



Latest News

EXPECTED CHANGES TO THE SOUTHERN AFRICAN CUSTOMS UNION COMMON EXTERNAL TARIFF (SACU CET) FOR 2019

Traders and professionals need to plan for the year ahead. Normally the notices to give effect to the commitments of the Southern African Customs Union (SACU) under international trade agreements they are party to are published at the end of November or at the end of the first week of December to assist services providers to update their electronic tariffs.

At the time of publication, the Southern African Customs Union (SACU) Common External Tariff changes for 2019, of which the reductions in Customs Duty rates for goods imported from the European Union under the EU/SADC Economic Partnership Agreement (EPA) will be the dominating part, had yet to be published.

Draft notices were published for comments by 1 October 2018 on the SARS website. Although comments have been taken into account and the notices may look slightly different now, the notices give a good indication of what is to be expected with effect from 1 January 2019.

The (expected) changes are summarised in the [Explanatory Memorandum](#).

As usual for this time of the year, there will also be technical amendments to the Tariff, for example new eight-digit subheadings will be created:

- for liquid sugar, classifiable under tariff subheading 1702.90 to enable the industry to closely monitor the movement of sugar syrup cane;
- under tariff subheading 3824.78 to provide for specific mixtures containing halogenated derivatives of methane, ethane or propane, to enable the Department of Environmental Affairs (DEA) and Government at large to monitor and control the consumption of ozone depleting substances (ODS) and HFCs more effectively. (The DEA also requested that the 8-digit subheadings on ODS classifiable under subheadings 3824.71, 3824.72, 3824.73, 3824.74 and 3824.79 be deleted to simplify the tariff. According to trade data there were no imports under these subheadings. (Some of these subheadings are listed in Schedule No. 2 of ITAC's Import and Export Control Regulations, and the deletion of these subheadings will also lead to the amendment of the ITAC Import and Export Control Regulations).
- More eight-digit subheadings will possibly also be created for subheadings 3920.62.10 (which already is an 8-digit subheading, and it will thus be modified to 3920.62.11 and 3920.62.19), 5404.19, 6212.12, 6401.99, 7210.41, 7210.49, 7210.61, 7210.70, 7210.90, 7225.92, 7217.30, 7229.90, 7308.90.90 (which will possibly be modified), 8450.20, 8548.10, 8507.10.05 and 8507.10.10 (to be combined and 8-digit subheadings to be modified).
- Consequential to the modification of these subheadings, there will also be technical amendments to other parts of the SACU Tariff.

In total the notices should be around 19 pages, of which Part 1 of Schedule No. 1 comprises 12 pages (4 pages for deletions, 4 pages for insertions of new or modified 8-digit subheadings) and 4 pages of reductions in duty rates on goods imported from the EU.

Visit <http://www.sars.gov.za/Legal/Preparation-of-Legislation/Pages/Draft-Documents-for-Public-Comment.aspx> and scroll down to 1 October 2018 for more information on the expected changes.

LexisNexis will notify subscribers through the Bulletin and Customs Watch as soon as the amendments are published.

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 09/2018 was published under Notice No. 760 of 2018, in *Government Gazette* No. 42068 of 30 November 2018. Comments on this application are due by Friday 28 December 2018.

View last week's Bulletin for more information.

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 no tariff amendments at the time of publication.

The latest amendments to the Common External Tariff (CET) of the Southern African Customs Union (SACU) were published in *Government Gazette* No. 42064 of 30 November 2018.

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.

The Southern African Customs Union Unique Consignment Reference (SACU UCR) was introduced through that amendment.

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