



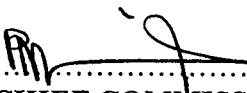
International Trade Administration Commission of South Africa

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Report No. 5

**INVESTIGATION REGARDING THE  
WITHDRAWAL OF REBATE PROVISION  
WITH RESPECT TO USED COATS AND  
SIMILAR ARTICLES**

The International Trade Administration Commission herewith presents its Report No 5  
**INVESTIGATION REGARDING THE WITHDRAWAL OF THE REBATE  
PROVISION WITH RESPECT TO USED COATS AND SIMILAR ARTICLES**

  
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**CHIEF COMMISSIONER  
INTERNATIONAL TRADE ADMINISTRATION  
COMMISSION OF SOUTH AFRICA**

**PRETORIA**  
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INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF  
SOUTH AFRICA

REPORT NO 5

INVESTIGATION REGARDING THE WITHDRAWAL OF THE REBATE  
PROVISION WITH RESPECT  
TO USED COATS AND SIMILAR ARTICLES

**SYNOPSIS**

The Commission decided to investigate the withdrawal of the rebate item 460.11/60.00/01.01 which essentially provides for rebate of the full duty less 30 per cent *ad valorem* on used coats and similar articles, subject to permits issued by the International Trade Administration Commission of South Africa.

The decision to investigate the withdrawal of the provision under item 460.11/60.00/01.01 was taken against the background of:

- The withdrawal of certain provisions for rebate of the duty on worn clothing or clothing in the recent past and the investigations regarding the provisions for rebate of the duty on old clothing for the recovery of fibres and used clothing for the manufacture of wiping rags and cleaning cloths which were at that stage not finalized.
- The policy approach not to allow the importation of worn and used clothing accepted by SACU, in order to support the clothing industry

The burden to administer the provision concerned.

The increase in the number of applications for rebate permits and requests for higher quantities.

The impact of imported used or worn clothing on the clothing and textile industries.

The available information indicates that used coats are imported mainly from Europe and that rebate permits were issued to 49 firms during 2001 and 2002.

The major market for imported used coats is consumers in the lower income group but imported used coats are also sold to consumers in higher income categories. Certain retail chain shops also sell imported used coats.

The majority of the coats imported are men's wear and of the anoraks/zipper type. Long overcoats and  $\frac{3}{4}$  overcoats represent only 16 per cent of the number of coats imported.

A restrictive approach was followed regarding the quantities allowed with rebate of the duty in terms of the provision concerned and the Commission was in the past often under pressure to recommend rebate permits that provided for increased quantities.

The investigation was published in the Government Gazette for comment. The Textile and Clothing Federation indicated that they are in favour of the immediate withdrawal of the rebate provision concerned. However, these organizations did not motivate their viewpoints in detail. Twenty-three importers of used coats and one firm that trades in used coats objected strongly to the withdrawal of the provision.

On the basis of the available information, the Commission made the following findings:

The importation of used coats has been allowed for a number of decades.

- The dispensation in terms of which a provision exists that provides for rebate of the full duty less 30 per cent *ad valorem* on used coats also has been in place for more than a decade.
- The duty on used coats in terms of the rebate provision is 30 per cent *ad valorem* while the duty on new coats is 40 per cent *ad valorem*.
- The control measures in terms of the rebate provision concerned have been improved.
- The existence of the rebate provision does not promote the illegal importation of clothing.

Imported used coats are mainly used by the lower income segment of the market.

- The importation of used coats with rebate of the full duty less 30 per cent *ad valorem* is not limiting the manufacture of coats in SACU.
- The dispensation allowing the importation of used coats has resulted in a well-developed business structure, which deals with the importation and the distribution of used coats.

The Commission concluded that the findings recorded in the previous paragraph outweigh the reasons for commencement of the investigation as set out in paragraph 2 of the synopsis.

As result of the above, the Commission decided not to recommend the withdrawal of the provision.

Regarding the quantity allowed per annum in terms of the rebate provision concerned, the Commission intends to follow a restrictive approach, which takes into account all the relevant factors. Within such an approach, the Commission is considering appropriate steps to accommodate new importers, which were not allowed since the year 2000.

