

EXPLANATORY MEMORANDUM

AMENDMENTS FOR IMPLEMENTATION ON 1 JANUARY 2020

The draft amendments of the Schedules to the Customs and Excise Act, 1964, Act No. 91 (the Act), will be implemented **with effect from 1 January 2020**.

The amendments in Part 1 of Schedule No. 1 include –

Insertions:	48
Substitutions:	65

The proposed amendments are in respect of –

- the phase-down of the rates of duty for 2020 in terms of the Economic Partnership Agreement (EPA) between the European Union (EU) and the Southern African Development Community (SADC) EPA States in Part 1 of Schedule No. 1; and
- miscellaneous technical amendments in Part 1 Schedule No. 1 as well as Schedule Nos. 4, 5 and 6 to the Act .

1. The phase-down of duties in terms of EPA

In terms of the EPA which entered into force on 10 October 2016, South Africa has an obligation to amend the rates of duty on certain products listed in Part 1 of Schedule No. 1 to the Act on an annual basis, with effect from 1 January of a particular year.

The changes to the rates of customs duties in terms of EPA for 2019 relate to the following:

- 1.1 Fish classifiable in tariff subheadings 0302.13, 0302.14, 0303.14 and 0305.41, in Section A, Annex II, listed as staging category “B*” is reduced to a preference margin of 17 per cent of the most favoured nation (MFN) rate of duty; and
- 1.2 Fish in Chapters 3 and 16, in Section A, Annex II, listed as staging category “C*” is reduced to a preference margin of 50 per cent of the MFN rate of duty.

2. Technical amendment to the Schedules of the Act

2.1 Additional tariff subheadings in Part 1 of Schedule No. 1 to the Act

Additional tariff subheadings have been inserted in Chapters 8, 12, 13, 44, 48, 64, and 71 of Part 1 of Schedule No. 1 for the reasons indicated in the following subparagraphs:

2.1.1 Requests from the South African Pecan Nut Producers Association (SAPPA) for the creation of separate tariff subheadings to provide for Pecan Nuts

The Department of Economic Development in the Northern Cape are working with the South African Pecan Nut Producers Association (SAPPA) to develop a strategy to grow the exports of pecan nuts. SAPPA requested the creation of separate 8-digit tariff subheading for pecan nuts, classified in tariff subheading 0802.90. This will enable the industry to closely monitor the exports of pecan nuts.

The following tariff subheading is substituted with the following:

0802.90	Other:
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The following tariff subheadings are inserted:

0802.90.1	Pecan:
0802.90.11	In shell
0802.90.12	Shelled
0802.90.90	Other

2.1.2 Requests from the Western Cape Tourism, Trade and Investment Promotion Agency (WESGRO) for the creation of separate tariff subheadings for Rooibos tea

The Western Cape Government together with the South African Rooibos Council (SARC) are requesting for the creation of separate tariff subheadings for dried leaves and stems or extract from *Aspalathus linearis*, known as Rooibos tea leaves. The products in question are currently classifiable in tariff subheading 1212.99. The new 8-digit tariff subheadings will enable the industry to monitor volumes of trade in Rooibos products.

The following tariff subheading is substituted with the following:

1212.99	Other:
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The following tariff subheadings are inserted:

1212.99.1	<i>Aspalathus linearis</i> (Rooibos/Red Bush):
1212.99.11	Leaves and stems, dried, in immediate packings not exceeding 10 kg
1212.99.13	Other leaves and stems, dried
1212.99.19	Other
1212.99.90	Other

The following tariff subheading is inserted:

1302.19.14	Other, of the species <i>Aspalathus linearis</i> (Rooibos/Red Bush)
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2.1.3 Request from PG Bison (Pty) Ltd for the creation of new tariff subheadings for products classifiable in tariff subheadings 4410.11, 4411.12, 4411.13 and 4811.59

XA International Trade Advisors on behalf of PG Bison (Pty) Ltd (the Applicant) submitted a request for the creation of separate 8-digit tariff subheadings for particleboard, medium density fibreboard (MDF) and surface-decorated paper. These products are predominantly used in the construction and furniture sector.

