Customs Duty and Market Access

(PRJ-0308-2022)

South African Milk Processors Organisation (SAMPRO)

Quarter 1 2022/2022 (January 2022 till March 2022)

Project goals

Goal 1 - Bilateral and multilateral trade agreements

Achievements

BILATERAL AND MULTILATERAL TRADE AGREEMENTS

1. The Agricultural Trade Forum (ATF) of the Department of Agriculture, Land Reform and Rural Development (DALRRD) is the platform where all Agricultural trade negotiations are discussed and protocols are developed. During the last two years there were mainly two Multilateral agreements that were of importance for the dairy industry, namely:

The African Continental Free Trade Area (AfCFTA) which includes 54 African Countries; and

Southern African Customs Union and Mozambique Economic Partnership Agreement with the United Kingdom (SACUM/UK EPA).

The SACU trade agreement is one of the oldest trade agreements and in 2022, some aspects that have been outstanding for quite some time, will again come under the spotlight and placed on the agenda for discussions. Infant industry protection will be one of the agenda points up for discussion.

The following market access aspects are of importance regarding the AfCFTA agreement:

90% of the tariff headings will scale down immediately after the implementation;
The remaining 10% (i.e., the 7% Sensitive and 3% Exclusion products), will be phased out after five years of the implementation of the agreement;

Tariff headings (0402.10) skimmed milk powder, (0402.20) full cream milk powder, and (0405.10) butter, are the dairy products which fall under the Sensitive product list.

Although the AfCFTA agreement was already implemented in January 2021, South Africa could not trade under the more favourable conditions of the Continental Free Trade Agreement. South Africa will only be allowed to start gaining from the lower tariffs once it reaches the stage when 90% of the tariff headings have been included in the list to be scaled down. At this stage, South Africa's offer stands at 87.5% of its tariff headings that will scale down.

<u>Outstanding AfCFTA Rules of Origin (agriculture)</u>

SACU has adopted the "wholly obtained" rule of origin on all agricultural products. However, Mauritius and Namibia have adopted a different stance on the dairy subheadings described in the next paragraphs.

The table below is the summary of the outstanding rules and options proposed by Member States. Government is requesting industries to consider the matrix below and indicate areas where they can be flexible to agree **to the compromise rule of "Value of Non-originating Materials" (VNOM) as a transitional rule** in areas where the proposed rule is wholly obtained, and others proposed Change of Tariff Heading (CTH). In the case of CTH, the two countries will be allowed to import all the materials from all over the world and manufacture yoghurt and processed cheese for a period of 10 years. After the 10 years, the rule will be "wholly obtained" again. The VNOM is seen as the middle ground between the options of wholly obtained and CTH and allow minimum value addition in the Continent.

CTH - Change in Tariff Heading: This is a very flexible rule of origin that is the <u>exact opposite</u> of the <u>wholly obtained rule</u>. It simply allows for the unrestricted sourcing of inputs from the global market in the production of any product. It undermines the sourcing of critical inputs from within the Continent.

The government is proposing the VNOM rule (as a middle ground) tied up to the transitional period, after which we would revert to wholly obtained rule.

CHAPTER	HEADINGS/SUB-Headings		PROPOSED OPTIONS

04 (Dairy Products)	0403 (Yogurt) 0406 (Cheese) 0406.30 (processed Cheese)	On 0403- 1. CTH (Namibia, Mauritius (CTH for a period of 5 – 10 years) On 0406.30- Mauritius prefer a VNOM at 40%, but Namibia prefers a CTH

It was proposed in 2021, that the rule of **Value of Non-originating Materials (VNOM)** is accepted for a period of five years which will allow Namibia and Mauritius to import 40% of non-originating materials. After the 5 years the rule will be wholly obtained again.

Goal 2 - Trade protection and tariff dispensation

Achievements

TRADE PROTECTION AND TARIFF DISPENSATION

Protection against the import of UHT milk

The current rate of duty on UHT milk imports has been for almost two decades at a zero rate of duty. Currently, almost all imports of UHT milk originate from Poland. When South Africa started its negotiations in 2000, UHT duties were bound at a zero rate and South Africa cannot increase its normal import duties to curb the influx of UHT imports from Poland. The only measurements to our disposal are, either, **Dumping duties or Safeguard duties** under Article 35 of the EPA agreement. A study undertaken by the local South African processors of UHT milk through their representative organisation SAMPRO, indicated in 2019/2020, that Poland did not dump any UHT milk in the South Africa market at a lower price level than what was available in their own market.

Informal discussions about Article 35 took place and a formal letter was forwarded to ITAC to get clarity if there are any guidelines for the implementation of Article 35 of the EPA agreement once the import trigger levels for full cream UHT milk are exceeded in a particular year.

Subsequent to this development, the Department of Agriculture, Land Reform and Rural Development (DALRRD) held several interdepartmental meetings with the Department of Trade and Industry (DTI), SARS and the International Trade Administration Commission of South Africa (ITAC) on this matter during which implementation guidelines were developed and agreed upon at national level. The proposed guidelines were shared with its SACU partners and draft guidelines for the implementation of Article 35 of the EPA agreement were published in the Government Gazette.

The Customs Duty and Market Access Project of Milk SA commented on the guidelines and the comments were submitted to ITAC.