The Commission also decided to investigate the performance and the potential of the coat industry in SACU and the outcome of the study may influence the approach of the Commission regarding the quantities of used coats allowed in terms of the rebate provision concerned.

## BACKGROUND

- 1 The International Trade Administration Commission (the Commission) was established on 1 June 2003 in terms of the International Trade Administration Act 2002 (Act 71 of 2002) (the ITA Act), which replaced the Board on Tariffs and Trade Act 1986 (Act 107 of 1986) (the Board Act). As regards tariff investigation matters the Commission superseded the Board on Tariffs and Trade (the Board) in all respects. For the sake of simplicity all references in this report are to the Commission. All references in this report to the Commission, and which relates to the period to 1 June 2003, should be understood to be reference to the Board, and all references to the ITA Act, for the period prior to 1 June 2003, should be understood to be a reference to the Board Act.
- 2 A number of rebate provisions, which provided for rebate of the duty on worn clothing or clothing were withdrawn or amended in the recent past to exclude worn clothing or clothing. In principle the withdrawal and amendment took place with a view to support the clothing and textile industries and due to the burden created by the administration of the provisions.
3. The provisions, which were withdrawn or amended to exclude worn clothing or clothing are:
  - (a) The provision under item 405.04/00.00/06.00 which provided for rebate of the full duty on goods (excluding foodstuffs) forwarded free, as a donation to any educational organization, hospital (including clinic) welfare organization, religious organization or sporting organization subject to permits issued by the International Trade Administration Commission of South Africa and subject to certain other conditions, was amended to exclude clothing irrespective of whether it is new, used or worn.

- (b) The provision under item 460.11/63.04/03.04 which provided for rebate of the full duty less 30 per cent *ad valorem* on worn clothing (excluding worn overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle-coats, mantels, parkas and similar clothing articles) classifiable within subheading 6309.00.17, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission of South Africa may allow by specific permit, was withdrawn.
4. The two provisions, which provide for rebate of the duty on worn clothing and other worn articles of textile material for industrial purposes were also investigated and it resulted in recommendations aimed at improved control.
  5. The recommendations were accepted by the Minister and were implemented. The amended provisions read as follows:
    - (a) Rebate Item 311.02/63.09/01.04: Worn clothing and other worn articles of textile materials, at such times, in such quantities and subject to such conditions as the International Trade Administration Commission may allow by specific permit for the recovery in fibers. Extent of rebate: Full duty.
    - (b) Rebate Item 311.18/63.09/01.04: Worn clothing and other worn articles of textile materials, at such times, in such quantities and subject to such conditions as the International Trade Administration Commission may allow by specific permit for the manufacture of wiping rags and cleaning cloths. Extent of rebate: Full duty.
  6. This report deals with the investigation regarding the withdrawal of the provision under rebate item 460.11/60.00/01.01 which provides for rebate of the full duty less 30 per cent *ad valorem* on used overcoats, car coats, raincoats, anoraks, ski-jackets, duffle-coats, mantels, parkas, and similar clothing articles subject to permits issued by the International Trade Administration Commission of South Africa.
  7. The decision to investigate the withdrawal of the provision under item 460.11/60.00/01.01 was taken against the background of:
    - The withdrawal of certain provisions for rebate of the duty on worn clothing or clothing in the recent past and the investigations regarding the provisions for rebate of the duty on old clothing for the recovery of fibres and used clothing for the manufacture of wiping rags and cleaning cloths which were at that stage not finalized.

The policy approach not to allow the importation of worn and used clothing accepted by SACU, in order to support the clothing industry

    - The burden to administer the provision concerned.

- The increase in the number of applications for rebate permits and requests for higher quantities.
- The impact of imported used or worn clothing on the clothing and textile industries.

