



Customs Duty and Market Access

(PRJ-0348-2023)

South African Milk Processors Organisation (SAMPRO)

Quarter 1 2023/2023 (January 2023 till March 2023)

Project goals

Goal 1 - Bilateral and multilateral trade agreements

Achievements

BILATERAL AND MULTILATERAL TRADE AGREEMENTS

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;

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

SACU (Southern African Customs Union) Agreement.

The SACU trade agreement is one of the oldest trade agreements and in 2023, some aspects that have been outstanding for quite some time, will again come under the spotlight and be placed on the agenda for discussion. 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 had already been 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.

The tariff Offer of 7111 tariff lines, which represents 90 percent of the SACU Tariff Book, was submitted to the AfCTFA Secretariat on the 13th of February 2023 for verification. The

SACU Secretariat is currently working in close collaboration with the AfCTFA secretariat to facilitate the completion of technical verification of the Offer.

The Republic of Botswana has also deposited the instruments for ratification of the AfCTFA Agreement. All SACU member States have now ratified the Agreement.

At this stage, 46 of the 55 countries have complied with their domestic requirements for ratification of the AfCTFA Agreement. One country, Eritrea, still must sign the Agreement.

AfCTFA Rules of Origin (agriculture)

SACU adopted the “wholly obtained” rule of origin on all agricultural products. However, Mauritius and Namibia 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 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 the 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 prefers a VNOM at 40%, but Namibia prefers a CTH |

It was proposed that the rule of **Value of Non-originating Materials (VNOM)** was 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.

EU AND UK Agreements

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 by 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 to 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

TRADE PROTECTION AND TARIFF DISPENSATION

Protection against the import of UHT milk

The current rate of duty on UHT milk imports had been set at a zero rate of duty for almost two decades. 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 at 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 price below the price at which UHT milk 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 any guidelines existed 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 SADC EPA States indicated that they had reached an agreement at the end of 2022 on the trigger levels of products listed under Annexure (vi) of Article 35 of the EPA agreement. This list would 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) decreased considerably over the last few years up to 2020. From January to December 2021, 22 491 tons of UHT were imported. In 2022 a mass of only 3 613 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 |
|-------------------|---------------|---------------|---------------|--------------|---------------|--------------|
| Tons | | | | | | |
| 0401.10.07 | 3 | 25 | 20 | 43 | 8 724 | 356 |
| 0401.20.07 | 38 801 | 17 145 | 17 992 | 5 392 | 13 767 | 3 257 |
| Total mass | 38 803 | 17 170 | 18 012 | 5 435 | 22 491 | 3 613 |

No Non-achievements / underperformance has been reported

Goal 3 - Import and export monitoring

Achievements

IMPORT AND EXPORT MONITORING

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

Monthly January to February 2023

Quarterly January to December 2022

No Non-achievements / underperformance has been reported

Goal 4 - Participation on the National Animal Health Forum i.r.o. trade related issues

Achievements

PARTICIPATION IN THE NATIONAL ANIMAL HEALTH FORUM (NAHF)

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) focusses on international market access issues. Dr Chimes as a representative from Milk SA, is also available to the Forum, as a dairy health expert.

From 2022 Milk SA will be responsible for the membership fees for the NAHF.

Foot and Mouth Disease outbreak

South Africa had several outbreaks of Foot and Mouth disease (FMD) in the last four years. The Vhembe outbreak occurred early in January 2019, which resulted in South Africa losing its FMD free status and most of South Africa's trading partners had at that time introduced an interim ban on the 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 28 March 2023.

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 | 122 | 3 | 125 | 31 January 2023 |
| Limpopo (Previous free zone) | 7 | 3 | 10 | 13 June 2022 |
| Northwest, Gauteng, Mpumalanga, and Free State | 54 | 6 | 60 | 31 January 2023 |
| Total | 183 | 12 | 195 | |

Source: DALRRD, Directorate Animal Health, 28 March 2023

The National Animal Health 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 will be continued in future.

No Non-achievements / underperformance has been reported

Income and expenditure statement

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

Popular Report

[Customs 1 st Qtr Pop Report 2023.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 | No |