



Latest News

SA POST-BREXIT

British Prime Minister (PM) Theresa May visited three African Countries last week. According to Sky News the reason for the visit to South Africa, Nigeria and Kenya was part of the UK's strategy to re-orientate post-Brexit Britain to fast-growing economies.

Theresa May's visit was the first visit to Sub-Saharan Africa countries by a British head of State in 5 years.

From the beginning of the visit on Tuesday 28 August in Cape Town the PM made a clear that she had huge plans for the strengthening of UK's ties with traditional trading partners. In Cape Town the PM said: "As leader of a trading nation whose success depends on global markets, I want to see strong African economies that British companies can do business with in a free and fair fashion".

When I became aware of the visit on Friday 24 August 2018, I wondered how relationships with SACU as a group will be affected by the Prime Minister's visit, because neither South Africa nor any of the other SACU Countries, may enter into trade agreements with other countries as individual countries since the 2002 SACU Agreement entered into force.

My concerns were soon addressed by the PM on Tuesday morning.

Britain's first post-Brexit trade deal has been outlined by PM Theresa May as she committed the UK to provide an extra £4 billion of investment in African economies.

Theresa May further said that the UK Government intends to carry over the EU's economic partnership agreement, the SADC EPA with Mozambique and the Southern African Customs Union (SACU), Botswana, Eswatini (previously Swaziland), Lesotho, Namibia and South Africa.

During her speech in Cape Town the British Prime Minister also explained in detail how the UK plans to use its aid budget in the "national interest", encourage private firms to invest in Africa and assist to offer security and jobs to stabilise African economies.

May said an additional £4 billion of UK investment aimed to "pave the way" for private sector financing, as part of the UK Government's ambition to overtake the United States as the G7's top investor in Africa.

The UK Government believes helping young people in Africa secure jobs will stabilise the economy of their country while also reducing the likelihood of them undertaking risky journeys to Europe.

On the same occasion, May said: "Whether through creating new customers for British exporters or opportunities for British investors, our integrated global economy means healthy African economies are good news for British people as well as African people. That's why I am delighted that we will today confirm plans to carry over the European Union's Economic Partnership Agreement with the Southern African Customs Union and Mozambique once the EU's deal no longer applies to the UK."

Britain's overseas aid budget totalled £13.9 billion in 2017, an increase of £555 million from 2016.

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.

The following amendments to the SACU Common External Tariff were published on Friday 31 August 2018:

Temporary rebate of Customs Duty: Subheadings 7208.51 and 7225.40

Provision has been made in Part 2 of Schedule No. 4 for rebate items 460.15/7208.51/01.06 and 460.15/7225.40/01.06 in order to create a rebate facility for the importation of certain hot-rolled carbon steel plates classifiable in tariff subheadings 7208.51 and 7225.40 to be imported into SACU as recommended in ITAC Report No. 577. The effect of these amendments will be that the safeguard duties on these commodities will be suspended.

The provisions will provide manufacturers with the opportunity to import the products in question without payment of the safeguard duty subject to certain conditions, which includes a permit from a government body (in this case from the International Trade Administration Commission of South Africa).

ITAC recommended in Report No. 551 that safeguard duties be imposed on certain flat hot-rolled steel products classifiable under heading 72.08 and subheadings 7211.19, 7225.30, 7225.40, 7225.91 and 7225.99 to take remedial action against a surge of imports on the products in question. The notice to implement the recommendation took effect on 11 August 2017. Since safeguard duties are temporary measures, they must be phased out over a period of three years. The first year has since lapsed, and two notices have been published to excluded goods of the newly created rebate items, as well as rebate items that have been created before from payment of the safeguard duty in Part 3 of Schedule No. 2.

Two notices have thus been published to amend the safeguard duty provisions by making reference to the new rebate provisions with effect from 31 August 2018 up to and including 10 August 2019, and then with effect from 11 August 2019 until the safeguard duty provisions expire on 10 August 2020.

Also see *Government Gazette* Notice No. 901 which was published by ITAC in *Government Gazette* No. 41870 of 31 August 2018.

Under this notice, ITAC invites importers/manufacturers to submit rebate permit applications in respect of rebate provisions listed in the Notice. It includes many of the rebate items on hot-rolled steel products on which safeguard duties and customs duties apply.

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The loose-leaf amendments will be 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.

The Rules to Section 38 of the Customs and Excise Act, Act 91 of 1964, was amended by the insertion of Rule 38.14A in the Rules to Section 38 (dealing with Customs Clearance) to provide for the Southern African Customs Union Unique Consignment Reference (SACU UCR).

This is an effort of the Customs authorities in Southern Africa to align their Customs procedures with the standards of the World Customs Organization (WCO), and is in line with efforts to harmonise procedure in the SACU which have not been aligned before.

The amendment (DAR 177) was published in *Government Gazette* No. 41798 of 27 July 2018

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