## INVESTIGATION AND TARIFF AND IMPORT CONTROL POSITION

- 8 The investigation was published in the Government Gazette of 16 March 2001. Interested parties were invited to comment on the following issues:
- 8.1 Reduction of the quantities allowed on rebate permits issued in terms of rebate item 460.11/60.00/01.01 by 20 per cent annually starting in the year 2001 and ending in the year 2005.
- 8.2 Withdrawal of the rebate provision, rebate item 460.11/60.00/01.01, at the end of the phase down period of the quantities.
- 8.3 Amendment of Schedule 1 of the Customs and Excise Act by the withdrawal of tariff heading 63.09.00.13 by the end of 2005.”
9. Item 460.11/60.00/01.01 provides for rebate of the full duty less 30 per cent *ad valorem* on used overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle-coats, mantels, parkas and similar clothing articles (excluding wind-jackets and wind-cheaters) in bales not containing other clothing articles, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission of South Africa may allow by specific permit.
10. The used products mentioned in the provision under item 460.11/60.00/01.01 are classifiable under tariff subheading 63.09.00.13 if they meet both the following two requirements.
- (a) They must show signs of appreciable wear whether or not they require cleaning or repair before use.
  - (b) They must be presented in bulk (eg in railway goods wagons) or in bales, sacks or similar bulk packings or in bundles tied together without external wrapping, or packed roughly in crates.
11. Tariff subheading 63.09.00.13 provides for worn overcoats, car coats, raincoats, anoraks, ski-jackets, duffle coats, mantels, parkas, and similar clothing articles (excluding wind jackets and windcheaters) at a duty of 60 per cent *ad valorem* or 2500c/kg.

12. If the products mentioned in the provision under item 460.11/60.00/01.01 do not meet both the requirements stated in paragraph 10, the products are classifiable under 61.01, 61.02, 62.01 or 62.02 at a rate of 40 per cent *ad valorem*. In other words used coats which are packed in bales as provided for in item 460.11/60.00/01.01 but which do not show appreciable wear, will not be classifiable under tariff subheading 6309.00.13 but under 61.01, 61.02, 62.01 or 62.02.
13. The development of the tariff dispensation in respect of used coats is linked to the development of the import control dispensation and it can be summarized as follows:
- (a) For a number of decades, before 1982, import control permits were issued in respect of "secondhand overcoats".
  - (b) In 1982 it was established that holders of import control permits for "secondhand overcoats" misused the permits to import "secondhand clothing". As a result the wording on import control permits was amended to read "secondhand overcoats excluding secondhand clothing".
  - (c) In 1985 it was established that holders of import control permits for "secondhand overcoats excluding secondhand clothing" were also importing raincoats, car coats and duffle coats. As this was not the intention, permits for 1986 were issued with the following wording "secondhand overcoats, excluding raincoats, duffle coats and car coats".
  - (d) After consultation with Customs officials during the course of 1986 it was established that the term "overcoats" included certain raincoats namely the so called all weather coats. As a result it was decided in 1986 to issue import control permits for "secondhand overcoats, excluding secondhand car coats, second hand plastic or rubberized overcoats and secondhand clothing."
  - (e) In 1991 the Commission commenced with review of the tariff dispensation in respect of worn clothing including worn coats. In Report 3142 dated 23 April 1992, the reason for this review was described as follows  

*"After becoming alerted to the fact that certain abuses appear to be taking place with regard to the importation of worn clothing as a result of which import volumes have increased drastically since 1988 despite stringent import control, the Commission decided to investigate the revision of the duty structure in respect of worn clothing. ...."*
  - (f) As a result of the Commission's recommendations in Report 3142 the tariff was amended to provide amongst other for:
    - (i) a duty of 60 per cent *ad valorem* or R25 per kg on worn overcoats including raincoats and duffle coats, as well as on other worn clothing;



- (ii) rebate of the full duty less 30 per cent ad valorem on worn overcoats including rain coats and duffle coats and as well as on other worn clothing;
- (g) The reasons for the recommendation as described under (f) were stated as follows in Report 3142:

