



Customs Duty and Market Access
(PRJ-0383-2024)
South African Milk Processors' Organisation

Quarter 2 2024/2024 (April 2024 till June 2024)

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 three Multilateral agreements that were of importance to the dairy industry, namely:

- i. Southern African Customs Union Agreement (SACU);
- ii. The African Continental Free Trade Area (AfCFTA) which includes 55 African Countries; and
- iii. Economic Partnership Agreement with the EU (EPA) and United Kingdom (UK)

Southern African Customs Union Agreement (SACU)

SACU Customs Agreement remains the oldest functioning Customs Union. It was originally established by the British colonial power in the **1880s**.

The political changes, following the independence of Botswana and Lesotho in **1966**, as well as Swaziland in **1968**, necessitated a renegotiation of the Agreement of **1910**. This culminated in the conclusion of the SACU Agreement between Botswana, Lesotho, South Africa and Swaziland in **1969**.

Further political and economic developments of the early **1990s**, warranted a complete renegotiation of the Agreement of **1969**, in particular, Namibia's independence in **1990** and the dawn of democracy in South Africa in **1994**. Negotiations to reform the Agreement of **1969** started in **1994**, and a new Agreement was signed in **2002**, which entered into force on the **15th July 2004**.

The SACU Agreement of 2002 was signed by the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland (now Eswatini) and came into force on the **15th July 2004**.

This Agreement sets out a broad framework for enhanced integration with a new legal and institutional architecture, decision-making structures and revenue sharing formula. It outlines a clear mandate and the objectives of SACU. The SACU Agreement of 2002 was amended in 2013, to provide for the institutionalisation of the SACU Summit. The amendments entered into force on 16th September 2016.

Like other customs unions, a key feature of **SACU is the application of a single tariff regime – the Common External Tariff (CET)**. This means the Member States form a single customs territory which provides for a free movement of goods where tariffs and other barriers are eliminated on all trade between them. The CET applies to goods imported from all territories that are not members of SACU.

Article 31 of the Agreement stated that **no Member State shall negotiate and enter into new Preferential Trade Agreements with third parties or amend existing Agreements without the consent of the other Member States**. The SACU Member States have established a Common Negotiation Mechanism through which a unified approach to negotiations with third parties is pursued.

The objectives of SACU as contained in Article 2 of the SACU Agreement, 2002, are to:

Facilitate the cross-border movement of goods between the territories of the Member States:
Create effective, transparent and democratic institutions which will ensure equitable trade benefits to Member States:
Promote conditions of fair competition in the Common Customs Area:
substantially increase investment opportunities in the Common Customs Area:
Enhance the economic development, diversification, industrialization and competitiveness of Member States:
Promote the integration of Member States into the global economy through enhanced trade and investment:
Facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States: and
Facilitate the development of common policies and strategies.

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 in 2023, 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 African Continental Free Trade Area (AfCFTA)

The AfCFTA is the world's largest free trade area bringing together the 55 countries of the African Union (AU) and eight (8) Regional Economic Communities (RECs). The overall mandate of the AfCFTA is to create a single continental market.

The AfCFTA entered into force on 30 May 2019, after 24 Member States deposited their Instruments of Ratification. Although the AfCFTA agreement had already entered into force in 2019, 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 AfCFTA Secretariat on the 13th February 2023 for verification. The Republic of Botswana has also deposited the instruments for ratification of the AfCFTA Agreement. All SACU member States have now ratified the Agreement.

On 24 January 2024, South Africa government published the rules of origin as described in Government Gazette no. 50045 dated 24 January 2024 (R 4286) for the implementation

of the AfCTFA.

The Secretariat of the AfCFTA presented in February 2024, a status update that a total of 48 AfCFTA State Parties have submitted Schedules of Tariff Concession (PSTCs) and 45 PSTC have been adopted by the AfCFTA Council of Ministers (COM). While 3 PSTCs (for Angola, Sao Tome and Principe, and Zimbabwe) are still subject to technical verification. The remaining 7 countries, namely, Djibouti, Mozambique, Sudan, Libya, Somalia, Sahrawi Arab Republic, and Eritrea have not yet made any submissions. Somalia notified the AfCFTA Secretariat of their wish to adopt the EAC PSTC, while for Djibouti and Sao Tome and Principe the AfCFTA Secretariat shall extend technical assistance during 2024. The Secretariat of the AfCFTA compiled an e-tariff book for all member states of the AfCFTA and can be viewed at: [AfCFTA e-Tariff Book \(au-afcfta.org\)](http://au-afcfta.org)
The first South African export shipment under the agreement was textile products exported out of Durban harbour in January 2024 on its way to Kenya.

Finalisation of the Economic Partnership Agreement with the EU (EPA) and United Kingdom (UK) on Market Access Quota's for 2022, 2023 and 2024

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 at zero import duties. When this quota is fully allocated, the normal tariff will apply to further imports. The same also applies for the SADC -UK EPA.

