service delays at Durban Port reflects ongoing challenges in this area. Similar concerns were raised by Rowbotham (2025), who found that inefficiencies in customs clearance processes, characterised by outdated procedures and an overreliance on physical inspections rather than risk-based assessments, contribute to operational slowdowns. These findings align with Matiya's (2013) observation that procedural redundancies hinder port performance and negatively impact the overall efficiency of cargo movement.

4.2.2 Management of Cargo Rules and Regulations

In spite of the fact that it was evident by 2010 that DPT was approaching a limit of poor service delivery, little effort was made to eliminate the port traffic. Recent extracts of research do, however, show plans to improve this status, as is included in the research (Van Rensburg, 2024).

A lack of effective planning at the terminal has resulted in the excessive vertical stacking of containers, reaching up to seven tiers for empty units and five for loaded ones, while being placed in tightly packed formations. This configuration has made container retrieval highly inefficient (Al-Rikabi, 2019; & Mkhabele, 2024). The issue of over-stacking is further compounded by slow customs clearance processes (CEA procedures), inadequate client service, and delays in loading containers onto vessels. When containers are stacked to such heights, additional handling equipment becomes essential; however, necessary machinery was only acquired once the problem had reached a critical stage (Mkhabele, 2024). Moreover, available space adjacent to the terminal that could have alleviated congestion remained unused due to administrative and bureaucratic delays (Khuzwayo, 2021).

This study explored the influence of evolving regulations and policy adjustments within the clearing and forwarding sector, a space that continues to undergo significant transformation. Effective container management at TPT is central to mitigating congestion; however, weak customs administration can contribute to operational inefficiencies and bottlenecks (Van Rensburg, 2024; Matiya, 2013).

Presently, vessels may wait up to 17 days to secure a berth, while the average dwell time for import containers is approximately six days, though these figures vary across timeframes and locations (SCT, 2024c). Notably, the absence of an on-site customs inspection facility at the

terminal requires that flagged containers be transferred to a separate CCA depot for unpacking and examination. This not only prolongs handling time but also increases transportation costs due to redundant movements (Khuzwayo, 2021; Rowbotham, 2025).

The diminishing of performance measures means that the congestion question is increasing expenses for both traders who buy and sell goods internationally and sabotaging firms that depend on speed and trust in SARS customs and the port to get their products to market as per their business models (Venter, 2021b; & Van Rensburg, 2024).

4.2.3 Maximum Time Cargo Stay in the Port

Each trader's objective is to have their merchandise delivered on time with the hope of not incurring unbudgeted expenses. The timely arrival of goods results in lower expenses due to demurrage charges. As indicated by Matiya (2013) and Team (2025), reviewing the views of partners in various organisations on the issue of vessels waiting to enter berths in the port, research results found that when cargo transporters queue and cannot berth, the result is additional costs for cargo transporters. Statistical data revealed that approximately 70% of clients who were unable to receive their goods on time appeared unconcerned about the waiting period experienced by transport before entering the berth (Mkhabele, 2024; Khuzwayo, 2021; Misra, 2021).

Roughly 8% of respondents expressed dissatisfaction with the prolonged waiting times for vessels to access berths. This concern aligns with the observations of Nchimbi (2019) and Misra (2021), who found that delays in the clearance of goods often stem from inefficient shipment processing times, which can result in demurrage fees and negatively affect an organisation's cash flow. Prolonged clearance and offloading processes may also expose cargo to risks such as theft, damage, multiple handling, adverse weather conditions, and pilferage.

These issues not only compromise cargo security but also contribute to increased port congestion and further delays in unloading operations (Van Rensburg, 2024; & Matiya, 2013). Needless to say, the WCO Time Release Study model will assist and must be utilised to measure and achieve an improvement in performance and customs policies (Van Rensburg, 2024).

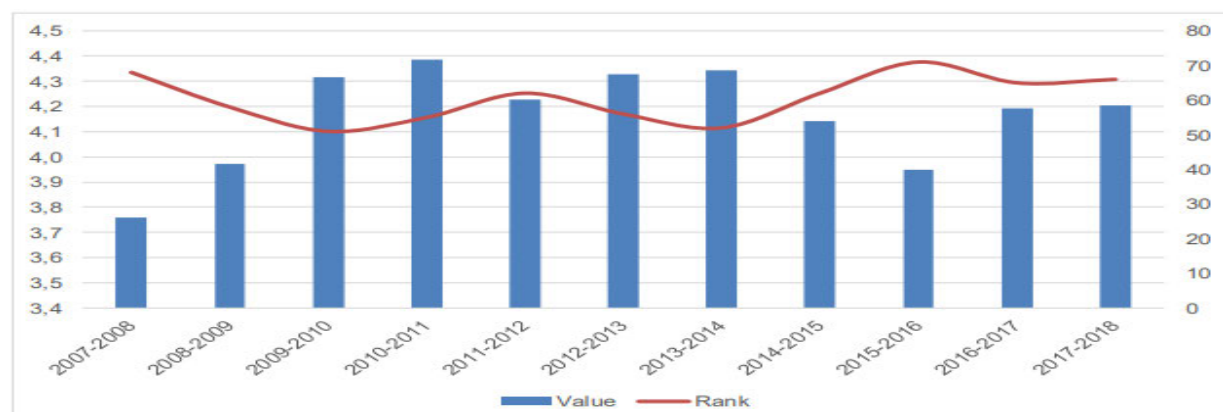
4.2.4 Clearing and Forwarding Operations Nature in Port of Durban

Although trade liberalisation has led to greater automation in regulatory procedures, many of the original licensing requirements for buyers, sellers, exporters, and importers have been retained under updated legislation. In some cases, specific types of cargo still require additional permits or clearances from regulatory agencies, government departments, or statutory bodies (Nchimbi, 2019; Busse, 2021). Therefore, prior to engaging in international trade activities, it is advisable for traders to consult with trade facilitation bodies, financial institutions, or global trade experts to determine whether any specialised licenses are required for the cargo they intend to export or import. As highlighted by Misra (2021) and Matiya (2013), conducting due diligence, including calculating the total landed cost and preparing for potential customs clearance delays, is essential for risk mitigation and efficient trade planning.

Accordingly, the study inspected the new customs clearing legislation on the off chance that it was efficiently computerised to meet the ever-expanding needs of business due to the trade volumes in international trade. Another point was to evaluate its effectiveness and productivity, and again, look at Customs Trade Facilitation objectives.

As indicated by Khuzwayo (2021) that as long as the electronic system of SARS is in place, there are still time delays endured, and the negative effects of the products not being cleared on time, which is the customs' primary doing. Despite automation, this is practically the same as a manual system; however, this shows there is a need for improvement of the clearance process at SARS Customs to be achieved through the Acts (30 & 31 of 2014) (See Figure 4.1).

Figure 4.1. Customs Procedure Burden Ranking (scoring out of 7 and ranking out of 139th)



Source: Van Rensburg; 2024

According to Van Rensburg (2024) state that the above figure shows “to *what extent are customs procedures pertaining to the import and export of commodities efficient in your country?*”, where a score of 7 indicates extreme efficiency and a score of 1 indicates excessive inefficiency. Period 2007 to 2013 in use of CEA shows the first few years of the measurement showed a minor improvement in South Africa's performance, and period 2014 to 2018, when CCA was implemented, performance remained mostly unchanged over the years (WET Dataset, 2021; WET Dataset, 2024 & Van Rensburg, 2024)

There is also a need for process improvement in the clearance of goods at DPT (Van Rensburg, 2024, & World Bank Group, 2025). This was uncovered by Scholtz (2017) by applying the Bestenbreur method, which is used to represent the berth capacity and is compared to the container stacking yard capacity.

The study states that, on the given expansion project to be done by DCT, which is for mostly Pier 1 and 2, the development will increase the quantity of TEUs handling; however, where there will be a TEU space shortage, despite expansion, more planning and upgrading is required (Mkhabele, 2024). Scholtz (2017), TPT (2024) and Mkhabele (2024) recommended to accommodate the increase in throughput, the container stacking yard needs to be expanded to match the large berth limit. Customs must ensure that their control objectives do not render port pressures, despite the government’s expenditure on upgrades, which have, and will still be performed.

