



## ***Customs Duty and Market Access***

**(PRJ-0348-2023)**

### ***South African Milk Processors Organisation (SAMPRO)***

***Quarter 4 2023/2023*** (October 2023 till December 2023)

#### **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 to the dairy industry, namely:

The African Continental Free Trade Area (AfCFTA) which includes 55 African Countries; and

SACU (Southern African Customs Union) Agreement.

The SACU agreement was established in 1910 making it the world's oldest customs union. Historically SACU was administered by **South Africa**, through the 1910 and 1969 Agreements. Negotiations to reform the 1969 Agreement started in 1994, and a new agreement was signed in 2002. The new arrangement was ratified by SACU Heads of State. However, some aspects of the new agreement such as Infant Industry Protection have been outstanding for quite some time and will again be in the spotlight and be placed on the agenda for discussion.

Although a detailed report was compiled on all the outstanding issues by different interested agricultural industries, including the dairy industry, and submitted to the African desk responsible to Africa trade related issues, no positive outcomes addressing the issues were forthcoming.

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

90% of the tariff headings will phase down immediately after the implementation, The remaining 10% (i.e., the 7% Sensitive and 3% Exclusion products), will be phased out during five years from 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 13<sup>th</sup> 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.

As at August 2023, 47 of the 54 signatories (87%) have deposited their instruments of AfCTFA ratification. Eritrea, still the only country that 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/ SUBHEADINGS	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.

### **Finalisation of the Economic Partnership Agreement with the EU (EPA) and United Kingdom (UK) on Market Access Quota's for 2023**

Certain products originating from the European Union (EU) are eligible for a preferential tariff-rate quota (TRQ). These TRQ's allows a specific mass of imports of a particular product that can enter a market duty-free. When this quota is fully allocated, the normal tariff will apply to further imports. The same also applies for the SADC -UK EPA. In 2022, the TRQ's for dairy products were as follows:

**Table 4: TRQ's for dairy products - 2022**

Product	EU	UK
	Tons	
Butter	500	94

Cheese	8 300	1444
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These quotas for all the agricultural products were not implemented and gazetted for the 2023 calendar year. Numerous discussions and communication were forwarded to the DALRRD and DTIC on the implementation of the TRQ's, with no success. Once gazetted, it will be forwarded to role players.

## **No Non-achievements / underperformance has been reported**

### **Goal 2 - Trade protection and tariff dispensation**

#### **Achievements**

##### **Implementation of Agricultural Safeguard measure of the SADC-EU EPA**

The current rate of duty on UHT milk imports had been set at a zero rate of duty for almost two decades. 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 an influx of UHT imports from EU member countries. 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 2019 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. The agreed levels for full cream UHT milk classified under tariff subheading 0401.20.07 are as follow:

**Table 5: Agricultural safeguard trigger levels for full cream UHT milk**

Year	Tonnes	Year	Tonnes
2016	6 353	2022	11
2017	6 986	2023	12
2018	7 701	2024	13
2019	8 457	2025	14
2020	9 315	2026	16
2021	10 234	2027	18

Source: DALRRD, April 2023

Only the issue of trigger levels was concluded during 2022. The issue of implementation

guidelines is an internal SACU matter and has been on the agenda of SACU structures since 2019, with no closure. The main issue having delayed finalisation of this issue was the perception by some SACU Member States that procedures outlined in the draft guidelines were not providing for inclusive decision making within SACU in terms of the level of safeguard duty that SACU can impose when imports of any of the eligible products exceed agreed trigger levels. An agreement was then reached to seek legal opinion from SACU Secretariat.

During this meeting, the Secretariat presented a legal opinion on the matter which indicated that the provision provides for a predetermined formula for the determination of the rate of safeguard duty that SACU can impose when imports of any of the eligible products exceed agreed trigger levels. The legal opinion therefore concluded that the formula leaves very little if no scope for consultations amongst SACU Member States on the level of safeguard duty. Following extensive discussions, the meeting eventually agreed on the imposition of a maximum possible safeguard duty if consultations are to be excluded from the guidelines. The meeting therefore adopted the draft guidelines and directed Technical Officials to align the text of the guidelines accordingly and clean it for adoption and approval by SACU higher structures.

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 over the last few years up to 2022. From January to December 2022, 3 613 tons of UHT were imported. From January to October 2023, a mass of 5 557 tons of UHT milk was imported. See Table 6.

**Table 6: 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	2018	2019	2020	2021	2022	2023 Jan – Oct
0401.10.07	25	20	43	8 724	356	39
0401.20.07	17 145	17 992	5 392	13 767	3 257	5 518
<b>Total mass</b>	<b>17 170</b>	<b>18 012</b>	<b>5 435</b>	<b>22 491</b>	<b>3 613</b>	<b>5 557</b>

The years indicated in red, is the years when the imported mass of imports were more than the agreed trigger levels under the Agricultural safeguard levels.

## ***No Non-achievements / underperformance has been reported***

### **Goal 3 - Import and export 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 October 2023  
**Quarterly**        January to September 2023

## **Goal 4 - Participation on the National 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) 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.

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.

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.

There are currently 165 open outbreaks reported to the WOA, and 50 outbreaks were resolved and closed with the WOA. Table 7 provides a summary of the open and closed outbreaks per Province, as well as the date of the last reported outbreak.

**Table 7: Summary of outbreaks per outbreak event and per Province**

<b>Outbreak event</b>	<b>Province</b>	<b>Number of open outbreaks</b>	<b>Number of resolved outbreaks</b>	<b>Total number of outbreaks</b>	<b>Start date of reported outbreak</b>
Outbreak event 1: KwaZulu Natal- Free state	KZN	131	10	141	6 Oct 2023
	FS	2	2	4	26 Sep 2022
Outbreak event 2: Limpopo and Gauteng	LP	0	8	8	25 Apr 2022
	GP	0	2	2	30 Mar 2022
Outbreak event 3: Northwest, Gauteng Mpumalanga, and Free State	NW	7	11	18	22 Nov 2022
	GP	3	2	5	30 Aug 2022
	MP	0	1	1	2 Aug 2022
	FS	22	14	36	22 Sep 2022
<b>Total</b>		165	50	215	

Source: DALRRD, Directorate Animal Health, 8 January 2024

# Income and expenditure statement

Income and expenditure statement	<a href="#">Customs Duty 4 Qtr statements.pdf</a> <a href="#">CORFIN151 Std Qtr (4) Fin report - Project Advances.xlsx</a>
Unnecessary spending during period	No

## Popular Report

[Customs 4th Qtr POP Report 2023 \(2\).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