Customs Duty and Market Access

(PRJ-0308-2022)

South African Milk Processors Organisation (SAMPRO)

Quarter 4 2022 (October 2022 till December 2022)

Project goals

Goal 1 - Bilateral and multilateral trade agreements

Achievements

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 55 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.

Although the AfCFTA agreement was already implemented in January 2021, none of the member countries could trade under the more favourable conditions of the Continental Free Trade Agreement. Members 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. South Africa's offer stands at 87.5%.

At this stage, 44 of the 55 countries have complied with their domestic requirements for ratification of the AfCFTA Agreement. One country, Eritrea, has yet to sign the agreement.

<u>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 exact opposite of the wholly obtained rule. 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 South African 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)	On 04.03 1. CTH (Namibia, Mauritius (CTH for a period of 5 – 10 years)
	0406 (Cheese) 0406.30 (processed Cheese)	On 0406.30 Mauritius prefer a VNOM at 40%, but Namibia prefers a CTH

It was proposed 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. The dairy industry still awaits the outcome of the negotiations.
Tables 2 and 3 indicate the import utilisation in tons under the SADC- EU – EPA and the SACUM- UK-EPA.

Table 2: Import utilisation in tons under the SADC- EU – EPA for the period 01/01/2022 to 31/10/2022.

Product	SACU Quota	SA Allocation	Total imports by SA	% Utilisation SA
		Tons		
Cheese	8 300	5 180	3 490	60.1%
Butter > 20kg	500	350	0	-
Ice Cream	150	105	62	58.7%

Source: DALRRD, November 2022

Table 3: Import utilisation in tons under the SACUM- UK-EPA for the period 01/01/2022 to 31/10/2022.

Product	SACU Quota	SA Allocation	Total imports by SA	% Utilisation SA
		Tons		
Cheese	1 444	1 011	59	5.8%
Butter > 20kg	94	65.8	0	-
Ice Cream	24	16	0	-

Source: DALRRD, November 2022

No Non-achievements / underperformance has been reported

Goal 2 - Trade protection and tariff dispensation

Achievements

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.

After this development, the Department of Agriculture, Land Reform and Rural Development (DALRRD) held several interdepartmental meetings with the Department of Trade and Industry and Competition (DTIC), 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 South African negotiators (DTIC 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 SADC EPA States indicated that they have reached an agreement on the trigger levels of products listed under Annexure (vi) of Article 35 of the EPA agreement. This list will be shared once received from DTIC and DALRRD.

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 few years up to 2020. From January to December 2021, 22 491 tons of UHT was imported. In the first nine months of 2022, a mass of only 2 076 tons of UHT milk was imported. See Table 4.

Table 4: 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	2022 Jan to Sep
Tons						
0401.10.07	3	25	20	43	8 724	356
0401.20.07	38 801	17 145	17 992	5 392	13 767	1 720
Total mass	38 803	17 170	18 012	5 435	22 491	2 076

No Non-achievements / underperformance has been reported

Goal 3 - Export certification

Achievements

At this point in time Eswatini does not ollaw any final processed dairy products to be exported to them if it originate from KwaZulu Natal because of the severe outbreak of FMD in the province.

No Non-achievements / underperformance has been reported

Goal 4 - Import monitoring

Achievements

The Customs Duty and Market Access Project submitted the following monthly import and export tables and quarterly report to Milk SA:

Monthly January to September 2022

Quarterly January to September 2022

No Non-achievements / underperformance has been reported

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

Achievements

Mr Fanie Ferreira (Representative of Milk SA and CEO of MPO) serves on the NAHF as a council member while Mr De Wet Jonker (Manager of the Customs and Market Access Project of Milk SA) is focussing on international market access issues. Dr Chimes as a representative from Milk SA, is also available to the Forum, as a dairy health expert.

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, is R72 000.00.

Foot and Mouth Disease outbreak

South Africa had several outbreaks of Foot and Mouth disease (FMD) in the last four years. The Vhembe outbreak was early in January 2019, which resulted in losing our free status of FMD 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.

In Table 5, the DALRRD indicates a summary of the outbreaks per province as on 30 November 2022.

Table 5: Summary of active outbreak by province

Province	Number of open outbreaks	Number of resolved outbreaks	Total number of outbreaks	Last reported outbreak
KwaZulu-Natal	115	2	117	31 October 2022
Limpopo (Previous free zone)	7	1	8	13 June 2022
Northwest	16	1	17	21 October 2022
Gauteng	4	3	7	15 September 2022
Free State	40	1	41	31 October 2022
Mpumalanga	1	0	1	5 August 2022
Total	183	8	191	

Source: DALRRD, Directorate Animal Health, 30 November 2022

The National Animal Heath Forum (NAHF) is in constant consultation with DALRRD, finding solutions and actions to combat Foot and Mouth disease. A Ministerial Technical Committee was established to develop a strategy for FMD. Inputs were received from the livestock industry. Once the report is finalised, it will be distributed to all role-players.

All the media briefs and press releases were forwarded to the industry by Milk SA and we will continue to do this.

No Non-achievements / underperformance has been reported

Income and expenditure statement

Income and expenditure statement	CORFIN151 Std Qtr (4) Fin report - Project Advances.xlsx Customs Duty (4).pdf
Unnecessary spending during period	No

Popular Report

Customs 4 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