In accordance with the external policy on registration, licensing, and designation, all exporters, importers, and their appointed C&FAs must be duly registered or authorised before they can submit a CCD (Van Twisk & Mbiko, 2016 & SARS Website). A CCD must be completed for each consignment being imported into or exported out of South Africa, unless specific exemptions apply. This declaration can be submitted to customs authorities either electronically or in hard copy, after which the SARS responds with a CUSRES message that reflects the outcome and status of the submission (Van Twisk, 2015 and SARS Website). To assist traders, SARS provides detailed guidelines that explain the CCD format, status codes, and proper submission procedures.

When traders face difficulties related to the Electronic Data Interchange (EDI) system—such as challenges in inputting provisional payment (PP) details—they are advised to “contact their EDI service providers or the SARS contact centre” for assistance (SARS Website).

Independent EDI users without a service provider must communicate directly with SARS to resolve technical issues. Depending on the circumstances, Customs and Excise may either approve the release of the goods or request additional documentation to verify the accuracy of the CCD (Louw & Tomasek, 2015; Siphugu, 2020; & SARS, 2023). These processes form part of broader efforts to ensure regulatory compliance, support supply chain transparency, and mitigate customs-related disruptions (Busse, 2021; & Khuzwayo, 2021).

As was observed, despite automation, the process can become complex, and for SMME and less experienced traders, there is NO SARS representative readily available to assist and provide contact guidance. In instances where the specific details of the cargo are not immediately available, traders have the option to submit a Sight Declaration (Form DA 22) to customs authorities (SARS, 2022). This provisional measure allows goods to be declared without complete documentation, enabling trade to proceed while final information is pending. Looking ahead, traders may also seek faster clearance processes by requesting special releases—such as expedited, restrictive, or embargo-related permissions—to accelerate the overall customs clearance timeline (Nhecmibi, 2019; Khuzwayo, 2021; Misra, 2021; Busse, 2021).

When every one of the compliances has been discharged, the products may either be brought into South Africa for free circulation or be moved according to the procedures declared. When using the SARS EDI system, it was established that high-capacity training is required to use the system (Khuzwayo, 2021).

As previously noted, goods may be transported across borders via rail, air, sea, or road, depending on logistical and regulatory requirements. In certain cases, import or export permits are necessary, particularly when dealing with controlled or sensitive goods (Nhecmibi, 2019; Misra, 2021). When goods are transported in “transit under the temporary suspension of Customs Duties and VAT”, it is crucial that traders maintain appropriate documentation as evidence of export (Khuzwayo, 2021; & Busse, 2021). This documentation is required to confirm compliance and to release them from potential liability for the deferred duties and taxes (Busse, 2021; SARS, 2022).

For additional clarification, reference can be made to guidance on the acquittal of declarations, as discussed by Mohanlall (2017). Goods recovered from abandoned shipwrecks are legally considered imported items. As such, the individual or entity retrieving the goods, whether

locally or non-locally registered, is required to submit a CCD and accept liability for any applicable duties and taxes (SARS, 2014; SARS, 2021c). When submitting export declarations involving a duty or tax drawback, it is essential that all necessary shipment evidence is included at the time of CCD submission, in accordance with relevant regulatory requirements (Van Twisk, 2015).

Exporters seeking to claim drawbacks under Schedule 5 must be officially registered with the customs and excise division and must strictly adhere to the specific conditions and documentation requirements outlined for each drawback item (Nhchimbi, 2019; & Misra, 2021). Moreover, such exports are subject to approval by the “Commissioner of Customs and Excise” (SARS, 2014a). In certain circumstances, traders might need to apply for an “Examination Without Prejudice (EWP)”, particularly when the goods or containers must be inspected or sealed under the direct oversight of customs authorities (SARS, n.d.).

Claims for duty drawbacks must be lodged and administered in accordance with the established procedures set out by customs regulations (SARS, 2014b). Depending on situational factors, CCDs may need to be amended or withdrawn. In instances where simplified procedures apply—such as those outlined in Section 38, certain imported goods may be cleared using Form DA 306 instead of the standard SAD 500, provided prior authorisation is granted by the Controller or Branch Manager (Busse, 2021). Significantly, individuals affected by a customs administrative decision are entitled, under South African constitutional law, to obtain a written justification for the action taken (SARS, 2014c & Siphugu, 2020).

The study examined a range of essential import documentation required for customs clearance. These included the CCD form—specifically the SAD 500—as well as key supporting documents such as the commercial invoice issued by the exporter or supplier, the packing list, and relevant transport documents like the bill of lading, airwaybill, or consignment note. Additionally, certificates of origin or trade movement, applicable exemption documentation, and valid import permits or certificates were also reviewed as part of the customs compliance process (Khuzwayo, 2021; & Transport Division ESCAP et al., 2018).

According to Matiya (2013), the details provided in the commercial invoice are essential for accurately determining the applicable duties during the preparation of customs entry documentation. The packing list, which complements the invoice, provides detailed specifications about the imported goods and is thus essential in supporting accurate customs

processing. For specific categories of imports, such as pharmaceuticals and foodstuffs, prior authorisation must be obtained from the South African Department of Health before clearance is granted (TNPA, 2019; & Van Rensburg, 2024). The goods are stored and tested before they enter the country to maintain a strategic distance from exempted drugs into the nation. This also helps the Authorities to identify whether there is any illicit medication being shipped to the country.

Arms and ammunition for individual inhabitants are subject to an import license from the Department of National Defence of the Shipper's region (SARS, 2019). According to SARS (2021c) and Khuzwayo (2021), effective follow-up on the submission and acquisition of required documentation throughout the clearance process is as crucial as lodging the correct final declaration itself.

In cases where errors or inaccuracies are identified, it is the responsibility of the trader or their agent to promptly address these issues, make the necessary amendments, and resubmit the corrected documentation for continued processing (Matiya, 2013). With the integration of EDI, traders and clearing agents are able to input and transmit their documentation digitally, which eliminates the need for physical visits to SARS customs offices and enables real-time monitoring of shipment clearance progress (Siphugu, 2020). Due to the use of automated clearing systems, SARS has moved correctly in the direction of trade facilitation (Matiya, 2013, & Van Rensburg, 2024).

As part of the clearance and release process, the importer or their appointed agent is required to settle any applicable duties and taxes before proceeding to the final stages, which include the dispatch and delivery of the goods to their intended destination (SARS, 2021b; Khuzwayo, 2021; & Matiya, 2013). The task of SARS and TNPA on the other hand, is to ensure skilled and knowledgeable staff are always accessible to deal with the procedures appropriately (TNPA, 2022).

4.2.5 Regional Competition

The study on clearance and lead time processes revealed a need for enhancing the efficiency and effectiveness of clearing and forwarding operations. Timely clearance of goods is essential to avoid trade-related disputes and dissatisfaction among clients. Moreover, there is a necessity to refine the regulatory framework governing the clearing and forwarding procedures.

The intensifying competition among ports in Southern Africa has compelled many port authorities to adopt strategies that enhance their competitiveness by prioritising service quality and customer satisfaction. For instance, ports in Mozambique and Namibia have increasingly positioned themselves as viable alternatives to Durban by investing in modern infrastructure and streamlined logistics processes (Freight News, 2024; Bowmans, 2018).

Similarly, regional studies highlight that ports seeking to attract transshipment and transit traffic have placed greater emphasis on reliability, turnaround times, and value-added services, recognising these as critical determinants of port choice for shippers (Notteboom, Pallis & Rodrigue, 2021). Evidence from the World Bank (2021) further indicates that ports ranked higher in performance indices generally demonstrate strong customer-centric approaches and efficient operational management. These trends suggest that, without strategic reform and improved service delivery, South African ports risk losing their competitive advantage to neighbouring facilities.

4.3 Clearing and Forwarding Cargo Status and Condition

A significant number of stakeholders, both domestic and international, have expressed declining confidence in the institutions responsible for managing their cargo—namely, SARS Customs and the Port of Durban—due to persistent inefficiencies and service-related challenges (Mkhabele, 2024; Khuzwayo, 2021; & Matiya, 2013). This has resulted in international clients utilising different ports by passing the Port of Durban, and this can result in a loss of revenue to the province and port. Many shippers to Gauteng are strongly considering the Maputo Corridor (Bowmans, 2018).

Corruption is a concern, particularly in Durban Port as a result of deliberate delays by deceitful workers, who charge additional fees for doing work (Misra, 2021). This goes against their obligation as Transnet employees. Matiya (2013), in her assessment of the cargo clearing procedures at the “Port of Dar es Salaam in Tanzania”, found that the majority of traders and clearing agents perceived the port’s clearance process as inefficient. However, a minority of respondents viewed the customs procedures as satisfactory, indicating a divergence in stakeholder experiences regarding operational effectiveness.

