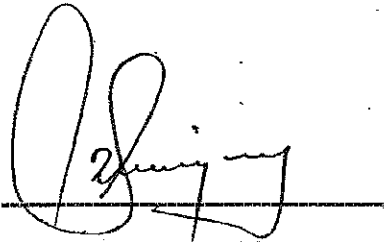


**REPORT NO. 282**

**REVIEW OF THE TARIFF DISPENSATION  
PERTAINING TO PRODUCTS  
CLASSIFIABLE UNDER CHAPTERS 25,  
28, 29, 32, 34, 38 and 39.01 – 39.21  
(EXCL. 39.17) OF SCHEDULE 1 TO THE  
CUSTOMS AND EXCISE ACT**

The International Trade Administration Commission herewith presents its  
**Report No. 282 : REVIEW OF THE TARIFF DISPENSATION PERTAINING  
TO PRODUCTS CLASSIFIABLE UNDER CHAPTERS 25, 28, 29, 32, 34, 38  
and 39.01 – 39.21 (EXCL. 39.17) OF SCHEDULE 1 TO THE CUSTOMS AND  
EXCISE ACT**



**SIYABULELA TSENGIWE  
CHIEF COMMISSIONER**

**PRETORIA**

08 / 10 / 2008

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH  
AFRICA

REPORT NO. 282

REVIEW OF THE TARIFF DISPENSATION PERTAINING TO PRODUCTS  
CLASSIFIABLE UNDER CHAPTERS 25, 28, 29, 32, 34, 38 and 39.01 – 39.21  
(EXCL. 39.17) OF SCHEDULE 1 TO THE CUSTOMS AND EXCISE ACT

**Synopsis**

The investigative review of the tariff structure for basic chemicals and primary polymers stemmed from the recommendations contained in the dti's National Industrial Policy Framework (NIPF) according to which tariff policy's strategic role lies with playing a part in improving the export performance of downstream value added products.

In terms of the NIPF Action Plan, ITAC has been mandated to review the duty structure for upstream chemicals with a view to lowering input costs for downstream manufacturing activities.

The review was published in the Government Gazettes of 9 November 2007 and 21 December 2007, for interested parties to comment.

More than 240 tariff lines, subject to customs duties, were assessed by the Commission in terms of the review. A significant number of responses were received from within the industry value chain, for either the removal of the duty, rebate of the duty, or the retention of the duty.

Arguments by industry in support of a removal of the duty centre on the fact that the duties on input materials have unnecessary cost implications as they lead to higher

domestic prices for both imported and domestically manufactured input materials and as a result, the downstream domestic industry is experiencing price disadvantages and fierce competition from similar imported products.

The upstream plastic polymer industry commented that the removal of duties on plastic polymers could affect further productive investment in these activities and could adversely affect the consistent supply of SACU manufactured polymers.

The Commission also received requests for the creation of a number of specific rebate provisions in instances where input products are not manufactured locally and where duty-free tariff lines in Schedule No. 1 are not practicable.

The Commission found that a significant number of downstream manufacturers in SACU are experiencing price disadvantages against similar imported products. It was also found that some of the input materials imported into the SACU that attract duties are not manufactured locally. The Commission also found that SACU manufacturers of primary plastic polymers and most basic chemicals are price-competitive in the global arena.

It is the Commission's considered opinion that duties on a number of industrial inputs into the downstream chemicals industry have an unnecessary cost-raising impact, and in instances, provide the leverage to unnecessarily raise prices domestically.

The Commission therefore recommended that:

1. The duties on organic surface-active agents and primary plastic polymers classifiable under the following tariff subheadings in the General and EFTA columns: 3402.11.10; 3402.13; 3901.10; 3901.20; 3902.10.90; 3902.30; 3904.10 and 3905.21 be reduced in steps to free of duty according to the EU phase-down schedule;
2. The duty on basic chemicals classifiable under the tariff subheadings listed in Annexure 1 be reduced to the levels indicated;

3. The rebate provisions for input products that are to be reduced to free of duty, be withdrawn;
4. Rebate provisions on products which are not manufactured locally and stipulated in the recommendations on page 10 be created;
5. The duties on products classifiable under the tariff subheadings listed in Annexure 2, including caustic soda, be retained at the levels indicated; and
6. A new 8-digit tariff subheading at free of duty stipulated in the recommendations on page 10, be created under tariff heading 39.19 for a product that is not manufactured domestically.

### **Introduction**

The investigative review of the tariff structure for basic chemicals stemmed from the recommendations contained in **thedti's** National Industrial Policy Framework (NIPF) according to which tariff policy's strategic role lies with playing a part in improving the export performance of downstream value added products.

