

EXPLANATORY MEMORANDUM

TECHNICAL AMENDMENTS FOR IMPLEMENTATION WITH EFFECT FROM 1 JANUARY 2016

Amendments of the Schedules General Notes to Schedule No. 1 as well as Schedules Nos. 1, 2, 3, 4 and 5 to the Customs and Excise Act, 1964 (the Act), are technical in nature and **will have no effect on the duty structure**. The amendments are as a result of requests by industry, SARS or other government agencies and are scheduled for implementation on 1 January 2016.

1. Amendment of General Notes to Schedule No. 1

The Southern African Development Community (SADC) Protocol on Trade was implemented through Notice No. R.893 published in *Government Gazette* No. 21541 of 12 September 2000. South Africa has been a party to the SADC Protocol on Trade since its entry into force on 25 January 2000 and started implementing it on 1 September 2000.

We received a request from the Department of Trade and Industry (**the dti**) in October 2015 to include Namibia in the list of implementing SADC Member States in the General Notes to Schedule No. 1. Records of the SADC secretariat forwarded to SARS by **the dti** indicate that Namibia deposited its instruments of implementation on 4 April 2001 and that implementation commenced on 4 June 2001.

2. Amendments in Part 1 to Schedule No. 1

2.1 Request from National Brands for the creation of a separate tariff subheading for black tea

National Brands applied for the creation of a separate tariff subheading for black tea in immediate packings not exceeding 1 kg, to monitor imports of the bulk product mainly intended for the catering sector and those packed for the retail sales market.

The new 8-digit tariff subheadings will enable the industry to monitor black tea destined for the retail market. National Brands is currently using the point of sale data acquired from market research institutions to monitor the teas.

The following subheading is substituted:

0902.30	Black tea (fermented) and partly fermented tea, in immediate packings of a content not exceeding 3 kg:
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The following new 8-digit subheadings are inserted:

0902.30.10	In immediate packings of a content not exceeding 1 kg
0902.30.90	Other

2.2 Request for separate 8-digit tariff subheadings for diallyl dimethyl ammonium chloride classifiable in tariff subheading 2923.90

F.C Dubbelman and Associate CC, on behalf of Zetachem, a division of Omnia Group (Pty) Ltd), submitted a request for the creation of a separate tariff subheading for diallyl dimethyl ammonium chloride classified in tariff subheading 2923.90. The application will assist the SACU industry to be more competitive in the field of the importation thereof onto the local market. The creation of separate tariff subheadings will allow the SACU industry to monitor the origin, impact, volumes and the average price of the subject product.

The subject product is used in the treatment of water to ensure future water safety. The product is classified in a residual in tariff subheading 2923.90, which incorporates other products, making it difficult for the industry to monitor the directly competitive products imported. The Commission has no objection to the application.

The following 6-digit subheading is substituted:

2923.90	Other:
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The following new 8-digit subheadings are inserted:

2923.90.10	Diallyl dimethyl ammonium chloride
2923.90.90	Other

2.3 Request from the South African Tyre Manufacturers Conference (Pty) Ltd (SATMC) for the creation of separate 8-digit subheadings on rims classifiable in tariff headings 87.08 and 87.16

The South African Tyre Manufacturers Conference (Pty) Ltd (SATMC) together with the Tyre Association of South Africa (TIASA) and the Tyre Dealers and Fitment Centre Association of South Africa (TDFA) applied for the creation of separate 8-digit tariff subheadings for tyres imported on wheels and wheel rims classifiable as parts in tariff headings 87.08 and 87.16.

Tyres on wheels and wheel rims are classified in tariff subheadings 8708.70.90 and 8716.90.90. These subheadings include other vehicle and trailer parts and accessories. There exists a risk that tyres are imported under these tariff subheadings as parts and as a result are not subject to an import permit issued by the Commission or homologation by the National Regulatory of Compulsory Specifications. In addition, tyres so imported also attract a lower import duty than tyres classifiable in Chapter 40 as rubber.

The members of the three tyre industry associations are of the view that tyres are currently being imported under the said headings and then sold separately. This allows the importers to benefit from the lower rate of import duty payable for tyres imported on wheels and wheel rims.

The amendment will identify tyres that are imported as parts of vehicles and trailers and facilitate the implementation of import control measures.