After South African businesses began to understand the extreme potential detrimental effects that the planned change in SARS customs policy could have, with respect to the impediment

and conveyance of containerised Freight to and from ports or terminals, a surge of concern was observed by the research group.

It would normally be difficult to have credited adequate time to have explored every one of them, it was viewed as essential to furnish a rundown of these with constrained clarification, just as to take a look at developments in the field of customs control, worthy of being noted to get restricted cover to the extent that they could uniformly, or separately, be recognised as points with adequate legitimacy for concern. This research will additionally convince SARS that there are serious concerns and that business has to take whatever action is necessary to end this pointless intervention (Busse, 2021). Traders compliment SARS for some of its improvements in modernising and enacting customs control (Mkhabele, 2024).

According to Matiya (2013), one of the critical issues undermining the efficiency of customs operations is the delay in processing documentation. This concern was echoed by Van Rensburg (2024), who found that delays often stemmed from a multi-layered documentation process involving multiple stakeholders, including TPT (DCT). Several factors contributed to the delays, including the untimely submission and registration of information in the customs system, repeated amendments to documentation, low levels of confidence in consignors, poor coordination with cargo handling agents, late cargo arrivals, ineffective inspection procedures, and slow processing of declarations. Additionally, SARS identified frequent errors and misclassifications by clearing agents as further contributing to operational inefficiencies (Van Rensburg, 2024).

Other risk management techniques, as promoted by the WCO RKC and the WTO ATF, such as a greater focus on Post-Clearance Audit, will go a long way to lessen the customs intervention at the time of shipment (Rowbotham, 2025). In Durban Port, SARS customs are ready to get to the release notification request via EDI, through a connection with TPT (DCT). Progressively dependable connections as well as the interface would encourage the availability of information in the clearing procedure (Shumba, 2025).

While the frequency of vessel calls remains an important consideration for shippers when selecting a port, overall port efficiency plays an equally significant role in attracting trade. Efficient port operations are typically associated with reliable and timely service delivery. UNCTAD (2020) emphasises that punctual delivery remains a primary concern for the majority of exporters, especially in industries where time-sensitive goods must reach markets without

delay. In this context, terminal operators serve as crucial nodes in the logistics chain and are expected to provide exporters with consistent, fast, and dependable services. Studies by Matiya (2013), Misra (2021), Khuzwayo (2021), and Mkhabele (2024) also affirm the importance of operational reliability and speed in fostering trust and competitiveness within port logistics systems.

According to Ugboma et al. (2007); Khuzwayo (2021) and Matiya (2013) port infrastructure extends beyond tangible components such as container berths, cranes, tugboats, and terminal areas. It also involves the functional effectiveness of these assets, including the reliability of cargo-handling machinery, the efficiency of digital technologies, and the accessibility of intermodal transport links like road and rail systems. Additionally, a port's navigational access and the readiness of its management team play a crucial role in determining overall efficiency (Schoeman, 2024).

When cargo volumes surpass a port's handling capabilities, congestion becomes inevitable, leading to service delays and diminished attractiveness to port users (Mkhabele, 2024). Moreover, the absence of reliable and up-to-date shipment tracking systems can disrupt documentation processes, further delaying operations. Weak intermodal infrastructure restricts the seamless movement of goods in and out of the port, which can amplify bottlenecks, increase turnaround times, and elevate logistics cost.

4.4 Customs Act Background and Modernisation Motive

As outlined in the preceding chapters, the Minister of Finance holds overall responsibility for the administration of the customs Acts in South Africa. This mandate is carried out through the SARS, a specialised division tasked with assisting the Minister in ensuring that the provisions of these Acts are effectively implemented for both domestic and international trade. The customs Act serves as the central regulatory framework governing customs control and functions as a critical risk management tool for monitoring the movement of goods entering and leaving the country (Van Rensburg, 2024).

The CEA was sufficient for ensuring that there was a collection of duties and that the country's borders were safe during the 1900s. Now, CEA is considered not to be user-friendly in the customs trade control process. The CEA has been considered for amendment several times to align with developments in global trade and modernised systems of customs. The Act remains unchanged and still consists of elements of rigidity of past developments (Khuzwayo, 2021).

CEA has 185 sections on its 12 Chapters Act, which those sections are numbered from 1-122, labelled in numbers and some in alphabets. Border control remains an essential position of customs employees along with other enforcement organisations, who are tasked with collecting any duties payable upon the arrival of products and preventing cross-border crime.

CCA composure was initiated in the year 2003, and in the year 2007, CCB & CDB drafts were published, which took years and a lot of critiques and tasks to conclude their approval. CCA has 944 sections and 41 Chapters. The CCA will be responsible for regulating the imported and exported goods in the country, ensuring duties are collected and the adopted import and export regulations (WTO, WCO, RKC, etc.) of goods are kept intact during trade. The development of CCA was instigated by three main factors into phasing out the CEA, which are globalisation, customs modernisation and CEA structural instability, which is discussed below.

4.4.1 Globalisation

Due to changes in global trade and tourism, this requires the national customs control authorities to adapt to changes in global trade and tourism. This can only be achieved through the phasing out of old technology and phasing in the latest technology, which is the reason why SARS resulted in improving or innovating its customs control system from CEA through CCA (SARS, 2018 & Macqueen, 2016).

The same reason stated by Macqueen in 2016 was confirmed by the SARS (2019) website through question-and-answer communication with customers. SARS were questioned about the benefits of the new CCA. SARS (2019) responded that it was due to “CCA was in par with the country constitution and was compared to the global trade and customs administration”.

4.4.2 Customs Modernisation

This was instigated by the customs modernisation programme, which was presented in 2009. There were various risky issues that needed to be addressed, for instance, in the year 2009, it was noticed that there had been a vast increase in trade, with its volume doubling in the past years, but the employees had decreased in SARS.

The CEA system was using a manual system for the control process and was work-intensive, which led to many customs control process errors and the use of SARS employees' resources on unimportant activities. Factors such as long inspection time, port entry, inadequate trade

vigilance, and management were the issues that needed to be addressed by CCA, and as CEA was not able to address these issues (SARS, 2019 & 2021c and Siphugu, 2020).

Therefore, customs modernisation includes electronic supporting documents, enforcement of mandatory electronic communication, risk-based assessment implementation, single registration and customs modernisation programme (Siphugu, 2020). Instead of SARS, Customs' primary focus was purely on revenue collection. SARS also put more focus on improving compliance in the customs control process and taxes. According to the former and late commissioner of SARS, Mr. Pravin Gordan (2007), states that countries' customs authorities need to align and be knowledgeable of the vital strategic drivers in global, national and regional order to respond adequately to an expanding globalised world, which consists of legal and illegal trade.

Through RSA being under WCO and the adoption of the SAFE framework standard, this will highly assist in RSA in mitigation any form of risk in global supply chain management. Such a standard has resulted in the introduction of the latest ICT that allows the real-time exchange, security and efficient declaration process during trade.

4.4.3 CEA Structural Instability

SARS noticed that the CEA structure was no longer feasible to meet to adapt to the implementation of recent customs control in global trade changes and practices (e.g. WCO, SAFE Framework, etc.). CCA was not only made to align its Acts with international regulations such as RKC, SAFE, etc., but was also to be in line with other global regulations (e.g. SACU) to make the legislative framework clear, logical and sound with other international instruments that utilise this for the customs control process (Khuzwayo, 2021 and Siphugu, 2020).

4.5 Stakeholder and SARS Custom Modernisation Engagement

For the CCA draft bill to be passed into an Act, it went through various processes and steps. The CCA draft bill was presented to the Parliament Monitoring Group (PMG) for consultation in the parliamentary committees, called the National Assembly (NA). The CCA Draft Bill was further presented as a Government Gazette in the public domain for stakeholders' engagement and public review for certain periods of time.

The public and stakeholder engagement was further reviewed by the PMG for further judgment, when it's either passed or failed. Finally, the CCA Draft Bill was signed by the President and making it a parliament Act and law of the country in 2014.

During the drafting of the CCA, it took a long time (started in 2003) to be passed into an Act as there were various concerns from different stakeholders (e.g. BUSA, JCI, JCC, GLMS, etc.) during public comments, stating that the transaction from the CEA to the CCA was not efficient and effective for clearing and forwarding customs control processes (PMG, 2013). The organisations such as SAAFF, SASSOA and TNPA were in line with this customs modernisation development of the CCA would improve efficiency and effectiveness in customs clearing processes (PMG, 2013).

