

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 2044 OF 2023

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA (ITAC)

INTRODUCTION OF AN IMPORT PERMIT CONDITION IN TERMS OF SEC 27(2)(g) OF THE INTERNATIONAL TRADE ADMINISTRATION ACT, 71 OF 2002, ON THE IMPORTATION OF WHEELS OF TARIFF SUBHEADINGS 8708.70.21, 8708.70.23, 8708.70.29 AND 8716.90.20

IMPORT CONTROL

IMPORTATION OF ROAD WHEELS FITTED WITH TYRES; WHEEL RIMS FITTED WITH TYRES CLASSIFIABLE UNDER TARIFF SUBHEADINGS 8708.70.21, 8708.70.23, 8708.70.29 AND 8716.90.20

1. Background

The importation of road wheels fitted with tyres and wheel rims fitted with tyres classifiable under tariff subheadings 8708.70.21, 8708.70.23, 8708.70.29 and 8716.90.20 (wheels) are subject to ITAC import control measures in terms of Section 6(1)(b) of the International Trade Administration Act, 71 of 2002, ("ITA Act"), as published in Government Gazette 39567, Notice No. R. 1290 dated 31 December 2015.

The importation of new pneumatic tyres, of rubber (excluding new pneumatic tyres of a kind used on aircraft, motorcycles and bicycles of subheading numbers 4011.30, 4011.40 and 4011.50) of tariff subheadings 4011.10, 4011.20, 4011.70, 4011.80 and 4011.90 are subject to ITAC import control measures in terms of Section 6(1)(b) of the ITA Act, as published in Government Gazette 40520, Notice No. R. 1601 dated 22 December 2016.

The 8-digit tariff subheadings 8708.70.21, 8708.70.23, 8708.70.29 and 8716.90.20 for wheels were created with effect from 01 January 2016, following an application to the South African Revenue Service (SARS) by the South African Tyre Manufacturers Conference (Pty) Ltd (SATMC) together with the Tyre Association of South Africa (TIASA) and the Tyre Dealers and Fitment Centre Association of South Africa (TDFAA).

The motivation for the creation of the tariff headings for wheels was to address the risk that tyres imported as parts of vehicles or trailers under the existing tariff subheadings of tariff Chapters 84 and 87 may be imported for the purpose of evading ITAC's import permit control and the National Regulator for Compulsory Specifications' (NRCS) homologation compliance control as well as avoiding the customs duty applicable to the above-mentioned tyres classifiable under Chapter 40 as new pneumatic tyres of rubber.

Regarding the issue of customs duties, since November 2022 there has been a significant increase in the volume of wheels imported into South Africa, which has raised concerns about the potential misuse of tariff subheadings 8708.70.2 and 8716.90.20 for tariff circumvention purposes. Certain industry members are of the view that at the time of the application for the 8-digit tariff subheadings for wheels, tyres imported as parts under the existing headings were removed from the rims and sold separately. If correct, this practice would have no ostensible commercial purpose other than allowing importers to benefit from the lower rate of customs duty payable for tyres imported on wheel rims, compared to loose tyres imported under Chapter 40.

From a compliance perspective it is important that wheels that are imported under tariff subheadings 8708.70.21, 8708.70.23, 8708.70.29 and 8716.90.20 are used as the tyre and rim combinations as imported and Customs cleared, in the spirit that the recipients of the permits are *bona fide* importers and dealers/users of wheels. Removing tyres from rims and selling it separately, erodes the *bona fide* tyre import sector and the tyre manufacturing industry and the employment opportunities created in this industry. Such tyre removal and selling result in the circumvention of customs duties, leading to harm being caused to the South African economy.

Furthermore, at issue is not only the circumvention of ordinary customs duties. Following an application that was submitted to the Commission by the SATMC to address the alleged dumping of new pneumatic tyres classified under Chapter 40, exported from or originating in the People's Republic of China ("**China**"), the Commission initiated an Anti-Dumping investigation on 31 January 2021.

The Commission's Preliminary Determination Report recommended the imposition of a provisional payment from 09 September 2022 until 08 March 2023, on tyres imported from China under tariff subheadings 4011.10.01, 4011.10.03, 4011.10.05, 4011.10.07, 4011.10.09, 4011.20.16, 4011.20.18 and 4011.20.26.

The Final Determination Report of the Commission, dated 30 May 2023, was published and definitive anti-dumping duties were imposed on imported tyres from China, classifiable under tariff subheadings 4011.10.01, 4011.10.03, 4011.10.05, 4011.10.07, 4011.10.09, 4011.20.16, 4011.20.18 and 4011.20.26 with effect from 28 July 2023, for a period of five years.

In light of the foregoing, it is ITAC's view that imported tyres without rims are classifiable under tariff Chapter 40 and tyres intended for resale without rims must therefore be imported and declared as such.

It should also be noted that all imported tyres and wheels for use on passenger and commercial vehicles are subject to a NRCS homologation certificate.

2. Implementation of ITAC Import Permit Condition

In order to ensure that *bona-fide* importers of wheels under tariff subheadings 8708.70.21, 8708.70.23, 8708.70.29 and 8716.90.20 are not circumventing import duties and/or anti-dumping duties, it is proposed that the following permit condition in terms of Section 27(2)(g) of the ITA Act be introduced on all import permits issued for the importation of wheels:

“No tyres imported as wheels against this permit may be separated from wheel rims for resale purposes and all wheels (tyre and wheel rim combinations) must be sold/used as a tyre and wheel rim combination in the same state as imported”.

It is also proposed that an applicant must submit a sworn affidavit/declaration, when applying for an import permit, declaring under oath that the importation of wheels is done on a *bona fide* commercial basis and that the tyres will not be removed from rims after importation for resale or any other purpose.

3. Public Comments

Members of the public and interested/affected parties are requested to submit their written representations and comments within a period of 14 (fourteen) calendar days from the date of publication of this notice to the Senior Manager: Import and Export Control, International Trade Administration Commission of South Africa, marked for the attention of Mr Sanjay Devnath, either by e-mail: sdevnath@itac.org.za or hand delivered at: 77 Meintjies Street, Block D, 2nd Floor, Sunnyside, Pretoria, 0132.