

REPORT NO. 562

REVIEW OF REBATE ITEM 311.12/54.07/03.04

The International Trade Administration Commission of South Africa herewith presents
its Report No. 562: **Review of Rebate Item 311.12/54.07/03.04.**



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Siyabulela Tsengiwe
CHIEF COMMISSIONER

PRETORIA
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REPUBLIC OF SOUTH AFRICA

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH
AFRICA**

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REVIEW OF REBATE ITEM 311.12/54.07/03.04

Synopsis

The Commission considered a request by the South African Revenue Service (“SARS”) to review rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3 to the Customs and Excise Act (“the Act”). SARS requested that, if warranted, the extent of rebate should be amended to allow for full rebate of the customs duty or alternatively, the continued need for the rebate provision should be established.

As reason for the application, SARS indicated that the extent of rebate applicable under rebate item 311.12/54.07/03.04 currently exceeds the general rate of duty applicable to fabrics classifiable under tariff heading 54.07 in Part 1 of Schedule No.1. As a rule, rebates and drawbacks of customs duty in terms of any of the Schedules to the Act cannot exceed the levels of duty payable and the anomaly created in rebate item 311.12/54.07/03.04 should therefore be rectified.

During its deliberations and in arriving at its recommendation, the Commission considered the information at its disposal, including comments received during the publication period.

The Commission found that the rebate item does not serve its intended purpose of providing tariff relief but only adds additional cost to possible rebate users. The usage of the subject rebate provision has been negligible over the past 25 years.

During the investigation period as well as the publication phase, the Commission did not receive any comments from users of the rebate provision nor did any domestic manufacturers of fabric permissible under the rebate provision participate in the investigation.

In light of the foregoing, the Commission recommended that rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3, be withdrawn.

1. **THE APPLICATION AND TARIFF POSITION**

- 1.1. ITAC received a request from SARS to review rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3 to the Customs and Excise Act (“the Act”). SARS requested that if warranted, the extent of rebate should be amended to allow for full rebate of the customs duty or alternatively, the continued need for the rebate provision should be established.
- 1.2. In its request, SARS indicated that the extent of rebate applicable under rebate item 311.12/54.07/03.04 currently exceeds the general rate of duty applicable to fabrics classifiable under tariff heading 54.07 in Part 1 of Schedule No.1. As a rule, rebates and drawbacks of customs duty in terms of any of the Schedules to the Act cannot exceed the levels of duty payable and the anomaly created in rebate item 311.12/54.07/03.04 should therefore be rectified.
- 1.3. Rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3 to the Act provides for a partial rebate of the duty of 22% ad valorem applicable to woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of tariff heading 54.04, of a mass exceeding 65g/m². The extent of the partial rebate for item 311.12/54.07/03.04 is the full duty less the greater of 25% or 23 c/m². As such, when the extent of rebate is partial, there is a fractional payment of customs duties. In this particular case however, the rebate has become redundant as the goods can be cleared at 22% ad valorem in Part 1 of Schedule No. 1.

1.4. The extent of rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3 exceeds the current rate of duty in Part 1 of Schedule No. 1 to the Act. The current ad valorem rate of duty in Part 1 of Schedule No. 1 for tariff heading 54.07 is 22%; 13.2%; 10%; free of duty and 22% under General, EU, EFTA, SADC and MERCOSUR, respectively.

1.5. **Table 1** below indicates the extent of rebate under rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3:

Table 1: Current extent of rebate item 311.12/54.07/03.04

Rebate Item	Tariff heading	Rebate Code	Description	Extent of Rebate
311.12	54.07	03.04	Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of heading 54.04, of a mass exceeding 65 g/m ²	Full duty less the greater of 25% or 23c/m ²

1.6. In Report No. 3558 dated 8 August 1995, the then Board on Tariffs and Trade (BTT), recommended the amendment of the tariff structure and rates of duty applicable to the textile and clothing industry. The report further recommended the phase down of duties over a period of seven years with effect from 1 September 1995; this phase down of duties had duty implications for various rebate provisions.

1.7. On 4 October 2002, through Government Gazette No. 23884, SARS implemented the final recommendations made by the BTT to phase down duties in terms of its Report No. 3558, this included a phase down of duties applicable to tariff heading 54.07.

1.8. In Report No. 4180 dated 26 August 2002, the then BTT also recommended the withdrawal of certain rebate provisions for fabrics for various applications in the textile and clothing industry. However, the withdrawal of rebate item 311.12/54.07/03.04 was suspended pending further analysis and evaluation of the usage thereof.

1.9. The consequence of the duty phase down without the concomitant change in the rate of duty under rebate as well as the suspension of the withdrawal of the

subject rebate item, has led to the situation that the extent of the rebate now exceeds the applicable general customs duty. This is a clear anomaly that should be rectified.

2. COMMENTS ON THE APPLICATION

- 2.1. The application was published on 30 June 2017 in the Government Gazette Notice No. 492 of 2017, for interested parties to comment.
- 2.2. Comments objecting to the review of the rebate provision were received from the Government of Lesotho, stating that South Africa has a different interpretation from that which Lesotho holds with regard to the interpretation of the extent of rebates in partial rebate provisions in the SACU tariff book.
- 2.3. Comments in support of the withdrawal of the rebate item were received from the Textile Federation of South Africa (“TEXFED”) while the Republic of Botswana supported the review of the rebate provision.

3. FINDINGS

- 3.1. The extent of rebate applicable under rebate item 311.12/54.07/03.04 currently exceeds the general rate of duty applicable to fabrics classifiable under tariff heading 54.07 in Part 1 of Schedule No.1. As a rule, rebates and drawbacks of customs duty in terms of any of the Schedules to the Act cannot exceed the levels of duty payable and the anomaly created as far as rebate item 311.12/54.07/03.04 is concerned should therefore be rectified.
- 3.2. The rebate item does not serve its intended purpose of providing tariff relief but only adds an additional cost to possible rebate users.
- 3.3. The usage of the subject rebate provision has been negligible over the past 25 years. The most recent data from SARS indicates that imports of fabric classifiable under tariff heading 54.07, which were imported under rebate item

311.12/54.07/03.04, originated mainly from China and Taiwan during the period 2014-2016. On average, imports under the subject rebate item constituted less than 1% of total imports under tariff heading 54.07 over the period 2014-2016.

- 3.4. During the investigation period as well as the publication phase, the Commission did not receive any comments from users of the rebate provision nor did any domestic manufacturers of fabric permissible under the rebate provision participate in the investigation.

4. RECOMMENDATION

- 4.1. In light of the foregoing, the Commission recommended the withdrawal of rebate item 311.12/54.07/03.04 in Part 1 of Schedule No. 3.