These quotas for all the agricultural products were not implemented and gazetted timeously each year. Numerous discussions and communication were forwarded to the DALRRD and DTIC on the implementation of the TRQ's, with no success.

Up to now, only the EU tariff quotas for the period September to December 2022 and January to December 2023, were published in the Government Gazette on 16 February 2024.

The following quotas are still outstanding as indicated in the table below:

Period	European Union	United Kingdom
September to December 2022	Government Gazette 16 February 2024	Not published
January to December 2023	Government Gazette 16 February 2024	Not published
January to December 2024	Not published	Not published

No Non-achievements / underperformance has been reported

Goal 2 - Trade protection and tariff dispensation

Achievements

TRADE PROTECTION AND TARIFF DISPENSATION / AGRICULTURAL SAFEGUARD DUTIES

The EPA Trade Agreement between South Africa and the European Union makes provision under Article 35 of the agreement that should a surge of imports of a particular

agricultural product do occur within a specific calendar year, then an agricultural safeguard duty can be applied.

At the end of 2022, the SADC EPA states reached an agreement 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 indicated in Table 5.

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 matter 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 reached to seek legal opinion from SACU Secretariat.

Following extensive discussions, the meeting eventually agreed at the end of 2023, to impose the 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 2023. From January to December 2022, 3 613 tons of UHT were imported. From January to December 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)

TONS						
UHT Milk	2019	2020	2021	2022	2023	2024 Jan to Apr 2024
0401.10.07	20	43	8 724	356	39	
0401.20.07	17 992	5 392	13 767	3 257	5 518	
Total mass	18 012	5 435	22 491	3 613	5 557	No imports

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.

South Africa will unfortunately not be able to use of a safeguard duty because our normal rate of duty on imports from all over the world is at a zero rate of duty.

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 May 2024

Quarterly January to March 2024

In Table 7, the mass of imports in January to March 2024, is compared with the mass of imports in the same months in 2023.

Table 7: Imports from January to March 2024 and January to March 2023

Heading	Description	A 2024 Kg	B 2023 Kg	A as % of B
04.01	Milk and cream, unsweetened	168 194	558 152	30.1
04.02	Milk, concentrated	5 219 040	5 863 099	89.0
04.03	Buttermilk powder, yogurt	931 326	810 938	114.8
04.04	Whey, whey powder, etc	2 425 631	3 230 875	75.1
04.05	Butter, butter spreads and butter oil	352 857	408 342	86.4
04.06	Cheese and curd	920 083	1 281 577	71.8
Total		10 017 131	12 152 982	82.4

Source: Statistics prepared by the Office of SAMPRO based on information obtained from SARS

The mass of imports of buttermilk powder and yoghurt (04.03) is higher in the first quarter of 2024, than in the same period in 2023, while the mass of the other five product categories is lower.

In Table 8, the mass of exports in January to March 2024, is compared with the mass of imports in the same months in 2023.

Table 8: Exports from January to March 2024 and January to March 2023

Heading	Description	A 2024 Kg	B 2023 Kg	A as % van B
04.01	Milk and cream, unsweetened	5 517 370	5 511 238	100.1
04.02	Milk, concentrated	2 316 258	2 169 725	106.8
04.03	Buttermilk powder, yoghurt	2 224 809	2 408 975	92.4
04.04	Whey, whey powder, etc	280 881	380 834	73.8
04.05	Butter, butter spreads and butter oil	272 176	241 858	112.5
04.06	Cheese and curd	1 672 468	2 151 790	77.7
Total		12 283 962	12 864 419	95.5

Source: Statistics prepared by the Office of SAMPRO based on information obtained from SARS

Table 8 indicates that the mass of exports of three of the six categories of dairy products is

higher in the first quarter of 2024, than in the same months of 2023. The mass of exports that is higher, are that of milk and cream (04.01), concentrated milk (04.02), and butter (04.05).

The full report on highlights of import and export of dairy products can be obtained from Milk SA website.

No Non-achievements / underperformance has been reported

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

Achievements

PARTICIPATION IN THE NATIONAL ANIMAL HEALTH FORUM (NAHF)

On 12 July 2024, the Director-General of the Department of Agriculture (DALRRD) and the industry had a stakeholder meeting and the meeting resolved that:

A more structured and re-organised Joint Operation Centre (JOC) has been established; and
The JOC will be supported by three work teams:

Disease work team;

Trade and market Access work team; and

Communication work team.

All the media briefs and press releases were forwarded to Milk SA and future publications will also be forwarded to Milk SA.

No Non-achievements / underperformance has been reported

Income and expenditure statement

Income and expenditure statement	CORFIN151 Std Qtr (2) Fin report - Project Advances.xlsx Customs Duty (2 QTR).pdf
Unnecessary spending during period	No

Popular Report

[Customs 2 st Qtr Pop Report 2024 \(F\).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