



International Trade Administration Commission of South Africa

# TARIFF INVESTIGATIONS

International Trade Administration Commission of South Africa



enabling



FAIR TRADE





## **CUSTOMS DUTY AMENDMENTS – TARIFFS**

This pamphlet is designed to introduce South Africa's Customs Tariff Amendment system. The information contained here is for reference purposes only. In South Africa, the International Trade Administration Commission (ITAC or Commission) is the authority responsible for tariff amendments.

## **ABOUT TARIFF INVESTIGATIONS**

There are three types of tariff amendments, which are administered by the Tariff Investigations Unit. These comprise investigations of increases in ordinary customs duties; reductions in ordinary customs duties; and the creation of rebate and drawback provisions. Besides the customs duty amendments, the Unit also administers various kinds of rebate and drawback provisions falling under Schedules 3, 4, and 5 of the Customs and Excise Act, 1964. This administration is done by issuing permits and certificates in accordance with the Customs and Excise Act, 1964, and setting guidelines for a variety of industrial sectors to clear imported goods free of duty.

Currently, the Tariff Investigations Unit administers one of the sectoral programmes, the Motor Industry Development Program (MIDP) to be superseded by the Automotive Production Development Program (APDP) in 2012.

## **THE ROLE AND OBJECTIVE OF TARIFF INSTRUMENTS**

Tariffs are instruments of industrial policy and have implications for capital accumulation, technology, productivity growth, and

employment. Changes to the tariff structure need to be calibrated to the production possibilities of each sector. The tariff investigations based on applications received or self-initiated are conducted on a case-by-case basis informed by the peculiarities of each sector and supported by evidence.

As a general guideline, tariffs on upstream industries will be reviewed to lower input costs into labour-intensive employment creating downstream industries. Tariffs on downstream industries, in light of the imperative of job creation and to ensure long-term sustainability and global competitiveness, could be raised judiciously on a case-by-case approach. Such tariff investigations will take into account the specific circumstances of the sector involved.

ITAC will be placing more emphasis on the principle of reciprocity when granting tariff support to industries, varying from one sector to the other. This means that tariff amendments will be conditioned on a commitment by beneficiaries on how they will perform against government's set policy objectives. Tariff increases will also be tied to a specific period of time after which tariffs may be reviewed. ITAC therefore takes a developmental strategic approach to customs tariffs. It is an approach that is also sensitive to employment outcomes.

## THE TYPES OF TARIFF AMENDMENTS

### INCREASE IN CUSTOMS DUTY

An increase in the rate of customs duties is considered for the purpose of granting relief for domestic producers that may be experiencing threatening import pressures to adjust and restructure so that in the medium to long term they could become internationally competitive without any support in the form of customs duty support. This is made possible by the



fact that there is a difference between the general applied rates and the WTO bound rates. The WTO bound rates act as a ceiling beyond which customs duty increases cannot go.

### **REDUCTION IN THE CUSTOMS DUTY**

A reduction on removal of duties is considered on a case-by-case basis on resource-based inputs to lower input costs into labour intensive industries to increase global competitiveness and also in instances where goods (consumption goods, immediate goods or capital goods) are not manufactured domestically or unlikely to be manufactured domestically.

### **REBATES AND DRAWBACKS OF THE CUSTOMS DUTY**

Linked to customs duties as a trade policy instrument are duty rebate and drawback provisions for products for which detailed separate tariff lines are impracticable for tariff administration purposes. The primary aim of these provisions is to provide a customs duty waiver and therefore an availability at world competitive prices of products that attract duties but are not produced or insufficiently produced domestically as an industrial or agricultural input for certain critical applications, as a capital item, or as an agricultural product for consumption.

Industry may also apply for a rebate or refund of duties payable on inputs used for manufacturing goods destined for the export market. The rebate or refund of the duty on inputs for export purposes is an incentive for allowing manufacturers to source their intermediate material and component inputs at world prices.

Rebates and drawbacks form a key pillar of certain industrial development programmes, such as those for motor vehicles and textiles and clothing.