The main concerns from some stakeholders named above were the concern of the rules; closing of inland terminals where containers can now move from inland terminal based only on ship manifestations and penalties (PMG, 2013 and GLMS, 2021).

4.5.1 Rules and Clearance Concerns:

In PMG (2013), members raised concern that CCA rules were pulled into the Act, and this created confusion about the role of members in the PMG, as the Act should be the presentation of policies. The members seemed concerned with the ease of safety and security rules in the CCA, which easily allows traders to enter and exit the RSA. The new CCA rules were not publicised for comment and scrutiny by SARS, which now resulted in concerns on SAICA, but were dragged into legislation in parliament.

Based on the response from SARS, it was that rules were not published, as it would not be feasible for SARS to submit all technical aspects in primary legislation. This is due that it is a known normal process for a primary CEA to be approved, and the regulations adhere to that for comment (Siphugu, 2020). This means that SARS, before the Act being active, the rules of CCA would be published for comments, and workshops would be held to further explain the rules to the public.

According to the Transport Division ESCAP et al. (2018) and Shumba (2025), the primary objectives of the Customs Control Area (CCA) are twofold: first, to streamline and expedite the “cross-border movement of goods” into and out of South Africa; and second, to enforce rigorous risk management protocols for cargo entering the country, particularly that which is

later transported regionally via rail or road networks. The CCA, as outlined in Section 90(1)(a), reinforces the requirement that “customs clearance procedures” be completed at a designated location and time—specifically at the port of entry (Transport Division ESCAP et al., 2018; PMG, 2013, Khuzwayo, 2021 & Busse, 2021). This modification makes it more likely that customs-related logistical delays may occur. The handling of container documents may be delayed, or the container may be inspected, verified, and held until it arrives at the delivery location.

4.5.2 Penalties and Clearance Duration Concern:

During the parliamentary process, many concerns were raised in this regard during the public comment period, some of them were the discretion of the customs authorities, clarity on prosecution penalties, offence penalty processes, and administrative penalties errors that occur unexpected, also called bona fide error penalties in law, which were raised by SAAFF (PMG, 2013).

SARS stated that under the new Act, there will not be a fixed amount charged on the administrative penalties for errors, and based on clause 876, which states that “penalties will be decreased by the percentage of 50% and customs authorities will not impose penalties on them” (PMG, 2013).

Containerised cargo must have all customs clearance procedures finished within three days of arrival at a seaport, according to section 90(1)(a) of the CCA. Collecting containerised cargo from the Port of Durban typically takes three days (Tariff Book April 2023 to March 2024, 2023). This time has been cut down significantly, even though it still follows the standard set by CEA Section 38 (1)(a). The new legislation will not result in major shifts for cargo importers. One of the central objectives of the CCA is to impose stricter penalties on traders who fail to collect their containers once these have been moved to a state warehouse, thereby encouraging timely clearance and minimising storage congestion (Khuzwayo, 2021).

Although some members were not comfortable with the issue of imposing fixed penalties, as these new penalties would impact SARS revenue. Stakeholders asked this question because they believed that SARS collected money through fines, which is untrue.

4.5.3 Inland Terminals and Manifest Concern:

According to Barrow (2012), before the new CCA being passed, TNPA was in preparation to invest an amount of 14 billion rands in improving the railway infrastructure which most of the cargo from TNPA to inland terminals is moved by rail network. JCC and GLMS in public comments stated that the termination of inland terminals is a risk decision because of the adverse events not considered, for example (PMG, 2013).

- The draft bill did not mention anything about the landlock countries,
- Impact on Incoterms and
- Trade facilitation countries such as SACU were not informed by SARS of changes in inland terminals,

According to Section 90(1)(a) of the CCA, imported goods are required to undergo customs clearance at the first point of entry into South Africa. In contrast, “Section 18(1)(d) of the CEA” previously allowed for the use of the cargo manifest as a form of provisional entry for containerised goods in transit, enabling their movement to inland port facilities (Khuzwayo, 2021). However, this allowance stands in direct contrast to the CCA's stipulation. With the phasing out of inland terminals, there has been a significant shift from rail to road transportation for large cargo volumes. This change has curtailed the earlier practise under the CEA, where bonded goods could be transferred to inland ports before undergoing customs procedures (Khuzwayo, 2021; Busse, 2021).

WCO requires that there should be an ease in the border control system, and as there is a high transaction cost in logistics in nations. SARS, not taking this directive into consideration, meant they were deviating from the WCO directives. According to PMG (2013), SARS disagreed with BUSA, JCC and GLMS that the change in policy would result in a change in COS terms for traders, and there is an incorrect interpretation of Incoterm Rules 2010 by GLMS, and their dispute was not appropriate.

This means that SARS was of the view that any changes in policy will not issue a BOL that constitutes movement of cargo from Durban Port to Johannesburg City Deep. SARS further state that the new CCA would not result in any “extraordinary customs delay” if documents for clearance are submitted on time, and BOL is submitted by the trade. It has a clause called vis majeure, which protects them if the cargo is under the SARS customs control authorities. According to PMG (2014), Adv. Joubert states that business concerns regarding proper

administration and control, that was raised by traders, were raised by traders, SARS was aware of but did not address. During the development of the CCA and CDA, SARS developed answers and questions on the SARS website (www.sars.org.za) regarding the Acts. There was a question asked by the public to SARS on whether:

1) What will the impact of CCA, CDA and CDA be on customs stakeholders' trade?

SARS responded that such changes will eventually have an impact on traders, more specifically in policy, customs control process and systems. In the CCA warehousing chapter, it will affect various stakeholders, including shippers, warehouse licensees, customs brokers and C&FAs. This involves “new license application, private & public warehouse licensees and licensed carriers’ delivery and new receipts notifications, storage of not and free circulation goods, reporting of periodic goods accounting and inventory electronic management system.

2) What is the reason why the import clearance declaration decreased from 7 days to 3 days after arrival?

SARS stated that this is due to technological advancements that have improved since 1964, when legislation was approved. To enhance the efficiency and effectiveness of customs control procedures, the CCA must align with evolving technologies and modern customs regulatory frameworks. Such alignment is essential to facilitate the prompt release of cargo and to minimise congestion at all designated ports of entry within South Africa (Khuzwayo, 2021). This case will have a good effect in decreasing congestion in the Port of Durban.

3) Will SARS be able to complete requests on time?

The introduction of a new electronic channel called e-filing will be responsible for ensuring tasks are completed timeously. This new electronic channel will be responsible for processing clients' submitted documents online, but the existing registration process of CEA per sections 932 and 933 will not be immediately exited till the e-filing is concluded and still active (PMG, 2013).

Despite all concerns raised by various stakeholders to the parliament regarding the requirements of proper customs administration and control and disputes made on Incoterms rules, this was dismissed by SARS, and parliament adopted the CEA Amendment, CDA and CCA bill. CCA 31 of 2014 and CDA 30 of 2014 were published in July 2014.

4.6 Discussion of Custom Modernisation New Issues of the CCA on Port Congestion

4.6.1 Internal Administrative Appeals (IAA)

The traders had a lot of challenges in dealing with the IAA through the CEA. Chapter XA of the CEA in section 77 (A to B) shows that when the trader's internal appeal is being dismissed, it would require that traders who are lodging an appeal dispute go through an arbitration (e.g. High Court) process in which there could be the possibility that SARS deny such a request from traders through CEA section 96. This is due to the fact that Section 96 of the CEA disputes any internal appeal from traders if notice was not given at least one month before SARS. This means that traders will require an IAA review decision through the promotion of Administrative Justice Act.

The CCA section 842 has resulted in more support in reducing and improving trade congestion, as this provision allows traders a new timeframe of 60 calendar days for IAA. According to Section 842(1) (a–b) of the CCA, the IAA must be finalised within 60 calendar days from the date of receipt of the electronic submission. However, if the submission is found to be incomplete within this timeframe, the Commissioner is permitted to request an additional extension of up to 30 days to facilitate a thorough review and decision-making process.

