

DEPARTMENT OF TRADE AND INDUSTRY
NOTICE 560 OF 2019
INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA

**GUIDELINES AND CONDITIONS PERTAINING TO IMPOSITION OF AN
AGRICULTURAL SAFEGUARD MEASURE IN TERMS OF ARTICLE 35 OF
THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN THE
EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND
THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) EPA
STATES, OF THE OTHER**

Emanating from the Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the Southern African Development Community (SADC) EPA States, of the other, Article 35 of the EPA provides for safeguard action in defined circumstances.

The International Trade Administration Commission of South Africa (the Commission) has drafted the attached reference and procedural guide pertaining to the imposition of an agricultural safeguard measure in terms of Article 35 of the EPA.

All interested parties are invited to comment on the draft guidelines within 10 calendar days of the date of publication of this notice. The Commission will finalise the guidelines after considering all comments received.

Comments can be submitted to the Chief Commissioner, International Trade Administration Commission of South Africa, Private Bag X 753, Pretoria or delivered by hand to the DTI Campus (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.

Further information can be obtained from the Senior Manager: Trade Remedies I, Ms Carina Janse van Vuuren, at (012) 394 3594 or cvanvuuren@itac.org.za.

**GUIDELINES AND CONDITIONS PERTAINING TO IMPOSITION
OF AN AGRICULTURAL SAFEGUARD MEASURE IN TERMS OF
ARTICLE 35 OF THE ECONOMIC PARTNERSHIP AGREEMENT**

(EPA) BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) EPA STATES, OF THE OTHER

1. PURPOSE

- 1.1 The purpose of this document is to provide a reference and procedural guide pertaining to the imposition of an agricultural safeguard measure in terms of Article 35 of the EPA.

2. SCOPE

- 2.1 The scope of this document covers the process for imposition of an agricultural safeguard measure in terms of Article 35 of the EPA which provides as follows:

'1. Notwithstanding Article 34 of this Agreement, a safeguard measure in the form of an import duty may be applied if, during any given twelve-month period, the volume of imports into SACU of an agricultural product listed in Annex IV originating in the EU exceeds the reference quantity for the product therein indicated.

2. A duty which shall not exceed 25 per cent of the current WTO bound tariff or 25 percentage points, whichever is higher, may be imposed to the agricultural products referred to in paragraph 1. Such duty shall not exceed the prevailing MFN applied rate.

3. Safeguard measures referred to in this article shall be maintained in place for the remainder of the calendar year or five (5) months, whichever is the longer.

4. Safeguard measures referred to in this Article shall not be maintained or applied with respect to the same good at the same time as:

- a) a bilateral safeguard measure in accordance with Article 34;*
- b) a measure under Article XIX of GATT 1994 and the Agreement on Safeguards; or*
- c) a special safeguard measure under Article 5 of the Agreement on Agriculture.*

5. Safeguard measures referred to in this Article shall be implemented in a transparent manner. Within ten (10) days after applying such a measure, SACU shall notify the EU in writing and shall provide relevant data concerning the measure. On request, SACU shall consult the EU regarding the application of the measure. SACU

shall also notify the Trade and Development Committee within thirty (30) days after such imposition.

6. The implementation and operation of this Article may be the subject of discussion and review in the Trade and Development Committee. On request of either Party, the Trade and Development Committee may review the reference quantities and agricultural products as provided for in this Article.

7. The provisions of this Article may only be applied during the period of twelve (12) years from the date of entry into force of this Agreement.”

3. PROCEDURE

- 3.1 The Minister of Trade, Industry and Competition will instruct the International Trade Administration Commission of South Africa (ITAC), in terms of Section 16(d)(i) of the International Trade Administration Act, 2002 (Act 71 of 2002) (ITA Act) to administer the agricultural safeguard provision provided for in Article 35 of the EPA.
- 3.2 Member States of SACU will submit import figures for the products listed in the attached Annexure to the SACU Secretariat by the 3rd of each month. The SACU secretariat shall collate the import figures from Member States and by the 5th of each month, provide Member States and ITAC with the collated import volumes for the products listed in the attached Annexure.
- 3.3 As soon as the collated import volume, or alternatively the import volume into South Africa, indicate that the trigger volume for a specific product as contained in the attached Annexure has been reached, ITAC will send a Minute to the Minister of Trade, Industry and Competition, recommending the imposition of an agricultural safeguard measure.
- 3.4 The recommendation to the Minister of Trade, Industry and Competition will include the amount of the duty to be imposed as well as the period

of imposition of the measure, taking the provisions as stated above into account.

- 3.5 On approval of ITAC's recommendation, the SACU Secretariat will be notified and a request will be sent to the Minister of Finance for implementation of the measure.
- 3.6 Within ten (10) days after implementation of the measure, SACU shall notify the EU in writing and shall provide relevant data concerning the measure. SACU shall also notify the Trade and Development Committee within thirty (30) days after such imposition.

ANNEXURE

AGRICULTURAL SAFEGUARDS

The agricultural products and respective reference quantities referred to in Article 35 are listed in the following table:

Reference quantities (metric tons)(1)													
	Tariff lines	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
	Edible offals												
1	02061090	100	110	121	133	146	161	177	195	214	236	259	285
2	02062100*	100	110	121	133	146	161	177	195	215	237	261	287
3	02062900*	1005	1106	1206	1307	1407	1508	1609	1709	1810	1910	2011	2 111
4	02063000	100	110	121	133	146	161	177	195	214	236	259	285
5	02064900*	5000	5500	6000	6500	7000	7500	8000	8500	9000	9500	10000	10500

Reference quantities (metric tons)(1)													
	Tariff lines	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
	Worked cereals												
6	11041910*	150	165	182	200	220	242	266	293	322	354	390	429
7	11042910	100	110	121	133	146	161	177	195	214	236	259	285
8	11071010*	2373	2613	2874	3161	3478	3825	4204	4628	5089	5595	6152	6771
9	11072010	100	110	121	133	146	161	177	195	214	236	259	285
10	11081110	100	110	121	133	146	161	177	195	214	236	259	285
	Meat preparations												
11	16021000	100	110	121	133	146	161	177	195	214	236	259	285
12	16025030	100	110	121	133	146	161	177	195	214	236	259	285
13	16025040	100	110	121	133	146	161	177	195	214	236	259	285
14	16029020	100	110	121	133	146	161	177	195	214	236	259	285
	Ultra high temperature (UHT) or "long-life" milk												
15	04011007	100	110	121	133	146	161	177	195	214	236	259	285
16	04012007*	6353	6986	7701	8457	9315	10234	11256	12379	13625	14973	16485	18119
17	04014007	100	110	121	133	146	161	177	195	214	236	259	285
18	04015007	100	110	121	133	146	161	177	195	214	236	259	285

Reference quantities (metric tons)(1)													
	Tariff lines	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12
	Preserved cucumbers and olives												
19	20011000*	1302	1432	1576	1732	1905	2096	2305	2536	2791	3069	3376	3714
20	20019010*	270	297	328	360	396	436	480	527	580	638	701	771
	Chocolate												
21	180631*	3046	3350	3655	3959	4 264	4569	4873	5178	5482	5787	6091	6396
22	180632*	938	1032	1126	1220	1314	1408	1501	1595	1689	1783	1877	1971
23	180690*	7196	7916	8635	9355	10074	10794	11514	12233	12953	13672	14392	15112