## TYPES OF DUTIES

Customs duties can take the following forms:

- **Ad valorem duties:** Ad valorem duties are expressed as a percentage of the free-on-board (FOB) value of the imported goods. The duty on such goods (for example 10%) is transparent to prospective investors or importers.
- **Specific duties:** Specific duties are mostly expressed in Rand per kilogram or per unit. As the tariff lines have WTO-bound ceiling rates that are in all instances expressed in percentage terms as ad valorem duties, specific duties may in certain instances exceed the WTO-bound levels if not capped or carefully monitored. This is because the ad valorem equivalent of a specific duty varies from country-to-country, depending on the import price and from time-to-time, depending on the exchange rate. Specific duties are effective if protection against low-priced imports is necessary as is the case in the distorted market for some agricultural products. In addition, it makes the customs evaluation work easier for Customs and Excise as the value of the imported goods is immaterial.
- **A combination of ad valorem and specific duties**, as specified above.
- **Variable tariff formulae** for selected agricultural products: For maize, wheat, and sugar, variable tariff formulae are in place that manifest as specific duties in the Tariff Book changing from time-to-time, depending on the changing variables in the recommended pricing formula. The variable tariff formulae take account of international price movements and duties are adjusted or triggered periodically without prior publication. These formulae operate on the premise that South African domestic prices should equal domestic prices in developed countries



including the subsidies available to the producers there (world reference price) and then subtracting transport cost to South Africa from this reference price.

This would afford South African producers a similar measure of price support compared to producers in developed countries. The difference between the current moving average global export price and the world reference price converted to Rand by a moving average R/\$ exchange rate, is expressed as a specific duty to be levied on all imports. Tariff amendments are triggered by a quantum deviation in the moving average price.

- **Formula duties** – formula duties consist of a normal or fair reference price, above which an ad valorem percentage duty would apply targeted against normal priced imports and below which, in addition to the ad valorem percentage duty, a progressive specific duty would apply against low-priced imports.

Of the above mentioned types of duties, specific duties, formula duties and the variable tariff formulae are generally only used in the agriculture sector for selected products.

## LEGISLATION

The legal and policy framework within which customs duty amendments are made include:

- The ITA Act which provides the legal basis for undertaking investigations and making recommendations regarding customs duty amendments;
- The Tariff Investigations Regulations, which provide clarity and assist parties who wish to lodge a customs duty amendment application;

- The Customs Tariff Policy and Industrial and Trade Policy, which identify the key aspects of policy developments and policy imperatives; and
- Bilateral, Multilateral and Regional Trade Agreements (WTO, EU, EFTA, SADC and SACU);
- The Commission has to comply with the Promotion of Administration Justice Act, 2000 (Act 30 of 2000) (“PAJA”), which deals with the general rules for the performance of administrative action. PAJA does not give powers to administrators but indicates how the powers given to administrators by other laws should be exercised. More information can be found on the ITAC website: [www.itac.org.za](http://www.itac.org.za).

## CRITERIA FOR ADJUDICATING CUSTOMS DUTY APPLICATIONS

Comprehensive criteria for adjudicating tariff applications have been set and these are consistently applied across all sectors based on information obtained through comprehensive questionnaires and on-site verifications. The adjudication process is rigorous and evidence-based, and is carried out on a case-by-case basis considering the implication for the full value chain. In light of the pressing challenge of unemployment, the criteria are applied in a manner that is sensitive to employment outcomes.

The following assessment criteria are central although each application is evaluated on its own merits and specific circumstances to generate the desired results from a policy perspective:

- a) The domestic industry’s production capacity and potential;
- b) Employment;
- c) Investment;
- d) Market shares;





- e) Price differentials between the domestically manufactured product and the imported product
- f) Import and export data;
- g) Demand and supply conditions;
- h) The financial state of the domestic industry, including profitability and return on investment ratios;
- i) Price and cost structures; and
- j) The rate of effective protection.

