



Latest News

HOW THE NEW CUSTOMS ACTS PROGRAMME WILL ASSIST SA COMPANIES TO DEVELOP ECONOMICALLY

The roles of Customs have changed substantially over the last couple of decades.



If one looks at the image above, you will notice that Customs administrations were originally collectors of import duties.

In addition, to their role as collectors of Customs (import) duties, Customs administrations have traditionally also been responsible for implementing a wide range of policies relating to the importation of goods (often on behalf of other government departments).

The role of Customs administrations has changed significantly due to several issues and incidents. The priorities in some countries are also more different now than in the past. Customs administrations are no longer working in isolation, but they are forming partners with other customs administrations, and on a national basis they are working closely with the trading community and other government departments, for example as illustrated by the national single window systems.

Changes and different responses in different countries reflect international trends and how they impact on individual governments. These different responses have nevertheless been aligned to international instruments that have been developed by the World Trade Organization (WTO), World Customs Organization (WCO) and other international bodies through global standards and best practices.

The image highlights the shift in priorities by Customs administrations, as well as the priority for Customs administrations in 2018 as recommended by the World Customs Administration for International Customs Day which was celebrated on 26 January 2018.

SARS priorities for 2018 and beyond are as follows:

SARS Customs will use the New Customs Acts Programme (NCAP) to foster economic development.

One of the prerequisites for economic development is a secure business environment. SARS Customs believes their administration and customs modernization initiatives that have been introduced over the last couple of years provides a secure environment for economic development.

Although the new Customs Acts (the Customs Control Act, No. 30 of 2014 and the Customs Duty Act, No. 31 of 2014) must still take effect, the current Customs and Excise Act, No. 91 of 1964 and the Rules thereto have been updated to provide for modern customs policy, processes, systems and procedures.

SARS acknowledges that their priorities have changed, and that revenue collection alone is not enough in the interest of economic development but also:

- Modern techniques to expedite cross-border trade (and obviously customs clearance and the release of goods); and
- To prevent the trafficking in illicit goods.

This is to be achieved through a balanced approach towards customs control, supply chain security and trade facilitation.

On International Customs Day, SARS undertook to provide a secure business environment for businesses through the New Customs Acts Programme (NCAP), by:

- Enabling the environment for business to thrive;
- Making the business environment safer; and
- Making the business environment fair and sustainable

The Secretary General of the World Customs Organization, Mr Kunio Mikuriya said: "By 'secure', we mean an environment that is enabling, safe, fair and sustainable, all wrapped into one. Such an environment will help businesses, especially micro, small and medium-sized enterprises (MSMEs), to expand their activities and create incentives for them to participate more fully in international trade, as well as encourage them to innovate, generate employment and invest in human resources, thereby boosting economic growth and raising living standards."

According to SARS Customs they are still committed to introduce the New Customs Acts. In their opinion the implementation of the New Customs Acts, the NCAP and interim Customs modernization techniques provides the trading community with a predictable, automated and trade facilitative value proposition, by introducing an efficient and transparent control environment that is beneficial for legitimate trade while applying stringent enforcement regimes for non-compliant traders.

The then Commissioner, Mr Tom Moyane said: "As part of our wider mandate SARS plays an important role in expediting legitimate cross border trade and travel activities while disrupting harmful illicit trade activities. We have sought to improve our efficiencies and reinforce our risk management capabilities."

The image below sets out the latest timelines for SARS' customs modernization initiatives:



Download the presentation at:

<http://www.sars.gov.za/Media/Documents/International%20Customs%20Day%20NCAP.pptx>

Customs Draft Amendments

There are currently no draft documents for comments.

It is however important to note that the SARS Reporting and Conveyance of Goods (RCG) as referred to in NCAP will go live today, 20 April 2018.

A SARS page has been dedicated to the initiative.

RCG will be building on the foundations laid by SARS' current Manifest Processing (MPR) system. It will be the first component to be delivered under NCAP.

Visit the RCG page on the SARS website for background information and for an update on the rollout of RCG.

The RCG page is at <http://www.sars.gov.za/ClientSegments/Customs-Excise/AboutCustoms/Pages/Reporting-of-Conveyances-and-Goods.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 duty 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 applications to amend the SACU Tariff were published as Customs Tariff Application List 02 of 2018 in Government Gazette No. 41989 of 16 March 2018.

The applications to amend the Common External Tariff (CET) of the Southern African Customs Union (SACU) were published under Notice 136 of 2018, and comments were due by the 3rd and the 13th April 2018:

Enquiries regarding the applications should be directed to the following persons:

- exemption of safeguard duties on hot-rolled steel products - Mr Pirelo Phaswana and/or Mr Njabulo Mahlalela at tel (012) 394 3628 or (012) 394 3684 or at e-mail addresses pphaswana@itac.org.za or nmahlalela@itac.org.za;
- regarding the reduction in the rate of duty on LLDPE - Ms Elizabeth Kekana (e-mail ekekana@itac.org.za) or fax (012) 394 4668 or Mr Nkulana Phenyia (e-mail nphenya@itac.org.za) or fax (012) 394 4677; and
- regarding the paper increase - Ms M Masithela (e-mail mmasithela@itac.org.za) at telephone (012) 394 3682, Mr O Maitlo (e-mail omaitlo@itac.org.za) at telephone (012) 394 3692 and/or Mr J Mtinkulu (e-mail jmtinkulu@itac.org.za) at telephone (012) 394 3691.

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 is 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 no tariff amendments at the time of publication.

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, 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.

The Rules to the Customs and Excise Act, 1964, were amended to provide for Rules to the Health Promotion Levy. Various forms have also been amended.

The amendments were published in Notice No. R.341 in Government Gazette No. 41515. The SARS reference number for the Rule amendments is DAR/172.

Contact Us

Havandren Nadassan
Jacobsens Editor
Phone: 031 268 9510
jacobsens@lexisnexis.co.za

Leon Marais
Independent Customs
Consultant
Phone: 053 203 0727
leon@itacs.co.za