



## Latest News

### SARS' CUSTOMS SUFFICIENT KNOWLEDGE (CSK) TAKES EFFECT

The SARS Customs Sufficient Knowledge (CSK) initiative officially took effect at midnight on Friday 11 May 2018. It is anticipated that the Customs Control Act, (Act No. 31 of 2014), and the Customs Duty Act, (Act No. 30 of 2014), will take effect later this year, or early in 2019. A lot of work is required to ensure a smooth transition to the implementation of the New Customs Acts. SARS therefore decided to roll out the Customs Modernization Programme in South Africa in various phases, to ensure a smooth transition to the implementation of the new Customs Acts.

It was initially decided to focus on the Registration, Licencing and Accreditation of all client types under the new Customs Acts, but this approach was later reconsidered, and it was decided to rather focus on selected clients first.

Section 942A of the Customs Control Act, 2014, provides that certain powers may be exercised before the effective date of the new legislation to facilitate a smooth transition to the new legislation. The provisions of this section specifically deal with registration, licencing and accreditation of clients under the new Acts, including existing Customs clients. This is linked to the requirement that clients must have "Sufficient Customs Knowledge" before they can transact under the new Customs Act, for which the successful completion of a Sufficient Knowledge Test is a requirement.

Various amendments to the Rules to Section 64E of the Customs and Excise Act, 1964, which deals with accreditation of Customs clients, were published under Notice R. 430 in *Government Gazette* 41577 of 20 April 2018 to implement CSK.

The CSK coincides with the roll-out of the Reporting of Conveyances and Goods, or "RCG" in terms of which the Rules under section 8 of the Customs and Excise Act, 1964, were amended on 20 April 2018 to provide for "a cargo reporting system that comprises as many of the new requirements of Chapter 3 of the CCA as can be accommodated within the 1964 regime, according to SARS Customs.

The CSK will also be introduced in various phases. Phase 1 (Release 1) will deal with Customs Sufficient Knowledge Test for RCG clients only.

CSK for non-RCG will go live at a later stage.  
Refer to the CSK page for more information:  
<http://www.sars.gov.za/ClientSegments/Customs-Excise/AboutCustoms/Pages/Customs-Sufficient-Knowledge-Test-FAQs.aspx>

### Customs Draft Amendments: UCR

The concept of the Unique Consignment Reference (UCR) was introduced by the World Customs Organization (WCO) in 2004 as part of the WCO's Customs Modernization initiatives.

The WCO UCR is based on WCO's Customs Modernization initiatives and is based on principles to provide for trade facilitation.

The UCR was developed, considering the concept of Customs/Customs Co-operation, which is the first of ten approaches which has been identified by the WCO and Member administration as being part of the Customs Control/Trade Facilitation/Security Strategy of Customs in the 21st Century.

The International UCR recommendation contains references to most of the elements dealing with Customs administrations, namely good governance, the approach of Customs/Customs Co-operation (to ensure better Customs compliance and facilitation of legitimate trade), innovation and technology (modern logistics, inventory control, manufacturing and information and communication technology systems), development of new standards by the WCO and other bodies involved in trade facilitation (for example United Nations and its specialised agencies), and establishment of partnerships with the trade and other international bodies and governments.

The UCR concept was introduced in South Africa in Notice R. 725 of 11 June 2004, which was published in *Government Gazette* 26455. This notice introduced amendments to Rule 38.15 regarding Export declarations.

SARS Customs published Draft legislation to the Unique Consignment Reference (UCR).

According to SARS, the unique consignment reference (UCR) is assigned to a consignment of goods for tracking purposes throughout the supply chain from origin to destination.

The draft legislation is published to invite comments from stakeholders, and to give notice of SARS' intention to replace the current legislation pertaining to the UCR with a Southern African Customs Union (SACU) UCR, which will initially create a platform for exchange of customs information between SARS Customs and the customs administration of Swaziland. This will be followed by amendments to the UCR legislation with the administrations of Botswana, Lesotho and Namibia.

According to SARS, the purpose of the proposed SACU UCR is to link export and import declarations using a common reference, enabling data exchange and facilitating trade within the SACU region. The draft amendments provide for the generation, use and constitution of the UCR.

The proposed amendments also reflect closer co-operation between SACU Member States.

Download the Draft legislation from the SARS website at <http://www.sars.gov.za/Legal/Preparation-of-Legislation/Pages/Draft-Documents-for-Public-Comment.aspx>. Comments are due by 25 May 2018.

### 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 are currently no Customs Tariff Applications awaiting comments.

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 3 and 13 April 2018.

### 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.*

A notice has been published to abolish the anti-dumping duties on fully threaded screws with hexagonal heads originating in or imported from the People's Republic of China as recommended in ITAC Report 573.

Antidumping duty items 215.02/7318.15.39/01.08; 215.02/7318.15.39/02.08 and 215.02/7318.15.39/03.08 are deleted to give effect to the ITAC recommendation.

Notice No. R. 470 was published in *Government Gazette* 41605 of 4 May 2018.

Safeguard duties were imposed on 11 August 2017 to restrict the importation of certain steel products for a period of three years (up to and including 10 August 2020) to protect the domestic steel industry from cheap imports by imposing a safeguard duty on certain steel commodities.

Three notices were published to implement the recommendation in Report 551, namely Notices R. 829 to R. 831 which were published in *Government Gazette* No. 41038 of 11 August 2017.

In terms of the recommendation, the safeguard duty would have been reduced by 2% to 10% with effect from 11 August 2018 up to and including 10 August 2019, and by a further 2% to 8% on imports with effect from 11 August 2019 up to and including 10 August 2020.

ITAC made a recommendation in Report No. 575 that a provision be created under rebate item 460.15 to exempt flat-rolled products of other steel, of a width of 600 mm or more, classifiable in subheading 7225.99 from payment of the safeguard duty, subject to a permit from ITAC.

The rebate provision was published under Notice R.509 in *Government Gazette* No. 41633 of 18 May 2018.

The original Notices which introduced the safeguard duties for the respective periods have been amended by Notices R. 506 to R. 508 dated 18 May 2018 to exclude steel products that qualify for the rebate provision from payment of the safeguard duties.

The loose-leaf amendments will be sent to subscribers under cover of Supplement 1104.

### 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.*

The Customs and Excise Rules dealing with section 8 of the Customs and Excise Act, 1964 have been amended to implement the Reporting and Conveyance of Goods (RCG) as referred to in SARS' NCAP which was introduced on 20 April 2018.

RCG will be building on the foundations laid by SARS's current Manifest Processing (MPR) system, RCG is the first component to be delivered under NCAP, Forms DA 8, DA 8A, DA 8B and DA 8C in respect of the different transport modes have also been amended. Notice R. 429 was published in *Government Gazette* 41577 of 20 April 2018.

Rule 47.03(a)(v) has also been amended to extend the time period for applications for compulsory tariff determinations in respect of wine. Notice R. 431 which was published in *Government Gazette* 41577 of 20 April 2018 refers.

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