



Latest News

GUIDE TO CLASSIFICATION UPDATED WITH CHEMICAL CLASSIFICATION GUIDE

The Jacobsens Guide to Classification, a guide to the Harmonized Commodity Description and Coding System (HS-based) Southern African Customs Union (SACU) Common External Tariff has been updated to include an inventory of chemical substances that are hazardous to animal and human health and the environment.

The Guide to Classification was first published by LexisNexis on the 11th of January 1999 as a HS Tariff classification guide for professionals in the Southern African Customs Union comprising Botswana, eSwatini (Swaziland), Lesotho, Namibia and South Africa. The Guide is a loose-leaf publication and is updated annually.

An inventory of chemical substances and agents which are hazardous to animal and human health and the environment, many of which are dangerous during transportation has now been included in the Guide. The substances are listed alphabetically with references to the HS subheading, UN Number (if applicable), synonyms and with references to national and international instruments (Conventions, legislation, Government Gazette Notices, etc).

Included in the list are persistent organic pollutants (POPs) which will be phased out under the Regulations to the National Environmental Management Act, 1998 (Act No. 107 of 1998).

The Minister of Environment, Forestry and Fisheries published Regulations to phase-out the use, production, distribution, sale, import and export of persistent organic pollutants set out in section 2(1)(a) (1) – (v) namely hexabromobiphenyl (by 31 December 2020), pentachlorobenzene (by 31 December 2020), perfluorooctane sulfonic acids and its salts (PFOS) and perfluorooctane sulfonyl fluoride (by 31 December 2021), hexabromodiphenyl ether (Hexa-BDEs) and heptabromodiphenyl ether (Hepta-BDEs) (by 31 December 2020), and tetrabromodiphenyl ether (tetra-BDEs) and pentabromodiphenyl ether (penta-BDEs).

Refer to Notice 1150 which was published in *Government Gazette* No. 42693 of 10 September 2019.

The products above are listed with their phase-out dates in Section 4(1) of Notice R.1150 of 10 September 2019.

The products are classified alphabetically in the Guide. The phase-out timeframes and publication details will be added in the last column with the next update to the Guide.

Customs Tariff Applications and Outstanding Tariff Amendments

The International Trade Administration Commission (ITAC) is responsible for tariff investigations, amendments, and trade remedies in South Africa and on behalf of SACU.

Tariff investigations include: Increases in the customs duty rates in Schedule No. 1 Part 1 of Jacobsens. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.

Reductions in the customs duty rates in Schedule No. 1 Part 1. These applications apply to all the SACU Countries, and, if amended, thus have the potential to affect the import duty rates in Botswana, Lesotho, Namibia, Swaziland and South Africa.

Rebates of duty on products, available in the Southern African Customs Union (SACU), for use in the manufacture of goods, as published in Schedule No. 3 Part 1, and in Schedule No. 4 of Jacobsens. Schedule No. 3 Part 1 and Schedule No. 4, are identical in all the SACU Countries.

Rebates of duty on inputs used in the manufacture of goods for export, as published in Schedule No. 3 Part 2 and in item 470.00. These provisions apply to all the SACU Countries.

Refunds of duties and drawbacks of duties as provided for in Schedule No. 5. These provisions are identical in all the SACU Countries.

Trade remedies include: Anti-dumping duties (in Schedule No. 2 Part 1 of Jacobsens), countervailing duties to counteract subsidisation in foreign countries (in Schedule No. 2 Part 2), and safeguard duties (Schedule No. 2 Part 3), which are imposed as measures when a surge of imports is threatening to overwhelm a domestic producer, in accordance with domestic law and regulations and consistent with WTO rules.

To remedy such unfair pricing, ITAC may, at times, recommend the imposition of substantial duties on imports or duties that are equivalent to the dumping margin (or to the margin of injury, if this margin is lower).

Countervailing investigations are conducted to determine whether to impose countervailing duties to protect a domestic industry against the unfair trade practice of proven subsidised imports from foreign competitors that cause material injury to a domestic producer.

Safeguard measures, can be introduced to protect a domestic industry against unforeseen and overwhelming foreign competition and not necessarily against unfair trade, like the previous two instruments.

Dumping is defined as a situation where imported goods are being sold at prices lower than in the country of origin, and also causing financial injury to domestic producers of such goods. In other words, there should be a demonstrated causal link between the dumping and the injury experienced.