*“Worn clothing (in certain instances to the detriment of local manufacturers of new clothing) is sold country-wide in spite of the fact that import permits are issued only for overcoats and for worn clothing for manufacturing purposes as well as for free distribution to indigent persons by churches and welfare organizations, except that issued by the TBVC and BLSN countries. The origin of this clothing is at present being investigated. During 1986 the Minister of Finance granted permission to certain churches and welfare organizations to sell part of the clothing import under the relevant provisions to recover distribution costs. This permission should be withdrawn in order to prevent abuse thereof.*

*Worn clothing at acceptable prices is an important basic commodity for the poor and lower income groups of the different member countries of the common customs union. The domestic clothing and textile industries are, however, major providers of job opportunities for the less affluent sections of the population. If the importation of worn clothing affects production and employment and retards the development of these industries, it would, on balance, not be in the interest of these sections of the population. It was not possible to determine on a rational basis to what extent sales of worn clothing could have affected clothing manufacturers in the common customs union. Overcoats are only manufactured on a limited scale at relatively high unit prices.*

*However, taking into account the need for worn clothing at acceptable prices by the poorer sections of the communities involved, the Commission is of the opinion that in addition to those for free distribution by churches and welfare organizations, limited quantities of such clothing should be allowed to be imported at a lower rate of duty, namely 30 per cent ad valorem, for resale purposes.”*

- (h) In 1993 the Commission commenced with an investigation regarding tariff dispensation in respect of worn overcoats and in Report 3462 the reason for the investigation was described as follows “The reason for the application was that a worn overcoat was not clearly defined ..... and this lack of definition led to abuse of the existing rebate provision”.

- (i) As a result of the investigation mentioned under (h) the Commission recommended in Report 3462 dated 29 March 1994 that the scope provision should be expanded not to include only "worn overcoats including raincoats and duffle coats" but also other coats. The provision resulting from the recommendation provided for rebate of the full duty less 30 per cent *ad valorem* on used overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle-coats, mantels, parkas and similar clothing articles (excluding wind-jackets and wind-cheaters) of wool, animal hair or acrylic fibres in bales not containing other clothing articles, in such quantities, at such terms and subject to such conditions as the International Trade Administration of South Africa on the recommendation of the Commission may allow by specific permit. It must be pointed out that the provision resulting from the recommendation in Report 3462 provides for "used" products, which is in the customs tariff a wider concept than "worn" but which includes "worn".
  - (j) In 1997 on recommendation of the Commission the rebate provision was amended with a view not to limit the provision to products of wool, animal hair or acrylic fibres. In the Commission's Annual Report of 1997 it is explained that the amendment was the result of an application to include "coats of polyester and cotton content". It is furthermore stated in this report that "The Commission was of the opinion that the proposed amendment would not have any detrimental effect on the industry. This was supported by the Clothing and Textile Federations."
14. The general approach of South Africa and other SACU countries is to limit the importation of used goods in general. In terms of the Import and Export Control regulations of South Africa all used goods are subject to import control, which require an import permit issued by the International Trade Administration Commission of South Africa. It is the policy that import permits for used and worn clothing are only issued in respect of imports provided for in rebate permits.
15. The control in respect of the use of permits by permit holders has been improved significantly in the recent past. The permits are issued subject to the conditions stated in the permits, which facilitate inspections. The inspection capability of the Commission has also been significantly strengthened

## INDUSTRY AND MARKET

16. On request of the Department of Trade and Industry, a consultant firm undertook during 1999 an extensive survey regarding the import of used coats and the market of used coats.

The survey revealed amongst other that:

- (a) The majority of coats imported namely 44 per cent are men's wear while 30 per cent are ladies wear and 26 per cent are children's wear.

- (b) Different types of coats were imported and the composition of imports (in terms of number of coats) is estimated to be as follows:

**TABLE 1: COMPOSITION OF IMPORTS OF COATS**

Type of Coat	Percentage of total imports
Anoraks/zippers	44
	14
	8
	9
	8
	7
	7
	2
Duffle coats	1

**SOURCE: REPORT MPCS: WORN/ USED OVERCOAT INVESTIGATION**

- (c) The activities of importers differ significantly. Some products are sold in bales as imported but other are sorted, packed, cleaned or even repaired.