The list of factors is not exhaustive, nor can one or several of these factors necessarily give decisive guidance.

## THE TARIFF SETTING PROCESS FOR AGRICULTURAL PRODUCTS

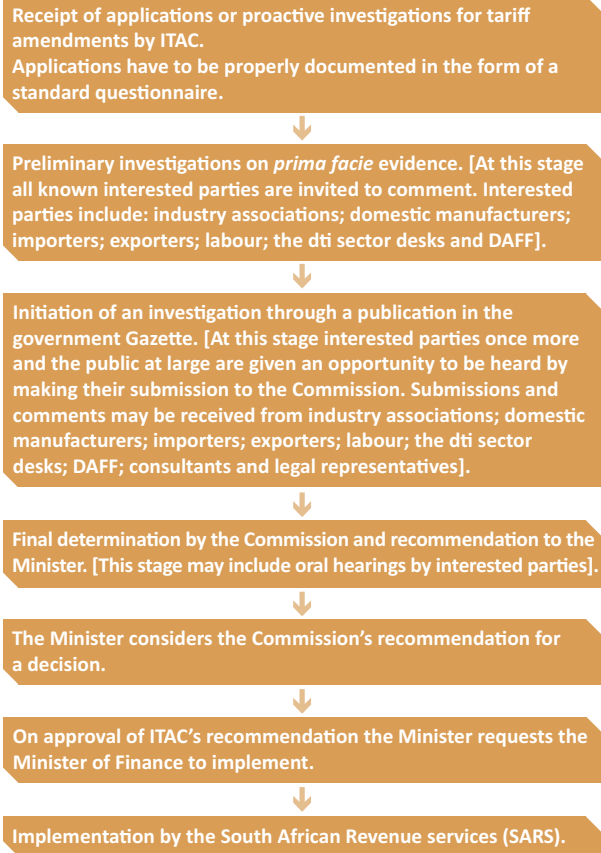
The tariff setting process for agricultural products has its own unique requirements. Subsidies offered in a number of developed countries to their agriculture sector and their impact on global supply, have the effect of depressing world prices to the disadvantage of domestic farmers. This depression in world prices is factored into the equation when determining an appropriate level of the tariff.

Careful consideration is given to the value chain for agricultural products. Not only the profitability and interests of primary producers are taken into account, but also those of value-added producers and the possible inflationary effects for the consumers of food, in particular the poor.

## INVESTIGATION PROCESS AND TURNAROUND TIME

Applications for customs duty amendments are received from industry (reactive) and sometimes ITAC may decide to

conduct proactive investigations and all these applications go through the following stages:



The Commission carries out its investigations speedily and with rigour. The timelines have been revised to ensure speedy delivery of the instruments. It now takes the Commission generally four (4) months for sectors in distress and six (6) months for normal investigations.

## HOW TO APPLY

Different questionnaires/application forms for the three types of customs duty amendments can be obtained on ITAC's website ([www.itac.org.za](http://www.itac.org.za)) or the Tariff Investigations Unit.

## CONFIDENTIALITY

The ITA Act provides for confidentiality with regard to applications for tariff amendments. Parties providing confidential information in any correspondence shall at the same time submit non-confidential summaries thereof. These summaries shall indicate in each instance where confidential information has been omitted and the reasons for confidentiality; and be in sufficient detail to permit other interested parties a reasonable understanding of the substance of the information submitted in confidence. The Tariff Investigations Unit also operates a public file system for all investigations which are available for viewing or copying.

***DISCLAIMER: The information contained is for reference purposes only. It should not be regarded as providing a definitive statement of law.***

Further information is available on ITAC's website [www.itac.org.za](http://www.itac.org.za), or contact details:

The Senior Manager: Tariff Investigations  
Private Bag X753  
Pretoria  
0001

OR

The Senior Manager: Tariff Investigations  
**the dti** Campus (Block E - First Floor)  
77 Meintjies Street  
Sunnyside  
Pretoria

Tel: +27 12 394 3720/3695  
Fax: +27 12 394 4720/4695

