

No. R. 267

1 April 2010

**CUSTOMS AND EXCISE ACT, 1964.
AMENDMENT OF SCHEDULE NO. 10 (NO. 10/13)**

In terms of section 49 of the Customs and Excise Act, 1964, Part 1 of Schedule No. 10 to the said Act is hereby amended to the extent set out in the Schedule hereto.



**N NENE
DEPUTY MINISTER OF FINANCE**

SCHEDULE

By the insertion in Part 1 of the following Note and Decision:

"Amendment No. 3 to Part 1 of Schedule No. 10:

DECISION OF THE EU-SOUTH AFRICA COOPERATION COUNCIL

on the amendment of Annex IV and Annex VI to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, on the one part, and the Republic of South Africa, on the other part, regarding certain agricultural products

Note: This amendment contains the full text of the Decision.

DECISION OF THE EU-SOUTH AFRICA COOPERATION COUNCIL

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THE EU-SOUTH AFRICA COOPERATION COUNCIL,

Having regard to the Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part¹ (hereinafter referred to as the "TDCA"), signed in Pretoria on 11 October 1999, and in particular Article 106(1) thereof;

¹ OJ L 311, 4.12.1999, p.3.

Whereas:

- (1) The meaning of "gross weight" in the context of the tariff lines included under the heading "Fruit, nuts and other edible parts of plants" in Annex IV, list 6 of the TDCA should be clarified.
- (2) Certain cheese names under the heading "Cheese and curd" in Annex IV of the TDCA, which are not protected EU denominations under Regulation (EC) No 510/2006¹ should be deleted from list 8 and inserted in list 7 of that Annex.
- (3) South Africa should open certain tariff-rate quotas as set out in Annex VI, list 4 of the TDCA regarding inter alia "Cheese and curd".
- (4) For three categories of cheeses, namely Gouda (corresponding EC Customs Code 0406 90 78), Cheddar (corresponding EC Customs Code 0406 90 21) and processed cheese, not grated or powdered (corresponding EC Customs Code 0406 30), listed in Annex VI, list 4 of the TDCA the current 50% MFN quota reduction applicable on import into South Africa of products originating in the Community should be changed into an in-quota zero duty.
- (5) The Community should not grant export refunds for these three categories of cheeses and should not grant export refunds for other cheese products beyond the levels applicable on 16 July 2004, depending on the implementation by South Africa of in quota customs duties on import into South Africa of products originating in the Community. Given the present market situation in milk and milk products, no export refunds for cheese products are granted as of 15 June 2007, as provided for by Regulation (EC) No 660/2007²,

HAS DECIDED AS FOLLOWS:

¹ Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 93, 31.3.2006, p.12).

² Commission Regulation (EC) No 660/2007 of 14 June 2007 fixing the export refunds on milk and milk products (OJ L 155, 15.6.2007, p.26).

Article 1

In Annex IV, list 6 of the TDCA, in the tariff lines included under the heading "Fruit, nuts and other edible parts of plants", in the right column the following footnote is added to the abbreviation "g. w.":

"In this particular case, the term "gross weight" shall be considered as the aggregate mass of the goods themselves with the immediate packing but excluding any further packing."

Article 2

1. In Annex IV, list 7 of the TDCA, the following list regarding "Cheese and curd" shall be inserted:

CN code 2007	Notes/tariff quota/reductions
Cheese and curd	
0406 20 10 (Glarus herb cheese (known as Schabziger)	
0406 90 13 (Emmentaler)	
0406 90 15 (Sbrinz, Gruyère)	
0406 90 17 (Bergkäse, Appenzell)	
0406 90 18 (Fromage fribourgeois and tête de moine)	

