

## **REPORT NO. 598**

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**REVIEW OF THE DESCRIPTION OF TARIFF  
SUBHEADING 6210.10.20 IN PART 1 OF SCHEDULE NO. 1  
TO THE CUSTOMS AND EXCISE ACT, NO. 91 of 1964**

The International Trade Administration Commission of South Africa herewith presents its Report No. 598: Review of the description of tariff subheading 6210.10.20 In Part 1 of Schedule No. 1 to the Customs and Excise Act, No. 91 of 1964.

  
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**Meluleki Nzimande**  
**CHIEF COMMISSIONER**

**PRETORIA**  
.....19.....03...../2019

**REPUBLIC OF SOUTH AFRICA**

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA**

**REPORT NO. 598**

**REVIEW OF THE DESCRIPTION OF TARIFF SUBHEADING 6210.10.20 IN PART 1  
OF SCHEDULE NO. 1 TO THE CUSTOMS AND EXCISE ACT, NO. 91 OF 1964**

**Synopsis**

The Commission considered a request by the South African Revenue Service ("SARS") to review the description of tariff subheading 6210.10.20 in Part 1 of Schedule No.1 to the Customs and Excise Act, No. 91 of 1964 ("Customs and Excise Act"), which reads as follows: "Disposable panties of heading 56.03".

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 description for disposable panties is currently discriminatory and poses administrative challenges, as it refers to "disposable panties" at free of duty under tariff subheading 6210.10.20, while on the other hand, certain "disposable underwear" are imported at 40 per cent *ad valorem* under tariff subheading 6210.10.90, which caters for "Other" under garments.

The Commission further found that there is at least one local manufacturer of disposable underwear made of fabrics of tariff heading 56.03, namely: Logan Medical and Surgical (Pty) Ltd, and as such a reduction in the rate of customs duty may negatively impact this industry. This will further affect the uptake of domestically manufactured fabric which is used by Logan Medical and Surgical (Pty) Ltd in the manufacture of disposable underwear.

In light of the foregoing, the Commission recommended that the description of tariff subheading 6210.10.20 be amended as follows: "Disposable underwear of fabrics of

heading 56.03", and that the rate of customs duty be increased from free of duty to 40 per cent *ad valorem*.

## **1. THE REQUEST FOR A REVIEW AND TARIFF POSITION**

- 1.1. ITAC received a request from SARS to review the description of tariff subheading 6210.10.20 in Part 1 of Schedule No.1 to the Customs and Excise Act, which reads as follows: "Disposable panties of heading 56.03".
- 1.2. As motivation for its request, SARS cited, *inter alia*, the following:
  - a) Disposable under garments of non-woven fabrics appear to have evolved from their original use as substitutes for sanitary pads and are now used, *inter alia*, as theatre-wear for patients during surgical procedures.
  - b) The current description of tariff subheading 6210.10.20 at free of duty, is discriminatory and difficult to administer as some disposable underwear of fabrics of tariff heading 56.03 are imported under tariff subheading 6210.10.90 which attracts a general rate of duty of 40 per cent *ad valorem*.
  - c) If disposable underwear is not manufactured locally it is reasonable to review the description of tariff subheading 6210.10.20 to reflect this position.
- 1.3. The review was conducted with a view to consider amending the abovementioned description of tariff subheading 6210.10.20, as follows: "Disposable underwear of fabrics of heading 56.03", provided there are no local manufacturers. This proposed tariff description is intended to cover universal disposable underwear, which is currently not the case as the current tariff structure differentiates between disposable panties classifiable under tariff subheading 6210.10.20 at free of duty and other disposable underwear classifiable under tariff subheading 6210.10.90 at a rate of duty of 40 per cent *ad valorem*.
- 1.4. Tariff subheading 6210.10 currently provides for garments, made up of fabric classifiable under tariff headings 56.02 or 56.03. Tariff subheading 6210.10.20

provides for disposable panties of heading 56.03 and is free of duty. The subject products were previously classifiable under tariff subheading 6104.90 that provided for "other under garments" up until 1988 subsequent to which they were transposed to tariff subheading 6210.10 as a result of the 1988 Harmonized System review.