The following new 7-digit and 8-digit tariff subheadings are inserted:

8708.70.2	Road wheels fitted with tyres; wheel rims fitted with tyres:
8708.70.21	Of a kind used on motor cars
8708.70.23	Of a kind used on busses or lorries
8708.70.29	Other
8716.90.20	Road wheels fitted with tyres; wheel rims fitted with tyres

2.4 Request for separate 8-digit tariff subheadings to provide for filled aerosol products

The Aerosol Manufacturers Association (the applicant) applied for the creation of 8-digit tariff subheadings for aerosol products. The key categories range from paints and varnish, lubrication preparations, chemicals and allied products as well as organic composite solvents and thinners.

According to the applicant, the South African industry is under tremendous pressure as importers misdeclare the products on the 6-digit international level.

The applicant motivated that there are products imported into South Africa under tariff subheadings for “other”. The splitting of the subheadings will allow the industry to monitor imports and exports of the above mentioned products.

The following 8-digit tariff subheadings are deleted:

3814.00.10	Containing methane, ethane or propane chlorofluorocarbons (CFC's), whether or not containing hydrochlorofluorocarbons (HCFC's)
3814.00.20	Containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs), but not containing chlorofluorocarbons (CFCs)
3814.00.30	Containing carbon tetrachloride, bromochloromethane or 1,1,1-trichloroethane (methyl chloroform)
3824.00.90	Other
3824.90.01	Mixtures of hydrocarbons and lubricity agents
3824.90.25	Flotation reagents containing dicresyldithiophosphoric acid or alkyl dithiophosphates
3824.90.37	Mono-, di- and triesters of glycerol with unmodified fatty acids, with a soap content (calculated as sodium stearate), by mass, of 3,5 per cent or more and a 1-monoglyceride content, by mass, not exceeding 38 per cent
3824.90.40	Mono-, di- and triesters of glycerol with a soap content (calculated as sodium stearate), by mass, of less than 3,5 per cent and a 1-monoglyceride content, by mass, not exceeding 45 per cent
3824.90.45	Phthalic acid esters of mixed aliphatic alcohols
3824.90.47	Preparations put up as correction fluids
3824.90.50	Chlorinated paraffins
3824.90.60	Other mixtures consisting mainly of chemicals containing a

	phosphorus atom to which is bonded one methyl, ethyl, n-propyl or isopropyl group but not further carbon atoms
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The following 6-digit subheadings are substituted:

3208.20	Based on acrylic or vinyl polymers:
3403.19	Other:
3403.99	Other:

The following 7-digit and 8-digit tariff subheadings are inserted and substituted:

3208.20.10	In aerosol containers
3208.20.90	Other
3403.19.10	In aerosol containers
3403.19.90	Other
3403.99.10	In aerosol containers
3403.99.90	Other
3814.00.1	Containing methane, ethane or propane chlorofluorocarbons (CFC's), whether or not containing hydrochlorofluorocarbons (HCFC's):
3814.00.11	In aerosol containers
3814.00.19	Other
3814.00.2	Containing methane, ethane or propane hydrochlorofluorocarbons (HCFCs), but not containing chlorofluorocarbons (CFCs):
3814.00.21	In aerosol containers

3814.00.29	Other
3814.00.3	Containing carbon tetrachloride, bromochloromethane or 1,1,1-trichloroethane (methyl chloroform):
3814.00.31	In aerosol containers
3814.00.39	Other
3814.00.9	Other:
3814.00.91	In aerosol containers
3814.00.99	Other
3824.90.1	Mono-, di- and triesters of glycerol with a soap content (calculated as sodium stearate), by mass, of less than 3,5 per cent and a 1-monoglyceride content, by mass, not exceeding 45 per cent, in aerosol containers
3824.90.11	In aerosol containers
3824.90.19	Other
3824.90.2	Flotation reagents containing dicresyldithiophosphoric acid or alkyl dithiophosphates:
3824.90.21	In aerosol containers
3824.90.29	Other
3824.90.3	Mono-, di- and triesters of glycerol with unmodified fatty acids, with a soap content (calculated as sodium stearate), by mass, of 3,5 per cent or more and a 1-monoglyceride content, by mass, not

	exceeding 38 per cent:
3824.90.31	In aerosol containers
3824.90.39	Other
3824.90.4	Mono-, di- and triesters of glycerol with a soap content (calculated as sodium stearate), by mass, of less than 3,5 per cent and a 1-monoglyceride content, by mass, not exceeding 45 per cent:
3824.90.41	In aerosol containers
3824.90.49	Other
3824.90.5	Phthalic acid esters of mixed aliphatic alcohols:
3824.90.51	In aerosol containers
3824.90.59	Other
3824.90.6	Preparations put up as correction fluids:
3824.90.61	In aerosol containers
3824.90.69	Other
3824.90.7	Chlorinated paraffin:
3824.90.71	In aerosol containers
3824.90.79	Other
3824.90.8	Other mixtures consisting mainly of chemicals containing a phosphorus atom to which is bonded one methyl, ethyl, n-propyl or isopropyl group but not further carbon atoms:
3824.90.81	In aerosol containers

