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Correction Notice, Notice 2783 in Gazette 51356 on the 4th of October is replacing the notice that was published in Gazette 51003 with Notice No. 2669 on the 2nd of August 2024

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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 2783 OF 2024

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

GUIDELINES FOR THE IMPOSITION OF AN AGRICULTURAL SAFEGUARD MEASURE PROVIDED FOR IN ARTICLE 35 OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE SOUTHERN AFRICAN CUSTOMS UNION MEMBER STATES AND MOZAMBIQUE, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART (SACUM-UK EPA)

Article 35 of the SACUM-UK EPA provides for a reference and procedure guide for implementing an agricultural safeguard measure. This emanates from the Economic Partnership Agreement (EPA) between the United Kingdom and its Member States, of the one part, and the Southern African Customs Union (SACU) Member States and Mozambique, of the other.

The International Trade Administration Commission of South Africa ("the Commission" or "ITAC") has drafted the attached reference and procedural guide for the imposition of an agricultural safeguard measure under Article 35 of the SACUM-UK EPA.

The SACU Council of Ministers has approved the attached guidelines. The Minister of Trade, Industry and Competition of South Africa instructed ITAC, in terms of Section 16(d)(i) of the International Trade Administration Act, 2002 (Act 71 of 2002) ("ITA Act"), to administer the agricultural safeguard provision provided for in Article 35 of the SACUM-UK EPA, in accordance with ITAC's reference and procedural guide about the imposition of an agricultural safeguard measure under Article 35 of the SACUM-UK EPA.

It should be noted that these guidelines are published for implementation purposes.

For further information, please contact Mr. Zuko Ntsangani, at zntsangani@itac.org.za or Mr. Busman Makakola at bmakakola@itac.org.za

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GUIDELINES FOR THE IMPOSITION OF AN AGRICULTURAL SAFEGUARD MEASURE PROVIDED FOR IN ARTICLE 35 OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE SOUTHERN AFRICAN CUSTOMS UNION MEMBER STATES AND MOZAMBIQUE, OF THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, OF THE OTHER PART (SACUM-UK EPA)

1. PURPOSE

1.1 These Guidelines provide a reference and procedural guide for the imposition of an agricultural safeguard measure in terms of Article 35 of the SACUM-UK EPA.

2. SCOPE

2.1 The scope of these Guidelines covers the process for imposition of an agricultural safeguard measure in terms of Article 35 of the SACUM-UK EPA, which provides as follows:

''1. Notwithstanding Article 34 of this Agreement, a safeguard measure in the form of an import duty may be applied if, during any given twelve-month period, the volume of imports into SACU of an agricultural product listed in Annex IV originating in the UK exceeds the reference quantity for the product therein indicated.

2. A duty which shall not exceed 25 per cent of the current WTO bound tariff or 25 percentage points, whichever is higher, may be imposed to the agricultural products referred to in paragraph 1. Such duty shall not exceed the prevailing MFN applied rate.

3. Safeguard measures referred to in this article shall be maintained in place for the remainder of the calendar year or five (5) months, whichever is the longer.

4. Safeguard measures referred to in this Article shall not be maintained or applied with respect to the same good at the same time as:

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a) a bilateral safeguard measure in accordance with Article 34;

b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards; or

c) a special safeguard measure under Article 5 of the Agreement on Agriculture.

5. Safeguard measures referred to in this Article shall be implemented in a transparent manner. Within ten (10) days after applying such a measure, SACU shall notify the UK in writing and shall provide relevant data concerning the measure. On request, SACU shall consult the UK regarding the application of the measure. SACU shall also notify the Trade and Development Committee within thirty (30) days after such imposition.

6. The implementation and operation of this Article may be the subject of discussion and review in the Trade and Development Committee. On request of either Party, the Trade and Development Committee may review the reference quantities and agricultural products as provided for in this Article.

7. The provisions of this Article may only be applied during the period of twelve (12) years from the date of entry into force of this Agreement."

3. MANDATE

The SACU Council has mandated the International Trade Administration Commission of South Africa (ITAC) to administer the agricultural safeguard provision provided for in Article 35 of the SACUM-UK EPA on behalf of SACU in line with these Guidelines.

4. PROCEDURE

4.1 The SACU Member States will submit import volumes for the products listed in the attached Annexure to the SACU Secretariat by the 5th of each month. The SACU Secretariat shall collate the Member States' import volumes and by the 10th of each month, provide all SACU Member States and ITAC with the collated import volumes for the products listed in the attached Annexure.