In terms of the NIPF Action Plan, ITAC has been mandated to review the duty structure for upstream chemicals with a view to lowering input costs for downstream manufacturing activities.

The review was published in the Government Gazettes of 9 November 2007 and 21 December 2007, for interested parties to comment.

### **The tariff position**

The commission reviewed the tariff dispensation on a range of upstream chemical products classifiable under Chapters 25, 28, 29, 32, 34, 38 and 39.01 – 39.21 (excl. 39.17 ) of Schedule No. 1 to the Customs and Excise Act.

The following table shows the scope of the review:

**Table 1: Scope of the chemicals review**

<b>Chapter</b>	<b>Description</b>
<b>Chapter 25</b> All tariff subheadings under Chapter 25	<b>SALT; SULPHUR; EARTHS AND STONE; PLASTERING MATERIALS, LIME &amp; CEMENT</b>
<b>Chapter 28</b> All tariff subheadings under Chapter 28	<b>INORGANIC CHEMICALS; ORGANIC OR INORGANIC COMPOUNDS OF PRECIOUS METALS, OF RARE-EARTH METALS, OF RADIOACTIVE ELEMENTS OR OF ISOTOPES</b>
<b>Chapter 29</b> All tariff subheadings under Chapter 29	<b>ORGANIC CHEMICALS</b>
<b>Chapter 32</b> Tariff headings: 32.04 32.05 32.06 32.07	<b>TANNING OR DYEING EXTRACTS; TANNINS AND THEIR DERIVATIVES; DYES, PIGMENTS AND OTHER COLOURING MATTER; PAINTS AND VARNISHES; PUTTY AND OTHER MASTICS; INKS</b>
<b>Chapter 34</b> Tariff heading: 34.02 Excluding Tariff subheading 3402.20 and 3402.90	<b>SOAP, ORGANIC SURFACE-ACTIVE AGENTS, WASHING PREPARATIONS, LUBRICATING PREPARATIONS, ARTIFICIAL WAXES, PREPARED WAXES, POLISHING OR SCOURING PREPARATIONS, CANDLES AND SIMILAR ARTICLES, MODELLING PASTES, "DENTAL WAXES" AND DENTAL PREPARATIONS WITH A BASIS OF PLASTER</b>
<b>Chapter 38</b> All tariff subheadings under Chapter 38	<b>MISCELLANEOUS CHEMICAL PRODUCTS</b>
<b>Chapter 39</b> All tariff subheadings excluding tariff headings 39.17; 39.22; 39.23; 39.24; 39.25 and 39.26	<b>PLASTICS AND ARTICLES THEREOF</b>

The tariff lines that do not attract duty were excluded from the review. More than 240 dutiable tariff lines were assessed in terms of the review.

The average applied duty rate per chapter for all dutiable tariff lines covered in the review is summarized in table 2 below:

**Table 2**

<b>Chapter</b>	<b>Average applied rate of duty (excluding duty free lines)</b>
Chapter 25	8%
Chapter 28	11%
Chapter 29	11%
Chapter 32	10%
Chapter 34	19%
Chapter 39	13%

### **The Industry and the Market**

According to Statistics SA, in 2007, the chemical sector contributed 5.5% to the Gross Domestic Product (GDP), comprising approximately one-fourth of the manufacturing sector.

The upstream chemical industry in the SACU is dominated by Sasol Limited and in particular its Polymers business which includes the production of caustic soda and chlorine (chlor-alkali industry) that is integrated with polymer manufacture. NCP Chlorchem is the second manufacturer of chlor-alkali chemicals in SACU. The other upstream plastics manufacturing company in SACU is Safripol (Pty) Ltd, manufacturing only certain polymers. Delivered prices of the primary products manufactured and sold by Sasol and Safripol on the domestic market are highly competitive compared with those prevailing in the US, Western Europe and other regions. Investment in the chemical industry is mostly concentrated in the competitive capital-intensive upstream sub-sector.

The more labour-intensive downstream industry comprises chemical manufacturers such as plastic converters and the plastic packaging industry, which combined, account for a significant portion of the total employment in the chemical sector.

The chemical sector experienced an increase in the value of exports during the period 2005 to 2007. However, during the same period, the value of imports increased significantly. Accordingly, South Africa is increasingly becoming a net importer of chemical products.

The downstream industry stated that the lack of price-competitiveness and inconsistent supply of the input products are key challenges that hinder development and investment in the downstream industry. As chemicals feed into almost all other value-added industries such as the automotive industry, the chemical industry also faces challenges experienced by those sectors arising from a lack of competitiveness.