Direct employment of the used overcoat industry is estimated at 900 and the importers believe that indirect employment created by the marketing of the products is as high as 10 000.

- (e) The majority of the imported coats (90 per cent) are sold in South Africa and the rest in other SACU and SADC countries.
- (f) The imported coats reached the consumer through different ways namely direct from importer to consumer, through informal retailers (hawkers) and formal retailers including retail chains. The majority of the imported coats namely 72 per cent is sold through informal retailers, 13 per cent is sold by the importers direct to the public, 10 per cent is sold through formal retailers and the rest namely 5 per cent to agricultural co-ops, farmers, mines and the security industry.
- (g) The importers emphasized that their target market is the “no income” and “lower income” segments but the evidence suggested that imported used coats are also sold to consumers in higher income groups.

At the time of the survey (1999) importers predicted a dramatic increase in imports to as high as 200 per cent during the next two years. Essentially increase in demand was forwarded as reason for the prediction.

- (i) Regarding the composition of the imports, importers reported that the trend is away from “traditional long /  $\frac{3}{4}$  overcoats and rain coats towards anoraks/zippers and wool jackets....”.
- (j) The selling prices of the imported products to the consumer are only a fraction of the selling price to consumers of new coats manufactured in SACU.

17. According to the records of the International Trade Administration Commission of South Africa the number of importers issued with rebate permits is as follows:

**TABLE 2: NUMBER OF IMPORTERS**

Year	Number
1995	35
1996	36
1997	43
1998	43
1999	46
2000	56
2002	49

**SOURCE: INTERNATIONAL TRADE ADMINISTRATION COMMISSION**

18. In general a restrictive approach was followed in recent years by the Commission regarding the quantities in respect of which rebate permits were recommended.
19. The restrictive approach followed in the recent past can be summarized as follows:

In 1999 and 2000 new importers were restricted to initial rebate permits of not more than 10 000 kg.

In 2001 rebate permits were restricted to quantities not more than the actual import by the importers during 2000 and no rebate permits were issued to firms who did not import during 2000.

- (c) In 2002 rebate permits were restricted to not more than 80 per cent of the actual quantity imported by the importers in 2001 and no rebate permits were issued to firms who did not import in 2001.
- (d) In 2003 rebate permits were restricted to quantities not higher than the quantities allocated in 2002 and no rebate permits were issued to those firms who did not import in 2001.

20. The total quantity of used coats provided for in rebate permits is as follows

**TABLE 3: QUANTITY IN COATS PROVIDED FOR IN PERMITS**

Year	Quantity (Kg)
2000	2 568 000
2001	2 478 000
2002	1 982 400
2003	1 982 400

**SOURCE: INTERNATIONAL TRADE ADMINISTRATION COMMISSION**

21. Rebate permits issued in terms of item 460.11/60.00/01.01 provide for "used" coats which is, as explained in paragraph 13(i), a wider concept than "worn" but which includes "worn". The customs tariff does not provide for a specific provision for "used" but it does contain a separate provision under tariff subheading 63.09.00.13 for "worn overcoats car coats, raincoats, anoraks, ski jackets, duffle coats, mantels, parkas and similar clothing articles (excluding

wind jackets and wind cheaters)” The import under this tariff heading was as follows:

