

EXPLANATORY MEMORANDUM

AMENDMENT TO THE SOUTH AFRICAN HS TARIFF FOR 1 JANUARY 2009

The amendments to the Schedules of the Customs and Excise Act, 1964, are scheduled for implementation **with effect from 1 January 2009**.

The amendments include the following:

1. The phase-down of duties in terms of the free trade agreement with the EU

The phase-down of duties in terms of the EU agreement relates to Annex III List 3, List 4 and List 5 for industrial products and Annex VI List 3 for agricultural products.

It should be noted that the products of Section XI in Schedule No. 1 Part 1 listed in Annex III List 5 of the EU agreement as “textile clothing”, “textile fabrics” and “textile household” have reached a stand-still in their phase-downs provided that the goods listed have a preference margin of 40% if they originate in the EU.

2. The phase-down of duties in terms of the free trade agreement with EFTA

The SACU/EFTA free trade agreement **came into effect on 1 May 2008**.

In terms of Article 4 paragraph 2 to Annex IV and paragraph 6 to Annex VII of the SACU/EFTA trade agreement, the reference date for tariff reduction is **1 January 2006**. This reference date is not affected by the actual entry into force of the Agreement.

The phase-down of duties in terms of the EFTA agreement relates to the following:

- Fish and other marine products in Annex IV, table 3 categorised as List 4;
- Industrial products in Annex VII., table I categorised as List 3, List 4 and List 5;
- Agricultural products in Annex VII, table 2 categorised as List 4 and List 5; and
- Agricultural products in Annex I of the Agricultural agreement between the SACU States and Switzerland, table I categorised as List 3.

2.

3. **The phase-down of duties in terms of the free trade agreement with SADC**

The final phase-downs in terms of the SADC free trade agreement were implemented on 1 January 2008.

4. **The phase-down of duties in terms of MIDP**

The phase-down of duties in terms of the recommendations made by the International Trade Administration Commission in Report No. 35 pertaining to the Motor Industry Development Programme (MIDP) includes the following:

- The general rate of duty on light motor vehicles as listed in Report No. 35 is reduced to 28% **with effect from 1 January 2009**.
- The rates of duty on original equipment components of Chapter 98 are reduced to 23% **with effect from 1 January 2009**.
- In Note 16(v) to rebate item 317.04, the value of import rebate credit certificates shall be restricted to 70 per cent of the certificate **with effect from 1 January 2009**.

5. **Reduction in the rate of duty on paper and paperboard**

The reduction in the general rate of duty on paper and paperboard of Chapter 48 in terms of the recommendations made by the International Trade Administration Commission in Report No. 151.

The reductions of the general rates of duty for 2009 are as follows:

- (i) 4808.20, 4816.10 and 4816.20 are reduced to 3,8%;
- (ii) 4802.54.90, 4802.55.90, 4802.56.90, 4802.57.90, 4802.58.90, 4802.61.90, 4802.62.90, 4802.69.90, 4810.13.20, 4810.14.10, 4810.19.10, 4810.22.10, 4810.29.10, 4810.31.10, 4810.32.10, 4810.39.10, 4810.92.10, 4810.99.10, 4811.10.10, 4811.41.10, 4811.49.10, 4811.51.10, 4811.59.10, 4811.60.10 and 4811.90.10 are reduced to 5,7%
- (iii) 4811.41.90 is reduced to 12%

6. Technical amendments to the Schedules of the Act

- 6.1 Additional Note 1 to Chapter 27 provides for the technical specifications and the common usage of the petroleum products included in the Schedules to the Act.

Specifications pertaining to petroleum products changes with time and since the last revision of these notes were done nearly 10 years ago, as a consequence, SARS undertook the revision of the existing notes.

- 6.2 In terms of the Agricultural agreement between SACU States and Switzerland the rates of duty on dried meat of heading 02.10 and cheese of heading 04.06 shall be eliminated within the limits of an annual quota.

In order for SARS to automate the control of the products subject to quotas applicable to Switzerland it is necessary to create separate subheadings.

Additional subheadings are also inserted for cheddar and Gouda cheese for future administrative purposes.

These amendments have no effect on the rates of duty applicable to the subject products.

- 6.3 Deletion of 8-digit provision for Sweet corn (*Zea mays var. saccharata*) under subheading 0711.59. This subheading was created in 2007 in line with the specific products listed in Annex VII table 2, List 6 of the EFTA agreement.

However, the subheading is technically not under the correct 6-digit category. It should be noted that there is currently no preferential rate of duty applicable to this specific product as listed in the EFTA agreement and as a consequence, subheadings 0711.59.10 and 0711.59.90 are deleted.

- 6.4 Request for amendment of the description of tariff heading 3301.90.80 received from the International Trade Administration Commission (the Commission).

4.

The Commission requested SARS to align the wording of subheading 3301.90.80 with the then Board on Tariffs and Trade's intentions to protect the local producers of the fruits of the genus *Capsicum* as stipulated in Report No. 3895. The subheading should apply to "extracted oleoresins, of a kind used in the food industry, obtained from the extraction of fruits of the genus *Capsicum*".

The botanical reference will reflect the then Board on Tariffs and Trade's intention and will improve the administration of the subheading and SARS, therefore, supports the Commission's request.

- 6.5 Note 8 to Schedule No. 5 stipulates that the provisions of item 534.00 shall not apply in respect of goods provided for in item 412.19 of Schedule No. 4 when intended for the purpose specified in the item.

Item 412.19 in Schedule No. 4 has been deleted in October 1998 and the reference thereto in Note 8 to Schedule No. 5 no longer serves any purpose. As a consequence Note 8 is deleted but the number will be retained for future use.

- 6.7 A typographical error in Note 7(d)(i) is rectified. The reference to paragraph "(b)(iii)(aa)" where it appears in Note 7(d)(i) is substituted with a reference to paragraph "(c)(ii)(aa)".

**CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 6 (No. 6/13)**

Under section 75 of the Customs and Excise Act, 1964, Part 3 of Schedule No. 6 to the said Act is hereby amended, **with effect from 1 January 2009**, to the extent set out in the Schedule hereto.

**N NENE
DEPUTY MINISTER OF FINANCE**

SCHEDULE

By the substitution for Note 7(d)(i) in Part 3 of Schedule No. 6 of the following:

NOTES:

7(d)(i) payable
Accident
month prior to
the date of the examination contemplated in paragraph (c)(ii)(aa) to this Note.

For the purposes of section 75(11A), the licensee of the customs and excise manufacturing warehouse must produce proof of the fuel levy and Road Accident Fund levy paid or payable on the goods returned for reprocessing or destruction in accordance with the provisions of this item and, if the licensee is unable to produce such proof, the fuel levy and Road Accident Fund levy on any quantity so returned shall be calculated at the lowest rate of fuel levy and Road Accident Fund levy levied in terms of this Act on such goods during the month prior to the date of the examination contemplated in paragraph (c)(ii)(aa) to this Note.