A significant number of responses were received from the downstream industry in

support of the removal of duties on intermediate input products.

A number of responses were also received from downstream manufacturers who requested that the duty on some of the intermediate products that are not manufactured locally be removed due to the fact that the duties applicable are not justified as these have an unnecessary cost-raising impact.

#### **Comments on the review**

Arguments by industry in support of a removal of the duty centre on the fact that the duties on input materials have unnecessary cost implications as they lead to higher domestic prices for both imported and domestically manufactured input materials and as a result, the downstream domestic industry is experiencing price disadvantages and fierce competition from similar imported products.

The upstream plastic polymer industry commented that the removal of duties on plastic polymers could affect further productive investment in these activities and could adversely affect the consistent supply of SACU manufactured polymers.

Sasol also argued that, due to low economies of scale and other structural disadvantages, a change to the current duty structure of 20% ad valorem for caustic soda, would have adverse consequences, in the light of the price disadvantages experienced.

The Commission received requests for the creation of a number of specific rebate provisions in instances where input products are not manufactured locally and where duty-free tariff lines in Schedule No. 1 are not practicable.

The Commission also received a request that the duty on certain self-adhesive polymer sheets be removed. The applicant stated that the product is not manufactured in the SACU and that no justification exists for the current rate of duty.

A number of requests were received for the introduction of rebate provisions for products that are not manufactured locally and for which the duty has unnecessary



cost-raising implications.

The following rebate provisions, acceptable for customs administration purposes, were proposed:

1. *Polyethylene in primary forms, having a specific gravity of less than 0,94, classifiable in tariff subheading 3901.10 for coating tubes and pipes of base metal.*
2. *Polyethylene in primary forms, having a specific gravity of 0,94 or more, classifiable in tariff subheading 3901.20 for coating tubes and pipes of base metal.*
3. *Vinyl acetate-ethylene copolymer in aqueous dispersion, classifiable in tariff subheading 3905.21, for the manufacture of prepared glues and other prepared adhesives, and products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives not exceeding a net mass of 1 kg, classifiable in tariff heading 35.06*
4. *Solid sodium hydroxide (caustic soda) classifiable in tariff subheading 2815.11, with a particle size not exceeding 1 mm, for the manufacture of dithiocarbonates (xanthates) classifiable in tariff subheading 2930.90"*

The SACU manufacturers did not object to the creation of these rebate provisions, as the products, in the specification and dimensions and for the applications mentioned, are not manufactured by them.

#### **Commission's findings**

The Commission found that a significant number of downstream manufacturers in the chemical industry in SACU are experiencing price disadvantages against similar imported products. It was also found that some of the input materials imported into the SACU that attract duties are not manufactured locally. The Commission also found that, with the exception of caustic soda and a few other basic chemicals, manufacturers of primary chemicals and plastic polymers are price-competitive in the global arena and no price disadvantages are experienced.

It is the Commission's considered opinion that duties on a number of industrial inputs have an unnecessary cost-raising impact on downstream activities and, in instances, provide the leverage to unnecessarily raise prices domestically.

## Recommendations

In view of the above, the Commission recommends that:

1. The following rebate of the full duty provisions be created:
  - 1.1 *"Polyethylene in primary forms, having a specific gravity of less than 0,94, classifiable in tariff subheading 3901.10 for coating tubes and pipes of base metal."*
  - 1.2 *"Polyethylene in primary forms, having a specific gravity of 0,94 or more, classifiable in tariff subheading 3901.20 for coating tubes and pipes of base metal."*
  - 1.3 *"Vinyl acetate-ethylene copolymer in aqueous dispersion, classifiable in tariff subheading 3905.21, for the manufacture of prepared glues and other prepared adhesives, and products suitable for use as glues or adhesives, put up for retail sale as glues or adhesives not exceeding a net mass of 1 kg, classifiable in tariff heading 35.06"*
  - 1.4 *"Solid sodium hydroxide (caustic soda) classifiable in tariff subheading 2815.11, with a particle size not exceeding 1 mm, for the manufacture of dithiocarbonates (xanthates) classifiable in tariff subheading 2930.90"*
2. The duty on basic chemicals classifiable under the tariff subheadings listed in Annexure 1 be reduced to the levels indicated;
3. The duty on organic surface-active agents and primary plastic polymers classifiable under the following tariff subheadings in the General and EFTA columns: 3402.11.10; 3402.13; 3901.10; 3901.20; 3902.10.90; 3902.30; 3904.10 and 3905.21 be reduced in steps to free of duty according to the EU phase-down schedule;
4. The rebate provisions for input products that are to be reduced to free of duty, be withdrawn;
5. The duties on products classifiable under the tariff subheadings listed in Annexure 2 be retained at the levels indicated; and