TABLE 4 : IMPORT OF USED COATS

Year	Quantity (Kg)
2000	2 264 266
2001	3 012 897
2002	2 886 698
2003*	1 906 965

SOURCE: SARS

\*Jan-August

## COMMENTS

22. Comments were received from 12 interested parties
23. Two of the interested parties namely the Textile Federation and the Clothing Federation are in favour of the immediate withdrawal of the rebate provision concerned. The Textile Federation qualified their view that the rebate provision should be withdrawn with the statement “However should this not be an option, the phase out of the provision, as quickly as possible should be considered”. The two organizations did not motivate their viewpoints in any detail.
24. Twenty -three importers of used coats and one firm who trades in used coats objected strongly to the withdrawal of the provision. The arguments put forward in objection to the withdrawal of the rebate provision can be summarized as follows:
- (a) The import of used coats in terms of the rebate provision is not to the detriment of the SACU coat industry. In support of this view the following were put forward:
- (i) The major market for the imported used coats are consumers in the lower income group. The prices of imported used coats are dramatically lower than that of new coats manufactured in SACU and the consumers with low income are not in a position to buy new coats. The withdrawal of the rebate provision will not be to the benefit of the SACU industry because the consumers who buy used coats will not be able to afford new coats.
- (ii) The type of coat which the SACU industry can provide to the market, namely windcheaters and wind jackets, are categorically excluded from the rebate provision. The description of the rebate provision was the result of consultation with the SACU coat industry.
- (iii) The ability of the SACU industry to provide in the demand for the types of coats provided for in the rebate provision concerned is seriously limited by the short winter in Southern Africa as it is not economical to manufacture products which are only in high demand during three to four month of the year. As result the SACU coat industry targets the

higher income segment of the market in respect of which the imported used coats cannot be regarded as competition.

- (iv) The import of used coats has been allowed for many decades and it was not an issue until the illegal import of clothing became an issue. The real issue is not the imports of used coats but illegal imports of used clothing and competition experienced by SACU coat manufacturers from new imported coats.
- (b) The existence of the rebate provision does not create opportunity for the illegal import of used clothing. The importation of used coats in terms of the rebate provision concerned is subject to permits and importers are subject to regular inspection. A number of importers emphasized the fact that they have a long-standing record of compliance with the law. Some importers are of the opinion that the withdrawal of other provisions for rebate of the duty on used clothing in the recent past resulted in a significant decrease in the availability of used clothing.
- (c) Used coats should be available to the lower income segments of the market as consumers in this market segment have no other alternative to protect them against cold and wet weather conditions. Withdrawal of the rebate provision will cause severe hardship to consumers.
- (d) Significant employment is created by the importers of used coats and a large number of hawkers are involved in the marketing of used coats. If the rebate provision is withdrawn many people will lose their income.

## CONSIDERATION

26. On the basis of the available information, the Commission made the following findings:

The importation of used coats has been allowed for a number of decades.

The dispensation in terms of which a provision exists that provides for rebate of the full duty less 30 per cent *ad valorem* on used coats also has been in place for more than a decade.

The duty on used coats in terms of the rebate provision is 30 per cent while the duty on new coats is 40 per cent *ad valorem*.

The control measures in terms of the rebate provision concerned have been improved.

The existence of the rebate provision does not promote the illegal importation of clothing.

Imported used coats are mainly used by the lower income segment of the market.

The importation of used coats with rebate of the full duty less 30 per cent *ad valorem* is not limiting the manufacture of coats in SACU.

The dispensation allowing the importation of used overcoats has resulted in a well-developed business structure, which deals with the importation and the distribution of used coats.

- 27 The Commission concluded that the findings recorded in the previous paragraph outweighs the reasons for commencement of the investigation regarding the withdrawal of the rebate provision concerned as set out in paragraph 7 of the report.
- 28 As result of the above, the Commission decided not to recommend the withdrawal of the provision.
29. Regarding the quantity allowed per annum in terms of the rebate provision concerned the Commission intends to follow a restrictive approach, which takes into account all the relevant factors. Within such an approach the Commission is considering appropriate steps to accommodate new importers, which were not allowed since the year 2000.
30. The Commission also decided to investigate the performance and the potential of the coat industry in SACU and the outcome of the study may influence the approach of the Commission regarding the quantities of used coats allowed in terms of the rebate provision concerned.

## RECOMMENDATION

- 31 In view of the above the Commission recommends that rebate item 460.11/60.00/01.01 allowing the importation of used overcoats, car-coats, raincoats, anoraks, ski-jackets, duffle-coats, mantels, parkas, and similar clothing articles (excluding wind-jackets and wind-cheaters) in bales not containing other clothing articles, in such quantities, in tern IS of such conditions as the International Trade Administration Commission of South Africa may allow by a specific permit be maintained.