The International Trade Commission of South Africa (ITAC) also publishes Sunset Review Applications in relation to anti-dumping duty in terms of which any definitive anti-dumping duty will be terminated on a date not later than five years from the date of imposition, unless the International Trade Administration Commission determines, in a review initiated before that date on its own initiative or upon a duly substantiated request made by or on behalf of the domestic industry, that the expiry of the duty would likely lead to continuation or recurrence of dumping and material injury.

The latest application (List 06/2019) was published under Notice No. 450 of 2019 which was published in *Government Gazette* No. 42657 of 23 August 2019.

The International Trade Administration Commission of South Africa (ITAC) published two applications to amend the Common External Tariff (CET) of the Southern African Customs Union (SACU).

The first application is made for the creation of a rebate of Customs duty on sodium hydroxide (caustic soda) in aqueous solution, classifiable under tariff subheading 2815.12, for the manufacture of semi-chemical fluting paper, in rolls or sheets, classifiable under tariff subheading 4808.11, subject to a permit from ITAC.

Enquiries should be directed to Ms Elizabeth Kekana (ekekana@itac.org.za) and/or Mr Nkulana Phenya (nphenya@itac.org.za).

The second application relates to the review of the general rate of Customs duty on coated steel. Classifiable under tariff subheadings 7210.41, 7210.49, 7210.61, 7210.70, 7210.90, 7212.30, 7212.40 and 7225.90.

Enquiries should be directed to Mr Njabulo Mahlalela or Ms. Lufuno Mahliaga at nmahlalela@itac.org.za or lmaliaga@itac.org.za.

Comments are due by 20 September 2019.

Customs Tariff Amendments

With the exception of certain parts of Schedule No. 1, such as Schedule No. 1 Part 2 (excise duties), Schedule No. 1 Part 3 (environmental levies), Schedule No. 1 Part 5 (fuel and road accident fund levies), the other parts of the tariff are amended by SARS based on recommendations made by ITAC resulting from the investigations relating to Customs Tariff Applications received by them. The ITAC then investigates and makes recommendations to the Minister of Trade and Industry, who requests the Minister of Finance to amend the Tariff in line with the ITAC's recommendations. SARS is responsible for drafting the notices to amend the tariff, as well as for arranging for the publication of the notices in Government Gazettes.

Parts of the South African Tariff are not amended resulting from ITAC recommendations.

These parts (for example Parts of Schedule No 1 other than Part 1 of Schedule No. 1), must be amended through proposals that are tabled by the Minister of Finance, or when the Minister deems it expedient in the public interest to do so.

Once a year, big tariff amendments are published by SARS, which is in line with the commitments of South Africa and SACU under international trade agreements.

Under these amendments, which are either published in November or early in December, the import duties on goods are reduced under South Africa's international trade commitments under existing trade agreements.

The latest amendments to the Southern African Customs Union Tariff (CET) were sent to LexisNexis subscribers under cover of Supplement No. 1117.

There were two sets of amendments.

Under the first amendment, the rate of duty on tinplate classifiable under HS tariff subheadings 7210.11, 7210.12.10, 7210.10.90 and 7212.10 have been increased as recommended in ITAC Report No. 606.

The amendment was published on 16 August 2019 under Notice R. 1075 in *Government Gazette* No. 42640.

Under the second amendment, rebate item 460.03/0207.14.9/01.07 has been amended to increase the annual quota for bone-in cuts of the species *Gallus Domesticus*, frozen and imported from or originating in the United State of America as recommended in ITAC Minute M02/2019.

The amendment was published on 23 August 2019 under Notices R. 1103 in *Government Gazette* No. 42658.

Customs Rule Amendments

The Customs and Excise Act is amended by the Minister of Finance. Certain provisions of the Act are supported by Customs and Excise Rules, which are prescribed by the Commission of SARS. These provisions are numbered in accordance with the sections of the Act. The rules are more user-friendly than the Act, and help to define provisions which would otherwise be unclear and difficult to interpret.

Forms are also prescribed by rule, and are published in the Schedule to the Rules.

There were no amendments to the rules to the Customs and Excise Act at the time of publication.

The latest amendment to the Rules was published in *Government Gazette* No. 42621 of 8 August under Notice No. R. 1042. Under this amendment form DA 1 in respect of the inward/outward movement of ships was amended.

The reference number for that amendment was DAR/186.

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