The South African negotiators (DTI and DALRRD) are busy negotiating the guidelines with the EU and we hope to have a conclusion in 2022. The Department participated in the 8th SADC-EU EPA Trade and Development Committee (TDC) meeting which took place on 26 November 2021, through a virtual platform. During the meeting, the EU indicated that their newly appointed political head has approved, on behalf of the EU, the signing of the Decision on implementation of the measure by the Joint Committee.

The EU further indicated that it has noted the matter raised by the SADC EPA States of recovering the lost time but of the view that the focus by now should be on getting the measure implemented. The EU further stated that the article itself and the footnote does not make any reference to the timeframe for implementation of the measure and does not state any possibility of an extension, therefore there is no time lost and the legal arguments presented by SACU, has no basis. In response, SACU indicated that it has put her arguments in writing and therefore would prefer feedback from the EU in writing as well. SACU also indicated that the article is not explicit in terms of the commencement of implementation of the measure.

The mass (kg) of imports of UHT milk with a fat content not exceeding 1 percent (tariff subheading 0401.10.07) and UHT milk with a fat content exceeding 1 percent but not exceeding 6 percent (tariff subheading 0401.20.07) have decreased considerably over the last view years up to 2020. From January to December 2021, 22 491 tons of UHT was imported. See Table 1.

Table 1: The mass of imports of UHT milk with a fat content not exceeding 1 percent (tariff subheading

0401.10.07) and that of UHT milk with a fat content exceeding 1 percent but not exceeding 6 percent (tariff subheading 0401.20.07)

UHT Milk	2017	2018	2019	2020	2021
Tons					
0401.10.07	3	25	20	43	8 724
0401.20.07	38 801	17 145	17 992	5 392	13 767
Total mass	38 803	17 170	18 012	5 435	22 491

Goal 3 - Export certification

Achievements

EXPORT CERTIFICATION

Foot and Mouth Disease outbreak

South Africa had four outbreaks of Foot and Mouth disease (FMD) in the last four years. The Vhembe outbreak was early in January 2019 and most of South Africa's trading partners have introduced at that time an interim ban on importation of all animal and animal products. All import permits and Veterinary Health Certificates had to be renegotiated.

The Veterinary Service Department has started negotiations with its trading partner countries for the continuation of trade in safe commodities. Safe commodities included any product that has been processed in such a way that the FMD virus, should it be present, will be destroyed. Each importing country retains the right to determine its appropriate level of protection and exporters are urged to obtain import requirements via their contact points in the importing countries.

DALRRD has successfully negotiated the revision of Veterinary Health Certificates for processed dairy exports and South Africa's historical export market has been re-opened.

While DALRRD was waiting on the approval of a disease containment zone and the re-establishment of the previous FMD-free zone without vaccination status (excluding the FMD control zone and the disease containment zone), the FMD-virus spread to the Molemole area during the first week in November 2019.

A third outbreak occurred during June 2021, at Mthubatuba. The Minister of Agriculture, Land Reform and Rural Development declared a Disease Management Area (DMA) in the KwaZulu-Natal Province in the Government Gazette No. 44783 on 30 June 2021, which was reduced in size on 7 September 2021, as declared in the Government Gazette No. 45109. This reduced DMA with all its control measures is still in place. Currently, there are 40 affected locations. Serological and clinical surveillance is ongoing.

The fourth outbreak occurred in March 2022, in the Northwest Province with two reported outbreaks. On the 1st of April 2022, the MEC for the Economic Development, Environment and Rural Development and parks of the Gauteng Province alerted the livestock sector and processors of products of animal origin of an outbreak in Gauteng. The disease has been confirmed on a farm in Randfontein.

The two-year window of opportunity to apply for the reopening of the free states FMD has elapsed and DALRRD indicated that it will have to restart the whole process of applying to the OIE. This could take as long as two years and even longer to regain our free FMD status.

Goal 4 - Import monitoring

Achievements

IMPORT AND EXPORT MONITORING

1. The following monthly import and export tables and quarterly reports were submitted:

Monthly January to December 2021

Quarterly January 2022

Goal 5 - Participation in the Animal Health Forum i.r.o. trade related issues

Achievements

PARTICIPATION IN THE NATIONAL ANIMAL HEALTH FORUM (NAHF)

The project manager participates in the meetings

of the forum and focuses on trade related issues.
Since the announcement of the FMD-outbreak, the Customs and Market Access Project of Milk SA has been in continuous contact with the Animal Health Directorate of the Department of Agriculture Land Reform and Rural Development (DALRRD) and the National Animal Health Forum (NAHF).
All the media briefs and press releases were forwarded to the industry by Milk SA and we will continue to do this.

A decision was taken by Milk SA that, as from 2021, the membership fees for the NAHF will be split 50/50 between the Research and Development Project and the Customs and Market Access Projects of Milk SA. The membership fees for 2022 will be R72 000.00

Income and expenditure statement

Income and expenditure statement	CORFIN151 Std Qtr (1) Fin report - Project Advances.xlsx Customs Duty (003).pdf
Unnecessary spending during period	No

Popular Report

Customs 1st Qtr Pop Report 2022 (Final).docx

Additional documentation

No file has been uploaded

Statement

Levy funds were applied only for the purposes stated in the contract	Yes
Levy funds were applied in an appropriate and accountable manner	Yes
Sufficient management and internal control systems were in place to adequately control the project and accurately account for the project expenditure	Yes
The information provided in the report is correct	Yes