- 1.5. The recommendation of the then Board on Tariffs and Trade (BTT)<sup>1</sup> as set out in its Report No. 2386 related to a reduction in the rate of customs duty on products classifiable under the then applicable tariff subheading 6104.90 through the creation of an additional 8-digit tariff subheading. The intention of the recommendation was to provide tariff relief for the subject products, and was implemented by SARS as "disposable panties", currently classifiable under tariff subheading 6210.10.20.
- 1.6. In its recommendation, the then BTT noted that the subject products are not only used as substitutes for sanitary pads but can also be used as pre- and post- surgical under garments by patients that have undergone surgical operations. As such, the BTT's approved 8-digit tariff description intended to also cater for, *inter alia*, theatre-wear for patients during surgical procedures.
- 1.7. SARS submitted that the current description of tariff subheading 6210.10.20 gave effect to the recommendation made by the BTT in its Report No. 2386. According to SARS, under no circumstances was it the original intention to have the provision applicable to universal underwear.
- 1.8. SARS further confirmed that some disposable underwear of fabric of heading 56.03 is currently subject to a general rate of duty of 40% *ad valorem* under tariff subheading 6210.10.90.

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<sup>1</sup> The BTT has been replaced by the International Trade Administration Commission of South Africa (ITAC)

1.9. The tariff position of the subject product is depicted in Table 1 below.

**Table 1: Tariff position for the subject product**

Tariff Heading	Tariff Subheading	Description	Statistical Unit	Rate of duty				
				General	EU	EFTA	SADC	MERCOSUR
62.10		Garments, made up of fabrics of headings 56.02, 56.03, 59.03, 59.06 or 59.07:						
6210.10		Of fabrics of headings 56.02 or 56.03:						
	6210.10.20	Disposable underwear of fabrics of heading 56.03	kg	Free	Free	Free	Free	Free
	6210.10.90	Other	kg	40%	24%	20%	Free	40%

Source: SARS

## **2. COMMENTS ON THE APPLICATION**

- 2.1 The review was initially published on 20 June 2018 in the Government Gazette Notice No. 403 of 2018, for interested parties to comment.
- 2.2 In view of the fact that newly submitted information at the Commission's disposal indicated that there was at least one local manufacturer of disposable underwear, the review was republished on 23 November 2018 in Government Gazette Notice No. 726, with an intent to amend the description of tariff subheading 6210.10.20 as follows: "Disposable underwear of fabrics of heading 56.03" and increase the rate of duty from free of duty to 40 per cent *ad valorem*, for interested parties to comment.
- 2.3 During the initial publication period, comments in support of the review were received from the Apparel and Textile Association of South Africa ("ATASA"), the Textile Federation of South Africa ("TEXTFED"), the South African Clothing and Textiles Workers Union ("SACTWU") and the Apparel Manufacturers of South Africa (AMSA).
- 2.4 No comments were received during the republication period.
- 2.5 ATASA submitted that the description of "disposable panties" in the context of the current application of disposable underwear is invalid. It submitted that the subject products can and are manufactured locally, and that the skill set and capacity to manufacture these garments exist within ATASA's members' capabilities.

2.6 In its support for the review, SACTWU submitted that there is a local manufacturer, namely, Logan Medical and Surgical (Pty) Ltd, which manufactures disposable underwear made of fabrics of tariff heading 56.03 and that a reduction in the rate of customs duty may negatively impact the company. This will further affect the uptake of domestically manufactured fabric, which is used by Logan Medical and Surgical (Pty) Ltd in the manufacture of disposable underwear.

### **3. FINDINGS**

3.1 Information at the Commission's disposal indicated that the current description is discriminatory and difficult to administer as it refers to "disposable panties" at free of duty under tariff subheading 6210.10.20, while on the other hand, certain "disposable underwear" are imported at 40 per cent *ad valorem* under tariff subheading 6210.10.90, which caters for "Other" under garments.

3.2 According to information at the Commission's disposal, the level of imports of products classifiable under tariff subheading 6210.10.20 have not shown any significant growth, as imports increased by a marginal average of 4% for the period 2015-2017.

3.3 The Commission found that there is at least one local manufacturer of disposable underwear made of fabrics of tariff heading 56.03, namely: Logan Medical and Surgical (Pty) Ltd, which has capacity to supply the domestic market.

3.4 The review was supported by AMSA, ATASA, TEXTFED and SACTWU.

### **4. RECOMMENDATION**

4.1 In light of the foregoing, the Commission recommended that the description of tariff subheading 6210.10.20 be amended as follows: "Disposable underwear of fabrics of heading 56.03", and that the rate of customs duty be increased from free of duty to 40 per cent *ad valorem*.