6. A new 8-digit tariff subheading at free of duty be created as follows under tariff heading 39.19:

*“Self adhesive plates, sheets, film, foil, tape and strip of polymers of vinyl chloride, with a thickness of 50 micron or more but not exceeding 100 micron, in rolls of a width of 450cm or more but not exceeding 1350cm and of a length of 1000m or more”*

**(13/2007)]**

ANNEXURE 1

Tariff subheading	Existing duty	New duty	Tariff subheading	Existing duty	New duty	Tariff subheading	Existing duty	New duty	Tariff subheading	Existing duty	New duty	Tariff subheading	Existing duty	New duty
25010000	Free	Free	29173200	10%	38200000	Free	39198037	10%	39211300		10%			10%
25191000	Free	Free	29173300	10%	38249040	Free	39198040	10%	39211400		10%			10%
25199000	Free	Free	29181400	10%	38249045	Free	39198045	10%	39211930		10%			10%
25241000	Free	Free	29211100	Free	38248047	Free	39198047	10%	39211940		10%			10%
25249000	Free	Free	29211915	Free	39013010	Free	39198050	10%	39211950		10%			10%
25251000	Free	Free	29215120	Free	39069020	Free	39198055	10%	39211955		10%			10%
25252000	Free	Free	29224300	Free	39075000	Free	39198090	10%	39211960		10%			10%
25261000	Free	Free	29242110	Free	39084080	Free	39201000	10%	39211970		10%			10%
25262000	Free	Free	29299010	Free	39181000	10%	39202090	10%	39211980		10%			10%
28012000	Free	Free	32041710	Free	39181000	10%	39203000	10%	392119012		10%			10%
28170000	Free	Free	32041910	Free	39188040	10%	39204300	10%	39219016		10%			10%
28353100	Free	Free	32062010	Free	39191003	10%	39204900	10%	39219022		10%			10%
28491000	Free	Free	32074000	Free	39191007	10%	39205100	10%	39219024		10%			10%
29032200	Free	Free	38085008	Free	39191010	10%	39205900	10%	39219026		10%			10%
29032300	Free	Free	38085007	Free	39191013	10%	39206100	10%	39219028		10%			10%
29051200	Free	Free	38085008	Free	39191030	10%	39206210	10%	39219047		10%			10%
29051300	Free	Free	38088230	Free	39191037	10%	39206300	10%	39219052		10%			10%
29051920	Free	Free	38089305	Free	39191040	10%	39206900	10%	39219054		10%			10%
29054400	Free	Free	38089310	Free	39191043	10%	39209100	10%	39219063		10%			10%
29054500	Free	Free	38089317	Free	39191050	10%	39209200	10%	39219064		10%			10%
29096000	Free	Free	38089330	Free	39191053	10%	39209300	10%	39219066		10%			10%
29121100	Free	Free	38089335	Free	39191055	10%	39209400	10%	39219072		10%			10%
29141100	Free	Free	38089340	Free	39191060	10%	39209910	10%						
29141300	Free	Free	38089380	Free	39191065	10%	39209920	10%						
29152100	Free	Free	38123010	Free	39198003	10%	39209925	10%						
29152910	Free	Free	38123020	Free	39198007	10%	39209930	10%						
29153100	Free	Free	38140020	Free	39198010	10%	39209940	10%						
29153600	Free	Free	38140030	Free	39198013	10%	39209960	10%						
29153930	Free	Free	38170010	Free	39198030	10%	39211100	10%						
29155030	Free	Free	38180020	Free	39198035	10%	39211200	10%						

