



## Latest News

### TREASURY PUBLISHES EXPLANATORY SUMMARY OF CUSTOMS AND EXCISE AMENDMENT BILL

The National Treasury published an explanatory summary of the Customs and Excise Amendment Bill under Notice No. 60 of 2019 in *Government Gazette* No. 42216 of 5 February 2019. The notice was published to give notice (in terms of the Rules of the National Assembly) that the Minister of Finance intends to introduce the Customs and Excise Amendment Bill shortly.

Reference is made in the Bill to the objectives of the Carbon Tax Bill which will become the Carbon Tax Act when it takes effect on 1 June 2019.

The objectives of the Carbon Tax Bill are to:

- insert a new provision for the purpose of the administration of allowance in relation to the Carbon Tax Bill, to be introduced in the National Assembly on the same date;
- require that a taxpayer as defined in the Carbon Tax Bill must license premises as may be prescribed by rule;
- regulate actions pertaining to submission and verification of accounts, collection and payment of the carbon tax; and
- allow the Commissioner to make rules insofar as it is necessary to regulate duties, powers and rights not regulated by the Carbon Tax Bill in relation to collection and payment of the carbon tax and provide for matters connected therewith.

## 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 for amendments to the SACU Common External Tariff at the time of publication.

List 10/2018 was published under Notice No. 802 of 2018, in *Government Gazette* No. 42100 of 14 December 2018.

On 1 February 2019, ITAC published a document titled "GUIDELINES PERTAINING TO A TEMPORARY REBATE PROVISION WHICH PROVIDES FOR REBATE OF THE FULL ANTI-DUMPING DUTY ON BONE-IN CUTS OF THE SPECIES *GALLUS DOMESTICUS*, FROZEN, CLASSIFIABLE IN TARIFF SUBHEADING 0207.14.9 AND IMPORTED FROM OR ORIGINATING IN THE UNITED STATES OF AMERICA .." under Notice No. 54 of 2019 which was published in *Government Gazette* No. 42203.

## 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 customs duty on sugar classifiable in HS tariff subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99, has been increased from 369.57c/kg to 401.79c/kg in terms of the existing variable tariff formula as recommended in ITAC Minute M13/2018.

The publication details are as follows: *Government Gazette* No. 42232 and *Government Notice* No. R.176. The SARS reference number for the amendment is 1/1/1615.

There was also an amendment to Part 3 of Schedule No. 2, by the insertion of safeguard item 260.03/7318.15.39/01.08, to implement a safeguard duty of 50.54% on other screws fully threaded with hexagon heads – ITAC Report 596.

The publication details are as follows: *Government Gazette* No. 42232 and *Government Notice* No. R.177. The SARS reference number for the amendment is 2/3/35.

## 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 Rule amendments at the time of publication. The latest rule amendments were published in *Government Gazette* No. 42218 of 8 February 2019. (Refer to the Bulletin of 8 February 2019 for more information).

The SARS reference number for the last Rule amendment was DAR 180.

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