3824.90.89	Other
3824.90.9	Other:
3824.90.91	In aerosol containers
3824.90.99	Other

2.5 Request from the Textile Federation of South Africa (TEXFED) for the amendment to statistical unit on articles of Chapters 61 and 62

The Textile Federation of South Africa (the applicant) requested the amendment of the statistical unit of measure for clothing articles classified in Chapters 61 and 62 to be changed to kilograms. The statistical unit of measure for the articles of Chapters 61 and 62 are currently expressed as “units”.

In total 20 tariff subheadings in Chapter 61 have “kilogram” as the statistical unit of measure while 101 tariff subheadings have “unit” as the statistical unit of measure. 43 tariff subheadings have “kilogram” as the statistical unit of measure while 111 tariff subheadings have “unit” as the statistical unit of measure in Chapter 62.

As motivation for the request, the applicant stated that the clothing and textile sectors have been beset for many years by rampant under-valuation of imports originating from a number of countries most notably from China.

This under-valuation has over the years resulted in significant job losses and business failures, as well as the negative impact on the *fiscus* due to possible under collection of import duties.

The use of “kilograms” as the statistical unit of measure will enable SARS and industry to improve risk management within the clothing sector.

On 24 June 2011, the World Customs Organisation (WCO), of which South Africa is a member, has published the recommendations of the Customs Co-operation Council (CCC) on the use of standard units of measure to facilitate collection, comparison and analysis of international statistics based on the Harmonised System (HS). Chapters 61 and 62, have units of quantity expressed as “units” in accordance with the WCO’s recommendations.

In terms of a recommendation made by the CCC, it is recommended that Contracting Parties to the HS report international trade data to the United Nations (UN) and other international organisations and to employ not less than 90 per cent of the units of quantity of the HS subheadings.

Currently South Africa complies with 96,5 per cent of the units of quantity of the HS subheadings, and the proposed deviations which are still above 90 per cent will be communicated to the WCO.

It is proposed that the deviation from the recommendation of the CCC is warranted in an effort to assist the textile industry with under-valuation of products.

2.6 Request for separate 8-digit tariff subheadings to provide for steel used in the production of cans.

XA International Trade Advisors on behalf of Nampak Divfood submitted a request for the creation of separate tariff subheadings for steel used in the production of cans.

Nampak Divfood needs to monitor imports of raw material and average prices of steel coated with tin or zinc used for the manufacture of cans. The steel used for cans moves in small volumes compared to other steel products classifiable in the tariff subheadings currently applicable.

The following 6-digit subheading is substituted:

7210.12	Of a thickness of less than 0,5 mm:
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The following new 8-digit subheadings are inserted:

7210.12.10	Other, of a thickness less than 0,3 mm
7210.12.20	Other, of a width exceeding 950 mm
7210.12.90	Other

1.7 Amendment in Chapter 39

Additional Note 2 in Chapter 39 is amended to replace the reference to “**has a bearing on**” with “**applies to**” to clarify the intention of the Note.

The Note is amended as follows:

“For the purposes of this Chapter the expression “heat shrinkable” **applies to** product which at a temperature of 120°C have a shrinkage coefficient of 15 per cent or more”

The opportunity is also used to amend the wording on the descriptions of tariff subheadings 3920.20.25, 3920.20.30, 3920.20.35 and 3920.20.40 from “not heat shrinkable” to read as “not heat shrinkable as defined in Additional Note 2 to Chapter 39”. This will ensure that stakeholders are aware of the Note that defines “heat shrinkable”.

2.8 Amendment of Note 8 to Chapter 98

Note 8 to Chapter 98 is substituted to remove the reference to rebate item “**317.04 up to 31 December 2012**” applicable to the MIDP. The MIDP has been replaced

with the Automotive Production and Development Programme (APDP) with effect from 1 January 2013.