**ANNEXURE 2**

Tariff subheading	Existing duty	Tariff subheading	Existing duty
25253000	10%	38123090	10%
28011000	10%	38130015	10%
28030000	10%	38140010	10%
28061000	10%	38140090	10%
28151100	20%	38180090	10%
28151200	20%	38190090	10%
28230000	10%	38231300	10%
28281000	10%	38231900	10%
28352500	10%	38237000	10%
28352610	10%	38247110	10%
28362000	5.5%	38247210	10%
28432900	10%	38247310	10%
28470015	10%	38247410	10%
29041010	14%	38247710	10%
29041090	10%	38247910	10%
29153990	10%	38249001	0.183c/li
29171220	15%	38249003	0.183c/li
29171400	15%	38249005	0.183c/li
29171935	10%	38249025	10%
29171990	10%	38249037	10%
29173400	15%	38249050	10%
29173500	15%	39019090	10%
29181200	15%	39042100	10%
29181910	10%	39042200	10%
29211980	10%	39044000	10%
29214490	10%	39051200	10%
29242905	10%	39072015	10%
29309030	10%	39076090	10%
29322910	10%	39079100	10%
29334910	10%	39123100	10%
29335930	10%	39151000	15%
29335985	10%	39152000	15%
29335990	10%	39153000	15%
29336930	10%	39159040	10%
29336990	10%	39162090	18%
29391110	5%	39169090	15%
29399910	10%	39189090	10%
29399920	10%	39191090	10%
32061100	10%	39199090	10%
32061990	10%	39207300	10%
32064910	10%	39207990	10%
32064920	10%	39209990	10%
34021120	15%	39211400	10%
34021200	20%	39211990	10%
34021900	20%	39219005	10%
38089290	10%	39219090	10%
38089410	10%		
38089430	10%		
38089480	10%		

Dr Rob Davies, MP  
Minister of Trade and Industry  
Private Bag X84  
**PRETORIA**  
0001

Dear Minister

**MINUTE NO. M2/2009: ADDENDUM TO REPORT 282 - REVIEW OF THE TARIFF DISPENSATION PERTAINING TO PRODUCTS CLASSIFIABLE UNDER CHAPTERS 25, 28, 29, 38 AND 39.01 – 39.21 EXCL. 39.17 (TUBES & PIPES OF SCHEDULE 1 TO THE CUSTOMS & EXCISE ACT**

In its Report No. 282, the Commission recommended the creation of a duty-free, 8-digit tariff subheading for certain specifically defined self-adhesive sheets of vinyl chloride as it was found that this product in these dimensions is not manufactured in the SACU.

On 14 August 2009, the Commission's recommendations were implemented including the introduction of the said duty-free tariff line described as follows:

“Self adhesive sheets, plates film, foil, tape and strip of polymer of vinyl chloride, with a thickness of 50 micron or more but not exceeding 100 micron, in rolls of a width of 450cm or more but not exceeding 1350cm and of a length of 1000m or more”

However, the tariff description proposed by SARS and which was implemented at the Commission's recommendation, did not meet the requirements of the industry at whose request the duty-free tariff line was introduced.

In defining the width dimension in the tariff description, an error was made that was not detected prior to implementation. The width dimension should have referred to “mm” and not “cm”. The correct tariff description should have read as follows:

“Self adhesive sheets, plates film, foil, tape and strip of polymer of vinyl chloride, with a thickness of 50 micron or more but not exceeding 100 micron, in rolls of a width of 450mm or more but not exceeding 1350mm and of a length of 1000m or more”

**enabling**

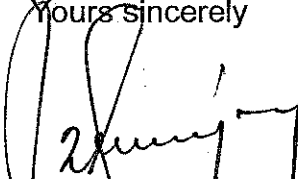


**FAIR TRADE**

It was the Commission's intention that the width should be specified in "mm" and not "cm" and the Commission therefore recommends that tariff subheading 3919.90.23 be amended as follows, and with retrospective effect from 14 August 2009:

Tariff subheading	Description	Rate of duty
3919.90.23	<i>"Self adhesive sheets, plates film, foil, tape and strip of polymer of vinyl chloride, with a thickness of 50 micron or more but not exceeding 100 micron, in rolls of a width of 450mm or more but not exceeding 1350mm and of a length of 1000m or more</i>	Free

Yours sincerely



**Siyabulela Tsengiwe**  
Chief Commissioner  
28.1.10.2009

**No. R. 1087**

**27 November 2009**

**CUSTOMS AND EXCISE ACT, 1964.  
AMENDMENT OF SCHEDULE NO. 1 (NO. 1/1/1390)**

Under section 48 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 1 to the said Act is hereby amended, with retrospective effect from 14 August 2009, to the extent set out in the Schedule hereto.



**N NENE  
DEPUTY MINISTER OF FINANCE**

**SCHEDULE**

By the substitution for the description of subheading 3919.90.23 of the following:

Heading	Subheading	C	D	Article Description	Statistical Unit	Rate of Duty			
						General	EU	EFTA	SADC
39.19	3919.90.23		7	-- Of other polymers of vinyl chloride, with a thickness of 50 micron or more but not exceeding 100 micron, in rolls of a width of 450 mm or more but not exceeding 1350 mm and of a length of 1000 m or more	kg	free	free	free	free