

Dr Rob Davies, MP  
Minister of Trade and Industry  
Private Bag X84  
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Dear Minister

**MINUTE M06/2014: ANTI-DUMPING DUTIES ON NUTS ORIGINATING IN OR IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA (CHINA): AMENDMENT TO SCHEDULE 2 TO THE CUSTOMS AND EXCISE ACT**

During 2011, the Commission conducted a sunset review of the anti-dumping duties on hexagon nuts originating in or imported from China and recommended in its Report No. 362 that an anti-dumping duty of 122.7 per cent be imposed on hexagon nuts imported under the 6-digit tariff subheading 7318.16. SARS imposed the duty on 6 May 2011.

Recently, the Commission also recommended in its Report No. 453 that a new 8-digit tariff subheading be created for hexagon nuts and that the ordinary customs duty on these products be increased. The increase in the duty on hexagon nuts classifiable under a new tariff subheading 7318.16.30 in Part 1 of Schedule No. 1 was implemented on 7 March 2014.



However, previously on 29 November 2013, SARS decided to bring Schedule No. 2 into alignment with Schedule No. 1 Part 1, for the purpose of implementing the dumping duty on an 8-digit level. It therefore amended the tariff subheading which is subject to the anti-dumping duty to the 8-digit level of 7318.16, i.e. tariff subheading 7318.16.90 (other nuts). This amendment came into effect on 1 March 2014.

The result of the change effected by SARS is therefore that hexagon nuts classifiable under the newly created 8-digit level are no longer subject to the anti-dumping duties, as SARS unfortunately never brought Schedule No. 2 into alignment with the new 8-digit tariff subheading 7318.16.30, specifically created for hexagon nuts.

SARS was advised of the situation and requested to rectify the problem in order to effectively collect the anti-dumping duties and therefore provide the domestic industry with the intended protection against dumped imports.

SARS however indicated that according to section 56 of the Customs and Excise Act, the Minister of Finance is not in a position to amend Schedule No. 2 unless he receives a request to do so from the Minister of Trade and Industry. SARS therefore requested that the Commission recommend to the Minister of Trade and Industry that Schedule 2 to the Customs and Excise Act be amended, by replacing the reference therein from tariff subheading 7318.16.90 to tariff subheading 7318.16.30, thereby enabling the collection of the anti-dumping duty.

SARS further advised that it is also not in a position to amend Schedule No. 2 with retrospective effect, as Section 56 only provides, following a request from the Minister of Trade and Industry, for a withdrawal or reduction with or without retrospective effect and that all other amendments would only be effective from the date of the amendment.



In the light of the foregoing, the Commission recommends that the recommendation contained in its Report No. 362 be amended to make provision for the collection of the anti-dumping duties by substituting tariff subheading 7318.16 in its original recommendation, for tariff subheading 7318.16.30.

Yours sincerely



**Siyabulela Tsengiwe**  
Chief Commissioner

Date: 18/11/2014