The Note is amended as follows:

For the purposes of this Chapter "automotive components" means a new article which can be identified as being suitable for use in the manufacture of motor vehicles manufactured under rebate items 317.03 [, **317.04 up to 31 December 2012**] and 317.07 or original equipment components, including carpet cut to floorpan shape, leather seat covers cut to size, unfinished articles, including blanks and rough castings having the essential character of automotive components.

The amended Note will remain applicable to components imported under the APDP.

3 Amendment of Schedule No. 2

Anti-dumping items 215.02/8716.80.10/01.08, 215.02/8716.80.10/02.08 and 215.02/8716.80.10/03.08 are deleted and items 217.02/8716.80.10/01.08, 217.02/8716.80.10/02.08 and 217.02/8716.80.10/03.08 are inserted to logically re-organise the items in Part 1 of Schedule No. 2 according to the sections of the HS. Wheelbarrows resort under vehicles of Sections XVII (17) and not under steel products of Sections XV(15).

4 Amendment of Schedule No. 3

(a) In Report 239 dated 14 June 2007, the Commission recommended a temporary rebate of duty for three years on soya oilcake for use in the manufacture of animal feed. Effect was given to the amendment through Government *Gazette* No. 30586 dated 21 December 2007.

Rebate item 304.07/23.04/01.04 provides for oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soya-bean oil, in such quantities and at such times as the Commission may allow by specific permit for the manufacture of preparations of a kind used in animal feeding, with effect from 1 July 2008 up to and including 30 June 2011.

The rebate provision is deleted, as the period from 1 July 2008 to 30 June 2011 covered has lapsed.

- (b) Notes to rebate item 317.04 as well as rebate items 317.04/98.01/01.04 to 317.04/98.01/05.04 applicable to MIDP are deleted. The MIDP has been replaced with the APDP with effect from 1 January 2013.

5 Amendment of Schedule No. 4

- (a) In Report No. 316 dated 26 October 2009, the Commission recommended the creation of a rebate provision for goods for use in the construction of the multi-products pipeline for the transportation of petroleum products. Effect was given to the Commission's recommendation through Government *Gazette* No. 32806 dated 18 December 2009.

Rebate item 460.27/00.00/01.00 in Part 2 of Schedule No. 4 provides for goods, entered for home consumption on or before 31 December 2010, in such quantities, at such times and under such conditions as the Commission may allow by specific permit, for the installation of fuel pipeline systems.

The rebate provision is deleted as it was created for goods entered for home consumption on or before 31 December 2010.

- (b) Rebate item 497.00 in Part 5 of Schedule No. 4 is amended to restructure the notes in line with the structure for notes in other Schedules.
- (c) Note 1 to rebate item 460.17 is deleted as it pertains to MIDP rebate items that are also deleted. Notes 2 to 3 are renumbered as Notes 1 to 2 as well as the substitution of Note 1(b) to rebate item 460.17. Rebate items 460.17/00.00/02.00, 460.17/8701.20/01.06, 460.17/87.02/01.04, 460.17/87.03/01.04, 460.17/87.04/01.04 and 460.17/87.06/01.04 applicable to MIDP are deleted. As mentioned in paragraph 4.3.2, the MIDP has been replaced with the APDP with effect from 1 January 2013.

6 Amendment of Schedule No. 5

- (a) The Minister of Energy requested the exemption on fuel used in the line-fill of the new multi-products pipeline (NMPP) from fuel taxes and levies such as the general fuel levy, customs and excise duty and the Road Accident Fund Levy.

Cabinet approved the Energy Master Plan for liquid fuels in August 2007, which recommended a new pipeline to handle the additional inland demand for refined fuel products, namely petrol and diesel, from coastal refineries.

Effect was given to the request from the Department of Energy to provide for a refund of the fuel levy and Road Accident Fund Levy paid during the line-fill of the NMPP through Government *Gazette* No. 35791 dated 19 October 2012.

Refund item 539.01/2710.1/01.05 provides for fuel supplied by Petroleum Oil and Gas Corporation of South Africa Ltd for the trunkline-fill of the NMPP from Island View Durban to Jameson Park, before 31 March 2012, not exceeding 154 744 400 li. The refund provision is deleted as the expiry date was 31 March 2012 and the period of two years in which to claim refunds lapsed on 31 March 2014.