



Latest News

PROPOSED UPDATES TO SOUTH AFRICA'S CUSTOMS & EXCISE LEGISLATION

Various documents have been published on the website of the South African Revenue Service Customs and Excise division.

Under the first draft amendment, notice is given that SARS Customs intends to amend the rules to Section 49 relating to trade agreements to improve the administration of trade agreements.

The regulations will be amended to provide that registered exporters must submit SADC Certificates of Origin (SCO) and that the Declaration by the Producer referred to in Appendix III to Annex I in Part B of the General Notes to Schedule No. 1 "shall, where the exporter is not the producer, be submitted by the exporter together with a copy thereof in support of the application for the SCO as referred to in 49B.10(9)1".

The Commissioner for SARS also intends to amend the Rules to section 38 in relation to the Unique Consignment Reference (UCR), which is a unique reference number assigned to a consignment of goods for the purpose of tracking the goods throughout the supply chain from origin to destination. Notice is given of the intention to amend current UCR to a Southern African Customs Union (SACU) specific UCR which will create a platform for exchange of Customs information between SARS Customs and the Customs Administration of Botswana, the Botswana Unified Revenue Service (BURS).

Comments on both the draft documents are due on 22 July 2019. View the updates at <https://www.sars.gov.za/Legal/Preparation-of-Legislation/Pages/Draft-Documents-for-Public-Comment.aspx>.

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.

There were no applications to amend the Southern African Customs Union (SACU) Tariff at the time of publication.

The latest application (List 04/2019) was published under Notice No. 334 of 2019 which was published in *Government Gazette* 42536 of 21 June 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.

There were three amendments to the Common External Tariff of the Southern African Customs Union at the time of publication. The notices were published on Friday 12 July 2019 under Notices R. 984 to R. 986 in *Government Gazette* No. 42577.

Under the first notice (Notice R. 984) the rates of duty on distributors and ignition coils identifiable for use solely or principally with motor vehicles, engines, classifiable under tariff subheading 8511.30.30 is reduced as recommended in ITAC Report 568.

The rates of duty on certain tubes, pipes and hollow profiles, seamless, of iron (excluding cast iron) or steel, classifiable under various subheadings of Chapter 73 has also been increased as recommended in ITAC Report 601.

Under Notice R. 986, the rates of anti-dumping duty on garden spades and shovels, rakes and picks originating in or imported from the People's Republic of China (PRC) have been amended as recommended in ITAC Report 602.

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. 42530 of 14 June 2019. This amendment related to the compulsory tariff determinations on wine.

The reference number for that amendment was DAR/185.

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