The applicant motivated that the new 8-digit tariff subheadings will allow greater granularity and will enable the industry to monitor import trends into South Africa.

The following tariff subheadings are substituted with the following:

4410.11	Particle board:
4411.12	Of a thickness not exceeding 5 mm:
4411.13	Of a thickness exceeding 5 mm but not exceeding 9 mm:
4411.14	Of a thickness exceeding 9 mm:

The following tariff subheading is deleted:

4811.59.90	Other
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The following tariff subheadings will be inserted:

4410.11.10	Agglomerated into board, but not further worked than sanded
4410.11.20	Coated, covered or laminated
4410.11.90	Other
4411.12.10	Agglomerated into board, but not further worked than sanded
4411.12.20	Coated, covered or laminated
4411.12.90	Other

4411.13.10	Agglomerated into board, but not further worked than sanded
4411.13.20	Coated, covered or laminated
4411.13.90	Other
4411.14.10	Agglomerated into board, but not further worked than sanded
4411.14.20	Coated, covered or laminated
4411.14.90	Other

2.1.4 Request from the South African Footwear and Leather Industries Association for the creation of separate tariff subheadings for footwear classifiable in Chapter 64

The South African Footwear and Leather Industries Association (the applicant) with the Department of Trade and Industry requested the creation of separate tariff subheadings for footwear, classifiable in Chapter 64. The 8-digit tariff subheadings will assist in monitoring imports and trade data applicable to the footwear industry.

The tariff subheadings will be substituted with the following:

6402.99	Other:
6403.19	Other:

The tariff subheadings will be deleted

6404.19.90	Other:
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The following tariff subheadings will be inserted:

6402.99.10	With outer soles of polymers of vinyl chloride and uppers of polyurethane
6402.99.20	With outer soles of thermoplastic rubber and uppers of polyurethane
6402.99.30	With outer soles and uppers of polyurethane
6402.99.40	With outer soles of natural rubber and uppers of polyurethane
6402.99.50	With outer soles and uppers of polymers of vinyl chloride

6402.99.60	With outer soles of natural rubber and uppers of polymers of vinyl chloride
6402.99.70	With outer soles of polyurethane and uppers of polymers of vinyl chloride
6402.99.80	With outer soles of natural rubber and uppers of polymers of vinyl chloride
6402.99.90	Other
6403.19.02	Rugby or soccer shoes
6403.19.04	Cycling shoes
6403.19.06	Cricket shoes
6403.19.90	Other
6404.11.12	Rugby or soccer shoes
6404.11.14	Cycling shoes
6404.11.16	Cricket shoes
6404.19.9	Other:
6404.19.91	With outer soles of vinyl chloride and uppers of textile materials
6404.19.93	With outer soles of rubber and uppers of textile materials
6404.19.95	With outer soles of polyurethane and uppers of textile materials
6404.19.97	With outer soles of rubber and uppers of textile materials
6404.19.99	Other

2.1.5 Request from the Southern African Customs Union for the creation of 8-digit tariff subheadings in Chapter 71

The Southern African Customs Union (SACU) (requested the creation of separate tariff subheadings under tariff subheadings 7104.20 and 7104.90 to differentiate between rough or synthetic diamonds and other synthetic gemstone. This is a provisional measure until the introduction of the Harmonised System 2022 version. SACU motivated that this will ensure that international diamonds are not contaminated by undisclosed synthetics. It will also assist in the growth of national economies of SACU members.