The new CCA will have a significant impact on improving efficiency and effectiveness of customs control processes and trade congestion in two ways:

- SARS will be under a lot of pressure to resolve administrative appeals within the legally mandated deadlines. As of right now, SARS is not subject to any such pressure because neither the Rules nor Chapter XA of the CEA contain any related provisions. According to Siphugu (2020) and Keyser & Katze (2017), it is common for appellants to tolerate procedural delays without receiving formal justification—unless the matter involves a substantial financial obligation in duties or carries other serious implications. In such cases, parties are more likely to contest or seek clarity due to the weight of potential consequences.
- According to section 842 of the CCA, the administrative appeal would be deemed to have been upheld if SARS did not rule on it within the allotted period. Unlike under the CEA, this means that the clause itself includes an automatic remedy considered a finding in favour of the appellant. SARS could essentially disregard the deadlines for

resolving internal administrative appeals under Chapter XA of the CEA if there were no mechanism in place under the Act to compel it to do so. This is why CCA Section 842 would solve the stated issue.

4.6.2 Voluntary Disclosure Programme (VDP) and Container Clearance

This programme was introduced and developed through the Tax Administration Act based on sections 225 to 253 of the Act. The CCA in Chapter 13 has phased in this new programme requirement that applies from sections 863 to 873. This section was not present from the CEA; despite the fact that it is of vital importance in the establishment of tax. The “Voluntary Disclosure Programme (VDP)” provisions within the “Tax Administration Act” reduce the discretionary power of SARS, thereby enhancing procedural transparency and predictability for applicants (PMG, 2013, SARS, 2014a; & Siphugu, 2020).

By adhering to the criteria outlined in Section 227, prospective participants can better navigate the process and ensure their voluntary disclosure submissions meet the necessary legal requirements (Keyser & Katze, 2017). It's a must that SARS grant the VDP despite the requirements regarding the Tax Administration Act, as per section 229 of the Act. For a considerable amount of time, SARS has been discussing the updating of its customs processes and claiming that this includes not just how entries are processed, but also how it handles compliance and serves merchants based on their compliance level.

In the long run, the goal is to create a situation where consumers who have chosen to apply to SARS in order to undergo a voluntary process of evaluating their compliance will eventually achieve a higher status, have a better rapport with and receive greater support from customs authorities, and eventually save money and grow less inefficient. Regarding the points previously mentioned, the researcher concludes that taxpayers along with customs officials have equivalent roles. In many instances from the TAA process, where taxpayers give false information when applying for the relief, former taxpayers should be cautious about exploiting the VDP. However, the VDP would be useless if SARS just provided the exemption for statistical reasons, despite to the extent of deceiving taxpayers, before thoroughly investigating their problems.

4.6.3 Administrative Penalties

The CEA has caused a lot of confusion regarding the client not having direction whether charged penalties should be ignored based on Section 88 of the CEA or be deposited based on

Section 91 of the CEA. There have been cases where the judge ruled against SARS due to customs authorities ignoring SARS policy called Offences Penalties or Penalties Guidelines (guideline policy for penalties to be imposed in a breach of CEA), for example, *Formalito vs SARS* [Case 2005 5 SA 526 (SCA)]. The CCA and CDA fixed this contradiction, which has caused a lot of delays in trade, by imposing fixed penalties for disputing the above-stated contradiction from traders.

According to Levendal (2015), it stated that because of its complexity, the current punishment system may not increase adherence to customs laws. When compared to customs regimes that are legally binding and complicated the work of customs officers, he claims that foreign customs systems seem to have very practical systems, particularly when it comes to implementation by the customs officers themselves.

He asserts that the penalty customs system has not yet gotten the consideration it merits. The new CCA will provide penalty regulations to make things easier/fair compared to the old CEA, and penalties are more severe than past, and they are in line with the Adjustments Fines Act (AFA) 101 of 1991. The new CCA regulation in RSA has the advantage of being in line with both other RSA laws and international agreements. Numerous other RSA laws pertaining to imports, exports, and tax collection are based on the CCA.

4.7 Enhancements in the port of Durban clearance processes following the new customs legislation

Prior to the enactment of the new customs legislation, cargo dwell time at the Port of Durban averaged between 5 to 7 days (Kgare, Raballand & Ittmann, 2011). Following the implementation of the CCANo. 31 of 2014 and associated reforms, the average cargo dwell time decreased to 3 to 4 days, reflecting measurable improvements in customs clearance efficiency (Khuzwayo, 2021; SARS, 2021b). These changes were driven by key legislative provisions, including the reduction of the period for submitting import clearance declarations from seven days to three days after the arrival of goods, and the allowance for the clearance and release of goods on the basis of incomplete or provisional clearance information (SARS, 2021b). Technological advancements, such as the adoption of Electronic Data Interchange (EDI) systems, also underpinned these reforms by enabling faster processing and reduced paperwork.

However, while dwell time reductions provide an indication of efficiency gains, they are a limited measure of customs performance, as delays may also be influenced by port congestion, vessel sizes, or terminal throughput (Van Der Merwe, 2024; Ziyandamajodina, 2024). Thus, improvements at Durban cannot be attributed solely to customs modernisation. Table 4.2 (see below) highlights that while reforms such as EDI adoption align with trade facilitation theory by reducing transaction costs, Durban’s average vessel dwell times (67.4–83.2 hours) still lag behind the global average of 40.5 hours, suggesting that challenges remain.

Table 4.3 Summary of SARS Modernisation, Port Performance, and Theoretical Implications

Dimension	Description / Empirical Evidence	Source	Theoretical / Analytical Implication
Customs Modernisation Reforms	Introduction of the Customs Control Act No. 31 of 2014; adoption of Electronic Data Interchange (EDI) systems to streamline clearance and reduce paperwork.	SARS legislation; trade facilitation reforms	Aligns with trade facilitation theory and transaction cost economics by reducing administrative barriers.
Port Efficiency – Dwell Time	Vessel dwell time at Durban averaged 67.4 hours (Pier 1) and 83.2 hours (Pier 2), compared to the global average of 40.5 hours.	Van Der Merwe, J. (2024); Hutson (2025)	Durban lags global standards but reflects measurable efficiency challenges targeted by customs reforms.
Benchmarking Limitations	Durban’s performance is not the worst globally; performance is influenced by vessel	Van Der Merwe (2024); Ziyandamajodina (2024)	Demonstrates complexity in comparing efficiency across ports; supports institutional theory on

	size, terminal throughput, and congestion factors.		context-specific performance.
Port-Level Policy Complementing SARS Reforms	Punitive storage charges are applied after 72 hours at Durban, incentives for faster clearance, and reduced dwell time.	Mail & Guardian (2013)	Shows policy–reform synergy: customs modernisation plus port policy collectively drives efficiency gains.
Integrated Outcome	Legislative and digital reforms, coupled with port-level measures, lead to gradual improvements in clearance efficiency and reduced trade bottlenecks.	Synthesised from above	Empirically supports the proposition that customs modernisation enhances both efficiency and competitiveness in international trade.

The recent legislation shortened the timeframe for submitting import clearance declarations, decreasing it from seven days to three days following the arrival of goods (SARS, 2021c). This change was facilitated by technological advancements, enabling quicker processing and reducing delays (SARS, 2021c). The updated Act permits goods to be cleared and released even when only partial or provisional information has been submitted, thereby accelerating the overall clearance process (SARS, 2021b; Siphugu, 2020).

While the Port of Durban has achieved significantly lower dwell times (3–4 days) compared with other Sub-Saharan African ports such as Cameroon and Nigeria, where average cargo dwell times exceed 20 days (Raballand et al., 2012; Agha, 2025), these figures must be interpreted cautiously. The relative efficiency at Durban reflects not only customs modernisation but also complementary port-level measures such as punitive storage charges that incentivise rapid clearance. This underscores the point that efficiency improvements arise from the interplay of legal reforms, digitalisation, and port-specific policies rather than customs legislation in isolation.

In reconciling these perspectives, it is evident that customs modernisation has yielded tangible benefits at Durban, yet its efficiency remains constrained relative to global benchmarks. The reforms demonstrate progress within a regional context but highlight the complexity of attributing performance gains solely to customs processes, given the broader institutional and infrastructural dynamics that shape port performance.

Table 4.4. Summary Comparing CEA vs CCA/CDA Procedures and a Timeline

Step	CEA, 1964 (Old Act)	CCA/CDA (Modern Acts)	Operational Impact
Entry Submission	Manual, paper-based BOE at Customs office	Electronic submission (EDI/e-Filing) permitted up to 3 days before vessel arrival	Old: Delays at counters, prone to errors. New: Faster pre-clearance and reduced dwell time.
Risk Assessment	Limited or no automated risk profiling; most consignments physically inspected	Risk-based selectivity system (green, amber, red channels)	Old: Delays from uniform inspections. New: Only high-risk cargo inspected.
Coordination	Minimal integration with port ICT systems; clearance and port operations disconnected	Integrated customs–port ICT (Navis, Cargo Processing Systems, SARS IT modernisation)	Old: Double handling, duplication of data. New: Streamlined data sharing.

