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Dear Minister

**MINUTE M10/2015: REBATES APPLICABLE TO ANTI-DUMPING DUTIES,
COUNTERVAILING DUTIES, SAFEGUARD DUTIES AND QUOTAS**

Section 55(4) of the Customs and Excise Act, 91 of 1964 (“the Act”) provides that:

“An anti-dumping, countervailing or safeguard duty or quota imposed under the provision of this Chapter shall not apply to any goods entered under the provisions of any item specified in Schedules No. 3 and 4 (the rebate provisions) unless such item is specified in Schedule No. 2 (the trade remedy provisions) in respect of such goods.”

This position is reiterated in Schedule 2 to the Act dealing with anti-dumping (Part 1), countervailing (Part 2) and safeguard duties (Part 3 of Schedule 2) in Note 2 of each Part. These Notes read as follows:

- Part 1: “2. Anti-dumping duties provided for in this Part in respect of any goods, shall also apply to such goods entered under any item of Schedule No. 3 or 4 specified in the Column headed “Rebate Items” of this Part;
- Part 2: “2. The countervailing duties provided for in this Part in respect of any goods, shall also apply to such goods entered under any item of Schedule No. 3 or 4 specified in the Column headed “Extent of rebate” of this part”; and

- Part 3: “2. The safeguard duties provided for in this Part in respect of any goods, shall also apply to such goods entered under any item of Schedule No. 3 or 4 specified in the Column headed “Extent of rebate” of this part”.

The effect of the abovementioned is that goods liable to anti-dumping, countervailing and safeguard duties, imported under rebate items that are not listed in the rebate column in the relevant parts of Schedule No. 2, may be imported under rebate of duty without payment of the duties. Rebate provisions 301.00 – 399.00 and rebate items 401.00 – 499.00, are not listed in the rebate column of Schedule No. 2. The Commission is concerned that duties levied against unfair trade practices may be rebated under Schedules 3 and 4 of the Customs and Excise Act. The protection afforded to manufacturing and agricultural enterprises against unfair trade practices could be eroded. ITAC has no evidence that this has happened but as a precaution this loophole must be closed.

The anti-dumping duties currently in place are as follows:

COUNTRY/ CUSTOMS TERRITORY	PRODUCT	DATE OF IMPOSITION
Brazil	Frit	15/02/13
China	Blankets	04/02/11
	Bolts and nuts of iron or steel	06/05/11
	Garlic	30/10/15
	Unframed Mirrors	26/07/13
	Stainless steel sinks	31/07/15
	PVC Rigid	10/05/13
	Garden picks, Spades, shovels, rakes, forks	18/10/13
	Float and Flat glass	26/03/10
	Wire ropes	08/08/14
	Fully threaded screws with Hexagon Heads (Set screws)	16/11/12
	Wheelbarrows	04/09/15
Chinese Taipei	PVC Rigid	10/05/13
	Polyethylene terephthalate (PET)	04/03/11
Germany	Wire ropes	08/08/14
	Frozen bone-in chicken portions	27/02/15

COUNTRY/ CUSTOMS TERRITORY	PRODUCT	DATE OF IMPOSITION
India	Polyethylene terephthalate (PET)	04/03/11
	Paper insulated lead covered electric cable	08/04/11
	Unframed glass mirrors	04/03/11
	Float and Flat glass	20/02/15
Indonesia	Gypsum Plasterboard	01/08/14
	Drawn and float glass	27/07/12
	Unframed glass mirrors	20/04/12
Korea, Republic of	Polyethylene terephthalate (PET)	04/03/11
Malaysia	Stainless steel sinks	31/07/15
Netherlands	Frozen bone-in chicken portions	27/02/15
Pakistan	Cement	18/12/15
Thailand	Gypsum Plasterboard	01/08/14
Turkey	Blankets	04/02/11
United Kingdom	Wire ropes	08/08/14
	Frozen bone-in chicken portions	27/02/15
USA	Chicken meat portions	05/04/12
	Soda Ash	19/06/14

The safeguard duties currently in place are as follows:

COUNTRY/ CUSTOMS TERRITORY	PRODUCT	DATE OF IMPOSITION
All countries	Frozen potato chips	25/07/14

At the express recommendation of the Commission in its applicable reports, the following provisions for rebate of the anti-dumping currently exist:

Rebate item	Tariff heading	Rebate code	Product
307.04	3920.4	01.05	Plates, sheets, film, foil and strip, of polymers of vinyl chloride, for the manufacture of table-cloths
315.12	3920.4	01.05	Plates, sheets, film, foil and strip, of polymers of vinyl chloride
460.03	0207.14.9	01.07	Chicken meat
460.07	3920.49	01.06	Plates, sheets, film, foil and strip, of polymers of vinyl chloride for the manufacture of cards incorporating a magnetic stripe, cards incorporating semiconductor devices and SIMM or DIMM cards
460.07	3920.49	02.06	Plates, sheets, film, foil and strip, of polymers of vinyl chloride for the manufacture of cards incorporating a magnetic stripe, cards incorporating semiconductor devices and SIMM or DIMM cards

In the light of the foregoing, the Commission decided to recommend that all goods currently included in the provisions of Schedule No. 3 and Schedule No. 4, with the exception of items 307.04/3920.4/01.05; 315.12/3920.4/01.05; 460.03/0207.14.9/01.07; 460.07/3920.49/01.06; and 460.07/3920.49/02.06 (for which rebates of the anti-dumping duty have been implemented on recommendation by the Commission), be listed in the "rebate item" column in Schedule No. 2, and therefore may not be imported under rebate of customs duty without payment of anti-dumping, countervailing and safeguard duties without a recommendation from ITAC, with effect from the date of the publication.



Siyabulela Tsengiwe
Chief Commissioner
Date: 26/01/2016 2016