The tariff subheadings will be substituted with the following:

7104.20	Other, unworked or simply sawn or roughly shaped:
7104.90	Other:

The following tariff subheadings will be inserted:

7104.20.10	Synthetic diamonds
7104.20.90	Other
7104.90.10	Synthetic diamonds
7104.90.90	Other

2.1.6 Amendment of General Note G to Schedule No. 1 to insert the abbreviation and symbol

The Carbon Tax Act, 2019, imposes an environmental levy on domestic greenhouse gas emissions. The base of the carbon tax is expressed as the carbon dioxide (CO²) **equivalent** of such emissions.

With the introduction by SARS of the carbon tax administration the need has been identified to create corresponding terminology in the Schedules to the Act. Hence, General Note G to Schedule No. 1 is amended to insert the abbreviation and symbol "CO²e" to mean CO² equivalent. Note G is amended to insert Note G.12 and Notes G.12 to G. 53 are renumbered to read as Notes G.13 to G.54.

The abbreviation of "t" as currently contained in General Note G is expanded to read as ton/tonne. The tonne is amended to align with the wording within the Carbon Tax Act.

2.2 AMENDMENT OF SCHEDULE NO. 4

2.2.1 Note 5 in Schedule No. 4 is being amended to substitute the reference to form DA 331 which was replaced with form TC-01 as published in Government Gazette No. 35259 dated 20 April 2012. Form TC-01 is a traveller card used by travellers at ports of entry to declare personal and household effects. Note 5 in Schedule No. 4 is amended to read as follows –

“5. For the purposes of items 409.00, 480.00 and 490.00:

- (a) Where any goods or vehicles are imported or re-imported, as the case may be, in terms of these items by a person who is required to declare goods in terms of section 15, that person means a "traveller" as defined in the rules for that section and as contemplated in form **TC-01**; and
- (b) in addition to the Notes to these items, such a traveller must comply with the requirements of section 15, the rules for that section and form **TC-01**.”

2.2.2 On 29 May 2019, the President of South Africa, Mr Cyril Ramaphosa issued a statement regarding the merging of Government departments. The different departments dealing with land are merged, for example, the Department of Agriculture, Forestry and Fisheries and the Department of Rural Development and Land Reform.

As a consequence of the merging of departments, rebate items 409.00, 460.01/03.04/01.04, 460.01/04.00/01.02, 460.01/04.09/01.04, 460.02/00.00/01.00, 460.02/1001.9/0105, 460.02/12.05/01.04, 460.03/0207.14.9/01.07 and 460.25 are being amended to change the name of a government department from the Department of Agriculture, Forestry and Fisheries to Department of Agriculture, Land Reform and Rural Development.

2.3 AMENDMENT OF SCHEDULE NO. 5

Provisions relating to the Motor Industry Development Programme (MIDP) were replaced with the Automotive Production and Development Programme (APDP) that came into effect on 1 January 2013. The provisions of MIDP were in place from 2005 up to and including 31 December 2012.

Refund items 537.00 and 537.02/87.00/01.02 are being deleted, as they were applicable to MIDP.

Refunds in terms of the MIDP were made valid after the introduction of APDP but only until 31 December 2018. Thus, refund items 537.00 and 537.02/87.00/01.02 were not immediately removed from the Schedules of the Act.

2.4 AMENDMENT OF SCHEDULE NO. 6

2.4.1 As per paragraph 2.2.2, the President of South Africa issued a statement on 29 May 2019 regarding the merging of Government departments.

Note (ij)(ii)(aa)(C) in Part 3 of Schedule No. 6 is being amended to change the name of a government department from the Department of Agriculture, Forestry and Fisheries to Department of the Environment, Forestry and Fisheries.

Note (l)(iii) in Part 3 of Schedule No. 6 is being amended to change the name of a government department from the Department of Mineral and Energy Affairs to Department of Mineral Resources and Energy.

2.4.2 Rebate items 672.01, 672.01/105.10/01.01 and 672.01/105.10/02.01 are being deleted as they have become redundant. The new multi-purpose products pipeline government project was in place until 31 March 2012.