Clearance Time	Average 10–14 days for imports (often longer)	Benchmark 2–4 days (imports), 7 days (exports)	Old: Vessel queues & congestion. New: Improved efficiency, though gaps remain.
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4.8 CONCLUSION

This chapter examined the challenges associated with efforts to modernise customs procedures and how these challenges influence the “overall efficiency and effectiveness” of the forwarding and clearing system (SARS, 2021c). The findings revealed that inefficiencies in the forwarding and clearing process at the Durban Port Terminal are not solely due to customs operations but are also compounded by the shortcomings of various institutions involved in the clearance process (Matiya, 2013; Khuzwayo, 2021).

The research findings further show that port productivity is also essential for innovative port performance and clients’ happiness and loyalty. The competent authority ought to encourage quicker clearance of released products, clarify, harmonise, and encourage a quicker assessment process, and develop port infrastructure that incorporates rail and removal of goods facilities.

It can be a new Act (CCA) or an old Act (CEA), the objective remains the same for SARS that duties have to be accumulated from every imported and exported cargo that enters the nation than cargo which is in transit. The CCA, which the researcher concurs with as stated above and other chapters, is primarily concerned with the effectiveness and efficiency of such customs control process and the CDA is responsible for the collection of duties for SARS.

This shows that no matter how much the customs control process or legislation can be modernised, the focus for SARS will be to collect revenue through tax, while the main issue that affects traders, such as Inlands terminals, CoS and Incoterms rules, remains unresolved, which touches the future of various business operations and profit in South Africa.

Despite the fact that the recently passed CCA and CDA have not yet had full effect, some parties and traders (e.g. SAAFF, SASSOA, etc.) that are affected by these customs’

modernisation regulations are confident that they will be successful in facilitating trade. Secondly, it is positive that SARS took the initiative to interact with all parties involved and respond to the numerous issues that have been brought forward. At the same time, SARS is working on several projects, such as registration and licensing.

CHAPTER 5: SUMMARY OF THE STUDY, CONCLUSION, AND RECOMMENDATIONS

5.1 Introduction

The enactment of the new CCA introduces significant legislative changes by revoking the previous provision that permitted the movement of containerised goods to inland terminals, such as Johannesburg, under the authority of a manifest. As a result, these inland facilities will no longer function as recognised customs ports of entry or exit (Khuzwayo, 2021; Van Rensburg, 2024).

This shift is expected to have wide-ranging effects on the freight-forwarding and logistics sectors because reductions in port and customs performance undermine transit reliability and the competitive advantage of existing corridors (World Bank, 2023 & Department of Transport, 2023). Operational failures at Durban, including equipment shortages and maintenance backlogs, have already increased costs and encouraged cargo diversion, with negative knock-on effects across the supply chain (Reuters, 2024 & Freight News, 2025). Such disruptions are associated with production cutbacks and potential job losses in logistics-dependent industries and raise the overall cost of doing business and living by increasing logistics surcharges and lead times (Maritime Cluster, 2024; Busse, 2021).

Furthermore, requiring customs clearance at the initial port of entry could weaken South Africa's logistical competitiveness, especially in comparison to other African ports, by undermining the efficiency of trade facilitation between coastal entry points and inland economic hubs. The discontinued right for carriers to deliver containerised cargo to Inland Ports or terminals will interrupt traditional practices of trade while having negative impacts on "Contracts of Carriage" as well as "Contracts of Sale". It is accordingly of great concern that multi-modal and "through-transit" Bills of Lading, as well as Incoterms, will have to be reconsidered in order for buyers and sellers to affect their compliance with customs standards.

Additional adverse consequences have been identified following the implementation of the CCA. These include the potential erosion of RSA's role as a key regional transit hub, growing labour-related challenges in Johannesburg's City Deep logistics area, and a likely decline in property values in regions previously sustained by inland port activity (Busse, 2021; Khuzwayo, 2021). Furthermore, a substantial shift from rail to road freight is anticipated, potentially straining national road infrastructure. To meet new customs compliance

obligations, there may also be a need for increased representation and operational presence at coastal ports, which could impose additional administrative and logistical burdens on stakeholders.

All of these factors are expected to substantially increase the cost of transit through the Port of Durban, already well known for ongoing congestion problems. SARS maintains that the containerised traffic will still continue to flow seamlessly and that there will be no interruption to trade. Business is of the view that this may not be the case, and the new legislation should be amended. While South Africa's adherence to key international frameworks, such as the RKC, remains essential, trade policies should not inadvertently undermine the country's strategic advantage as a leading trade hub in Southern Africa. As emphasised by Allende (2022) and the IMF (2022), maintaining regulatory compliance should be balanced with preserving South Africa's competitiveness and its vital role in regional economic integration.

This chapter summarises the key findings, provides recommendations, and concludes the study in relation to the research topic. It is organised into three main sections:

- 1) Section one summarises the research findings.
- 2) Section two summarises the key conclusions derived from the study..
- 3) Section three presents a series of recommendations and examines their associated policy implications..

The research focused on assessing the customs modernisation developments and impacts on efficiency and effectiveness in the forwarding and clearing process at the Port of Durban as a case study.

5.2 Findings Summary

The research findings reveal multiple challenges that undermine the efficiency and effectiveness of customs modernisation developments in the forwarding and clearing procedures at the Port of Durban.

This study employed a desktop research design combined with secondary data analysis. The objective was to provide a comprehensive profile of the forwarding and clearing processes at DPT and within SARS Customs. Data were collected from official reports, academic literature, industry associations such as the SAAFF, and operational documents from TPT. Sources

included government websites, scholarly articles, theses, and newspaper publications, which align with approaches recommended by Khuzwayo (2021) and Busse (2021).

The findings consistently indicate that stakeholders experience difficulties related to the efficiency and effectiveness of customs clearance. Khuzwayo (2021) identifies persistent challenges such as prolonged clearance times, inadequate expertise among some customs personnel, and indifferent attitudes by certain officials, all of which contribute to systemic inefficiencies. Delays in the payment of clearance fees by government-linked traders further exacerbate congestion, often leading to demurrage costs and disrupted cargo flows.

The COVID-19 pandemic also had a notable impact on the research process. Restrictions and remote working arrangements at SARS and SAAFF limited access to key employees and restricted opportunities for field-based data collection. Consequently, valuable insights that could have been gathered through interviews and direct observation were not accessible.

In addition, the study highlights the need for enhanced staff training at DPT and SARS Customs. Many employees require further development in clearing, forwarding, and customs procedures to strengthen compliance and operational efficiency. Poorly prepared or inaccurate declarations by clients were also identified as a recurring issue. These substandard submissions often delay the clearance process, as accuracy in documentation is essential for efficient cargo movement.

Overall, the research demonstrates that effective clearance relies heavily on precise customs information and the expertise of qualified clearing and forwarding agents. Addressing skills gaps, improving accountability among customs officials, and ensuring accurate client declarations are therefore critical to strengthening the efficiency of customs modernisation initiatives at the Port of Durban analysis.

5.3 Conclusion

This study examined the evolution of customs modernisation and its impact on the efficiency and effectiveness of clearing and forwarding procedures at the Port of Durban. The findings presented in Chapter 4 highlighted that the system is characterised by multiple intricate stages, regulatory requirements, and operational methods. While designed to safeguard trade integrity and compliance, these complexities have created significant challenges for businesses. The

inefficiencies identified have hindered organisational productivity and constrained broader economic performance in South Africa (Matiya, 2013; Khuzwayo, 2021; Van Rensburg, 2024).

The clearing techniques at the SARS customs include various new Act provisions which affect its effectiveness and efficiency. It is apparent that SARS' motivation for introducing changes to policy in the CCA 31 of 2014 that to reduce risk and fraud, which should be considered in more depth, so well does their claim of a seamless passage of goods under the new dispensation. At the very least, the legislation flies in the face of global logistics standards and the international trend towards inland ports in order to reduce port congestion and facilitate the flow of goods.

According to Khuzwayo (2021), WCO (2019), and Allende (2022), disruptions to existing trade flows and agreements could be effectively avoided if SARS implemented proactive measures aligned with the SAFE Framework. By adhering to its principles, particularly those aimed at enhancing global supply chain security, SARS could foster greater consistency and predictability in cross-border trade operations.