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4.2 When the import volumes as per the collated data for the SACU market indicate that the trigger volume for a specific product as contained in the attached Annexure has been reached, the SACU Secretariat shall immediately inform all SACU Member States and ITAC of the following:

(a) that the trigger volume for a specific product has been reached;

(b) the relevant rate of safeguard duty to be applied, which shall be the maximum possible rate; and

(c) the duration of the measure as provided for in Article 35 of the SACUM-UK EPA.

4.3 Within five (5) days of receipt of the communication referred to in paragraph 4.2 from the SACU Secretariat, ITAC will prepare a Ministerial Minute for the Minister of Trade, Industry and Competition of South Africa indicating that the trigger volume for a specific product has been reached, the specific amount of the duty and the specific period for the duty to be imposed, in line with the relevant provisions in Article 35 of the SACUM-UK EPA.

4.4 The Minister of Trade, Industry and Competition of South Africa will request the Minister of Finance of South Africa, to make the necessary amendments to the SACU Tariff Book as set out in the Ministerial Minute. The amendment to the relevant schedule to the Customs and Excise Act will be published by the South African Revenue Service.

4.5 Within ten (10) working days after applying the measure, SACU shall notify the UK in writing and shall provide relevant data concerning the measure. SACU shall also notify the Trade and Development Committee within thirty (30) days after such imposition.

ADOPTED BY THE SACU COUNCIL OF MINISTERS ON THE 28th DAY OF JUNE 2023.

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ANNEX IV

AGRICULTURAL SAFEGUARDS

The agricultural products and respective reference quantities referred to in Article 35 are listed in the following table:

		Reference quantities (metric tons)[9]											
	Tariff lines	**Year 1 2016**	**Year 2 2017**	**Year 3 2018**	**Year 4 2019**	**Year 5 2020**	**Year 6 2021**	**Year 7 2022**	**Year 8 2023**	**Year 9 2024**	**Year 10 2025**	**Year 11 2026**	**Year 12 2027**
	Edible offals												
1	*02061090*	12	13	15	16	18	19	21	23	26	28	31	34
2	*02062100*	82	90	98	107	115	123	131	139	148	156	164	172
3	*02062900*	570	627	684	741	798	855	912	969	1026	1083	1140	1197
4	*02063000*	12	13	15	16	18	19	21	23	26	28	31	34
5	*02064900*	572	629	686	744	801	858	915	972	1030	1087	1144	1201
	Worked cereals												
6	*11041910*	151	166	183	201	221	243	268	294	324	356	392	431
7	*11042910*	12	13	15	16	18	19	21	23	26	28	31	34
8	*11071010*	55	61	67	73	81	89	97	107	118	130	143	157
9	*11072010*	12	13	15	16	18	19	21	23	26	28	31	34
10	*11081110*	12	13	15	16	18	19	21	23	26	28	31	34

9 In the case that the date of entry into force of this Agreement corresponds to a date after 1 January and before 31 December of the same calendar year, the reference quantity, which shall be applicable for the remainder of that calendar year, shall be applicable for the remainder of that calendar year, shall be reduced pro rate for the remaining number of days in that calendar year.

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	Meat preparations												
11	*16021000*	12	13	15	16	18	19	21	23	26	28	31	34
12	*16025030*	12	13	15	16	18	19	21	23	26	28	31	34
13	*16025040*	12	13	15	16	18	19	21	23	26	28	31	34
14	*16029020*	12	13	15	16	18	19	21	23	26	28	31	34
	Ultra high temperature (UHT) or "long-life" milk												
15	*04011007*	12	13	15	16	18	19	21	23	26	28	31	34
16	*04012007*	690	759	835	918	1010	1111	1222	1345	1479	1627	1790	1969
17	*04014007*	12	13	15	16	18	19	21	23	26	28	31	34
18	*04015007*	12	13	15	16	18	19	21	23	26	28	31	34
	Preserved cucumbers and olives												
19	*20011000*	120	132	145	160	176	193	213	234	257	283	311	342
20	*20019010*	42	46	51	56	61	68	74	82	90	99	109	120
	Chocolate												
21	*180631*	321	353	385	417	449	482	514	546	578	610	642	674
22	*180632*	181	199	217	235	253	272	290	308	326	344	362	380
23	*180690*	833	916	1000	1083	1166	1250	1333	1416	1499	1583	1666	1749

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