CN code 2007	Notes/tariff quota/reductions
0406 90 19 (Glarus herb cheese (known as Schabziger))	
0406 90 23 (Edam)	
0406 90 25 (Tilsit)	
0406 90 27 (Butterkäse)	
0406 90 29 (Kashkaval)	
0406 90 35 (Kefalo-Tyri)	
0406 90 37 (Finlandia)	
0406 90 39 (Jarlsberg)	
0406 90 73 (Provolone)	
ex 0406 90 75 (Caciocavallo)	
ex 0406 90 76 (Danbo, Fontal, Fynbo, Havarti, Maribo, Samsø)	
ex 0406 90 79 (Italico, Kernhem, Saint-Paulin)	
ex 0406 90 81 (Lancashire, Cheshire, Wensleydale, Blarney, Colby, Monterey, Double Gloucester)	
ex 0406 90 82 (Camembert)	
ex 0406 90 84 (Brie)	

2. In Annex IV, list 8 of the TDCA, the list regarding "Cheese and curd" shall be replaced by the following:

CN code 2007	Notes/tariff quota/reductions
0406 40 10 (Roquefort)	
0406 90 18 (Vacherin Mont d'Or)	
0406 40 50 (Gorgonzola)	
0406 90 32 (Feta)	
0406 90 61 (Grana Padano, Parmigiano Reggiano)	
ex 0406 90 63 (Fiore Sardo)	
ex 0406 90 75 (Asiago, Montasio, Ragusano)	
ex 0406 90 76 (Fontina)	
ex 0406 90 79 (Esrom, Saint-Nectaire, Taleggio)	
ex 0406 90 81 (Cantal)	
0406 90 85 (Kefalograviera, Kasseri)	

Article 3

1. In Annex VI, list 4 of the TDCA, the list regarding "Cheese and curd" shall be replaced by the following:

HS code 2007	Notes/tariff quota/reductions
0406 10 10 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 10 20 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 20 10 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 20 90 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 30 00 (*)	Global cheese and curd 5 000 t; 0%; agf 3%
0406 40 10 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 40 90 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 90 10 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 90 25 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 90 35 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 90 99 (*)	Global cheese and curd 5 000 t; 50%; agf 3%
0406 90 12 (*)	Global cheese and curd 5 000 t; 0%; agf 3%
0406 90 22 (*)	Global cheese and curd 5 000 t; 0%; agf 3%

(*) The annual growth factor (agf) shall be applied annually as from 2000 to the relevant basic quantities

2. The Community shall not apply export refunds for exports to South Africa for Gouda, Cheddar and Processed cheeses, the three categories of cheese products falling within CN codes 0406 90 21, 0406 90 78 and 0406 30.
3. Without prejudice to monetary rate adjustments, for cheese products other than those referred to in paragraph 2, the Community shall not increase levels of export refunds for export to South Africa above the levels fixed by Commission Regulation (EC) No 1305/2004 of 15 July 2004 fixing the export refunds on milk and milk products¹.
4. Further reductions in customs duties and export refunds on cheese products shall be subject to negotiations in accordance with Article 17 of the TDCA. To the accelerated reductions referred to in Article 17 TDCA, a ratio of 1 to 1.3 shall be applicable, i. e. reduction of South African customs duty by EUR 1 shall imply a reduction of the EC export refunds by EUR 1.3.
5. South Africa shall repeal the measures against the EC cheese exports and open the global cheese and curd quota, provided for under paragraph 1, no later than two months from the date of the signature of this decision.
6. South Africa shall publish in the Government Gazette an information notice, no later than two months from the date of the signature of this decision repealing the measures against the EC cheese exports to South Africa and the opening of the global cheese and curd quota with the relevant modifications as described under paragraph 1.

Article 4

Both Parties have agreed on the replacement of the current management system of the Community and South Africa cheese tariff rate quotas by a "first come first served" system to be implemented as from 1 July 2008.

¹ OJ L 244, 16.7.2004, p. 27.

Article 5

This decision shall enter into force on the first day of the second month following the signature of this decision.

Done at,

For the Cooperation Council

The Presidents

[names of South Africa and EU ministers] "