The unpredictability of release and requirements of a customs declaration at the primary place/port of entry is a superfluous intervention which does not resonate with the "WCO's SAFE Framework of Standards and AEO Programme's" goals to encourage trade and the accentuation on the correct application and timeframe related to advanced electronic freight data.

When customs officials do not effectively use the Customs-to-Customs collaboration channels, they could well be in non-compliance with protecting the supply chain adequately as envisaged by the WCO. However, these inconsistencies are clouding the main challenges, one of which might be the inability of the system to satisfy the needs of advanced electronic freight analysis.

It is evident that disagreements persist between companies and SARS regarding port congestion, cargo delays, and the reliance on road rather than rail transport. SARS's reluctance to engage in robust discussions on these matters has further aggravated the situation. This challenge is compounded by the absence of a coordinated programme that considers the implications of the newly introduced CCA 31 of 2014 and the CDA 30 of 2014, despite the significant investments already earmarked for Transnet.

Ideally, if the participation among Transnet and SARS concentrated on the arrangement of a secure transit corridor, then this interfering legislative provision for the changing policy would not have to be motivated under the aspirations of risk management control requirements. This project has highlighted the need for in-depth research into the number of areas that will be affected by the CCA 31 of 2014 and CDA 30 of 2014. Failure to envisage and consider the possibilities of the negative aspects of the new Act, as highlighted in this report, will have drastic financial and reputational consequences for the country.

The disturbance and decrease in trade and the points of interest that South Africa has developed as the entryway to Africa will be complicated by job losses and additional costs to be borne by purchasers at a time that already sees personal resources stretched to the limit. The impact of this policy change warrants in-depth research, including traders that will be exposed to the difficulties arising. The priority of ensuring that this research is received by the SARS Customs precludes this research.

Nevertheless, even the limited excursion into presenting the facts highlights the serious concerns and difficulties that traders and the industry in general will face. If nothing else, when Transnet positions itself correctly, the anticipated rail traffic will generate benefits. The time planning to provide support for containerised freight was presented in the CCA, about thirty years back; it considered the development of the containerised freight under the cover of the manifest. During the previous thirty years, the processes were reviewed and amended from every now and then, the main significant amendment being in the year 1980, yet at no stage was it discovered that the underlying reasons behind permitting containerised goods to move under the cover of a manifest should change.

The reasons presently proposed by SARS do not address the initial issues. The longstanding legal arrangements built up a privilege and a trade pattern. The study reveals that the documentation, although an automated process, is excessively long, and does not interface with other Border and administrative organs that do not work in a coordinated manner to abbreviate the procedure. The contribution of many intervening additional organisations and border authorities drives delays in the clearing procedure (UNCTAD, 2020). As revealed by the findings, the Durban Port container terminal continues to face equipment shortages, which hinder its capacity to manage the growing volume of containers, despite existing development plans (Mkhabele, 2024; Matiya, 2013). Enhancements implemented at the terminal have shown

beneficial outcomes, with both public and private stakeholders reaping the advantages, contributing positively to the broader national economy.

According to Busse (2021), implementing customs modernisation is a gradual and often challenging process that demands persistence and strategic effort, especially in environments where resistance to change is prevalent. Nevertheless, a reformed and streamlined customs system can significantly reduce operational costs for businesses while fostering a more favourable climate for economic growth.

Various Additional concerns and costs identified

- Overstay containers not cleared within the prescribed time will be routed to depots and not easily admitted back into the rail delivery mode system. Generally, overstay containers are unpacked in order to turn in the empty container, which again contributes to additional costs. The transit up to Johannesburg allows a few additional days' grace.
- Traders equate the surplus in road transport costs as a necessary expense which is automatically factored into the landed cost. Unpredictable transport Corridors are creating cost burdens on Gauteng enterprises and the Gauteng market.
- Complaints were received that Transnet cannot track rail containers and provide timeous information.
- The study revealed that City Deep, during recent upgrades, could not cope, and containers were already delivered to SACD.
- Traders believe that the Port of Durban should not be seen as a destination, only a conduit.
- SACU traders need to study the potential implications.
- The Walvis Bay and Maputo Corridor alternative is gaining momentum on a monthly basis.
- Terminals are already congested with trucks. Local road transport used to be provided by Transnet.

- Fewer empty containers may be available in Gauteng for exports.
- Container stacks at the Port of Durban terminals have increased in height, creating operational challenges that can make accessing specific containers difficult and time-consuming (Van Rensburg, 2024).
- Short transit cargo originating from countries such as Mauritius always presents clearing documentation challenges.
- As additional harbour capacity is provided in the Port Elizabeth area, similar concerns could be expected there.
- The norm is generally a 72-hour Rail notice prior to the ship docking, of which containers are going to transit by rail.
- It is not certain if the Port or Terminal of Durban provides modernised and non-intrusive X-ray equipment.
- Pretcon in Tshwane is also shown as a destination on Bills of Lading, particularly for certain large motor vehicle manufacturers.
- Technology for tracking targeted containers should be employed.
- It should be borne in mind that a Shipper's instruction contains the information that is reflected on the Manifest. Cooperation with SARS can be generated to the extent that a Shipper's instruction could reflect the necessary information required.
- Complete research into the impact of "door-to-door" service is recommended. The understanding is that the new customs legislation is quite clear that uncleared cargo may not proceed to an Inland Port or Terminal.

The above issues identified, although not exhaustive, represent the additional concerns of traders which have been discussed, and some future predicted in the logistics industry. This study concludes that the intervention point at a specific stage in the delivery flow within the Global Supply Chain does not fully align with the objectives of the "RKC and SAFE Framework of Standards" (Rowbotham, 2025). The focus on advance notices for risk management purposes does not adequately address the need for timely interventions.

Additionally, the necessary information and control criteria, such as the HS Code and valuation, can be obtained without the need for these late interventions, which can adversely affect goods during transit. While the SAFE Framework and RKC advocate for Customs Control for Transit goods inside the barriers of a nation, there is no contention to help that containerised traffic between Durban Port and an Inland Terminal.

The provisions of Chapter 9 of the CCA 31 of 2014 are not considered relevant in this context. Nonetheless, if traffic is required to move inland by road and customs control seeks to focus on such goods for risk management purposes, the research recommends that a separate discussion be initiated to establish the specific boundaries and instruments for that control. Rail transport, however, should remain seamless to ensure efficiency and alignment with trade facilitation objectives (SARS, 2020). According to WCO (2018u) and Rowbotham (2025), the SARS customs stand to gain significantly from the *effective application of the SAFE Framework of Standards*. By strengthening global supply chain security, SARS can enhance the safety of traded goods.

Moreover, the adoption of advanced risk assessment tools, targeted interventions for high-risk consignments, and more refined operational procedures will contribute to more strategic and efficient resource deployment (WCO, 2018v; Rowbotham, 2025). Moreover, programmes, for example, a validation procedure, and business benefits, are structured as a collaborative team with the business community (i.e., the AEO Programme).

It is proposed that *compliant customs control can be accomplished through the means of registered Authorised Economic Operators*, including expedited clearing and releasing processes, and solutions to Supply Chain Security that Transnet ought to convey for containerised traffic. Key to trade facilitation would be *mutual recognition of registered AEOs, allowing cargo to flow more freely from end-to-end*, as opposed to non-registered traders and other entities requiring application of the customs and trade laws in full to investigate such entities, scrutinise all Trade-related documents and inspect such cargoes.

5.4 Recommendations

The recommendations outlined below aim to address the challenges undermining the efficiency and effectiveness of the clearing and forwarding process at the Port of Durban:

- An investigation should be conducted into why a manifest containing sufficient WCO Data Model information cannot be utilised as the input document for the SARS Risk Management System. This would help determine whether improvements or greater flexibility in the system behind the procedure category codes are required.
- The persistence of strikes and labour unrest must be recognised as a risk factor, particularly where job losses arise. Strategies for mitigating disruptions should be incorporated into modernisation plans.
- SARS and the private sector, through BUSA, should engage in structured dialogue and conduct further research on the impacts of new legislative changes that may hinder the movement of goods and trade facilitation.
- As the rules supporting the new Customs Acts (CCA 31 of 2014 and CDA 30 of 2014) remain incomplete, they should be urgently debated between SARS and the private sector. Lead times for clearance, pre-clearance, and related processes must be carefully considered to avoid embedding unsuitable controls into the final rules.
- Inland Port Facility management and Transnet must be integrated into discussions on legislative reforms, ensuring that potential positive and negative impacts are fully understood.
- Rail corridors between Durban and Johannesburg should be reactivated. The high dependence on road transport increases costs and infrastructure strain. Restoring secure, fully operational rail services would reduce congestion and support trade efficiency.
- Border delays along alternative corridors, particularly the Maputo Corridor, must be addressed. Growing container volumes and heavy truck traffic risk causing bottlenecks that undermine regional competitiveness.
- SARS should expand the pool of supply chain stakeholders attaining Authorised Economic Operator (AEO) status. Expedited AEO cargo should be permitted to move directly to inland ports such as City Deep.
- Measures must be taken to address the imbalance of empty containers in Gauteng, which negatively impacts export capacity in the region.

