



Latest News

The World After 9/11

11 September 2018 marked 17 years since the September 11 (9/11) Twin Tower attacks. The entire world changed dramatically since that horrible day.

According to Eyewitness News only 1642 of the people that died in the attacks have been formally identified. As you are reading this article, a team in a New York lab is still working to identify the remains of more the 1100 people. This process is repeated daily.

The immediate actions of America following the attacks – and in many instances the rest of the world against the Muslim community – soon led to a tide of anti-Americanism.

The political landscape changed dramatically, and there was a new focus on the fight against global terrorism.

A lot has been said about the political impact of the 9/11 attacks, but the global community is less familiar with the impact of 9/11 on trade.

Immediately after the attacks, trade almost came to a standstill. Although terrorists were detained for possible terrorist attacks in the United States prior to the 9/11 attacks, Customs administrations never really focussed on terrorism. It was only after 9/11 that customs controls dealing with national security were introduced through the WCO SAFE Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework). In the United States several initiatives such as the Container Security Initiative (CSI), Customs-Trade Partnership Against Terrorism and the 24-Hour Rule were introduced.

Modern customs legislation provides for co-operation between Customs administrations, Customs and Trade, and Customs administrations with other government agencies, with a view to facilitate trade for the purposes of economic development, but also for the purposes of compliance and to counter terrorism involving supply chains. Therefore, and because the fight against terrorism is a global one, many other Customs administrations also introduced programmes similar to that of the United States.

It is estimated that delays in the supply chain adds another 10% to transactions costs. In many instances it is even higher. This is unfortunately the case in South Africa in the case of scanning containers.

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 Customs Tariff of the Southern African Customs Union at the time of publication.

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 time of publication. The latest tariff amendments were published in a Government Gazette of 31 August 2018.

The loose-leaf amendments were sent to subscribers under cover of Supplement 1108.

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 Customs and Excise Rules at the time of publication. The latest amendment to the Customs and Excise Rules (DAR 177) was published in Government Gazette No. 41798 of 27 July 2018.

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