- Advanced tracking technologies for monitoring inbound inland port cargo and containers should be deployed.
- Investment in non-intrusive inspection technologies is critical. High-performing scanners, cranes, and gantries would streamline cargo processing, reduce vessel turnaround times, and enhance service delivery (Mkhabele, 2024; Matiya, 2013; Van Rensburg, 2024).
- Vessel waiting times should be reduced through efficient organisation of shore-handling equipment. Equipment must be available before shifts begin, and importers/exporters should be notified in advance of expected cargo arrivals. Where direct delivery is impractical, freight should be routed via temporary warehouses to minimise delays.
- Freight dwell times can be reduced through simplified documentation and a streamlined clearing process. Establishing a centralised clearance point where all responsible parties operate together would further accelerate cargo release.
- TNPA, particularly TPT, should conduct systematic audits at Durban Port to monitor container dwell times. Containers exceeding thresholds should be moved to bonded terminals under a FIFO (First-In, First-Out) principle. Shippers must also ensure timely submission of documents and settlement of customs duties and port fees to avoid demurrage (Mkhabele, 2024; Matiya, 2013; Van Rensburg, 2024; Khuzwayo, 2021).
- The current use of procedure category codes reflects a computerised risk management framework. However, further investigation is needed into their integration with SARS systems to ensure adaptability and efficiency.
- In line with the WCO RKC, transparent compliance and performance measurements for both customs and trade should be introduced. These must be visible across the supply chain, with ongoing validation and capacity-building programmes aimed at driving measurable improvements (Levandal, 2015)

5.5 Study Implications

5.5.1 Policy Implications

The results of this research are intended to guide policymakers in designing strategies that enhance institutional effectiveness (Rahiem, 2025). Inefficiencies in the clearing and forwarding process at the Port of Durban stem from systemic challenges such as prolonged delays, cumbersome documentation, limited berthing capacity, poor coordination at DPT, and insufficient investment in infrastructure (Shepa, 2013; Khuzwayo, 2021). Policymakers can use these findings to identify institutional gaps and adopt preventative measures:

- *Review of Procedure Category Codes:* An in-depth examination of the framework behind procedure category codes is necessary. The current system restricts SARS to outdated risk management technologies. Exploring adaptability and innovation in these systems is critical to improving efficiency.
- *Labour and Employment Considerations:* Trade unions should assess the potential labour impacts of legislative reforms, as job losses linked to customs modernisation may trigger strikes and unrest. Early engagement with unions will reduce risks of disruption.
- *Legislative and Technological Preparedness:* Policymakers must anticipate the broad impacts of the Customs Control and Duty Acts on risk management technologies, compliance frameworks, and performance measurement. Failure to address potential negative consequences could result in severe economic and reputational costs.
- *Capacity Building and Training:* A structured training policy should be implemented for all customs and clearing personnel. Training should cover legislative frameworks, operational procedures, and institutional mandates to bridge knowledge gaps, strengthen collaboration, and improve responsiveness (Shepa, 2013; Khuzwayo, 2021; TPT, 2023).
- *Port Infrastructure Planning:* The DPT's expansion of Pier 1 and 2 must be accompanied by forward-looking container stack yard policies. As Scholtz (2017) predicts, future TEU volumes may exceed yard capacity, creating congestion despite expanded berths. TPT should integrate yard capacity modelling into its long-term planning.

5.6 Suggested Further Study Areas

The findings of this study open several avenues for future research:

- *Private Sector Involvement*: Subsequent studies should investigate how private sector stakeholders contribute to resolving ongoing inefficiencies in South Africa's clearing and forwarding sector. This includes examining public-private partnership (PPP) models as strategic frameworks for enhancing operational effectiveness. While Matiya (2013) highlighted the value of PPPs in trade facilitation, Sithole (2025) suggests that recent changes in government leadership may create new opportunities for their adoption in the RSA context.
- *King Shaka Airport Terminal*: Additional research could focus on the forwarding and clearing procedures at King Shaka International Airport, with particular attention to evaluating operational efficiency and effectiveness in air cargo logistics.
- *Institutional and Operational Challenges*: Future studies might explore the specific challenges faced by forwarding and clearing organisations at the Port of Durban. While the present research examined customs modernisation, a deeper inquiry into institutional or operational inefficiencies within these organisations could yield valuable complementary insights.
- *Global Trade Processes*: Research on international business exchanges could identify approaches to address existing procedural bottlenecks and propose strategies for mitigating barriers in cross-border transactions.
- *Time Release Studies (TRS)*: Integrating Durban's TRS into future analyses would provide empirical benchmarks for clearance times and strengthen evidence-based policymaking.
- *Port Performance Indicators*: Developing a panel of port key performance indicators (KPIs) covering 2018–2025 would facilitate systematic tracking of operational trends, enabling stakeholders to monitor progress and identify persistent challenges.
- *Expert Perspectives*: Targeted interviews with customs officials, freight forwarders, and port managers could triangulate secondary data findings, offering richer insights into Durban's strategic role within regional and continental logistics.

- *Authorised Economic Operator (AEO) Programme*: The revised AEO initiative by SARS Customs (2021/2022) remains in its early stages and warrants further study. Particular attention should be given to securing mutual recognition agreements (MRAs) with foreign customs administrations, as these are critical to improving clearance times, reducing congestion, and strengthening South Africa's global trade competitiveness.

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APPENDIX

Appendix A: Turn it Report

Mzuzu Mhlongo -Mcom Maritime Research UKZN Draft Submission 16 July 2025 MM Changes.docx			
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CERTIFICATE OF LANGUAGE EDITING

29 September 2025

To whom it may concern

This is to certify that **Mr. Mzuzu M.M Mhlongo** has received professional language editing services for their document titled:

"CUSTOMS MODERNISATION DEVELOPMENTS AND IMPACTS ON EFFICIENCY AND EFFECTIVENESS IN THE CLEARING AND FORWARDING PROCESS: A CASE STUDY ON THE PORT OF DURBAN"

The editing process involved:

- Grammar and syntax correction
- Clarity and coherence improvement
- Reference/bibliography verification
- Consistency in style and formatting

This certificate is issued as proof of completion of language editing services by:

Issued by:

Isibani Sezulu (Pty) Ltd

[REDACTED]

Date: 29 September 2025

Contact Details: [REDACTED] | +[REDACTED]
[REDACTED]

Appendix B: Ethical Clearance Letter



25 July 2025

Mr Mzuzu Mzonjani Mercury Mhlongo (214550203)
Howard College

Dear Mr Mzuzu Mzonjani Mercury Mhlongo,

Original application number: 00003594

Project title: Efficiency and effectiveness in the clearing and forwarding processes : A case study on port of Durban

Amended title: Customs modernization developments and impacts on efficiency and effectiveness in the clearing and forwarding process: A case study on the Port of Durban

Exemption from Ethics Review

In response to your amendment application received on 17 July 2025, your school has indicated that the amendment has been granted **EXEMPTION FROM ETHICS REVIEW**.

Any alteration/s to the exempted research protocol, e.g., Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through an amendment/modification prior to its implementation. The original exemption number must be cited.

For any changes that could result in potential risk, an ethics application including the proposed amendments must be submitted to the relevant UKZN Research Ethics Committee. The original exemption number must be cited.

In case you have further queries, please quote the above reference number.

PLEASE NOTE:

Research data should be securely stored in the discipline/department for a period of 5 years.

I take this opportunity of wishing you everything of the best with your study.

Yours sincerely,

Prof Claire Lauren Vermaak
Academic Leader Research
School Of Acc Economics&Fin

UKZN Research Ethics Office
Westville Campus, Govan Mbeki Building
Postal Address: Private Bag X54001, Durban 4000
Website: <http://research.ukzn.ac.za/Research-Ethics/>

Founding Campuses:  Edgewood  Howard College  Medical School  Pietermaritzburg  Westville

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