

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 2668 OF 2024****INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICA****GUIDELINES FOR THE IMPOSITION OF AN AGRICULTURAL SAFEGUARD
MEASURE PROVIDED FOR, IN 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 (EU-SADC EPA)**

Article 35 of the EU-SADC EPA provides for a reference and procedure guide for the implementation of an agricultural safeguard measure. This emanating from the Economic Partnership Agreement (EPA) between the European Union and its Member States, of the one part, and the Southern African Development Community (SADC) States EPA, of the other.

The International Trade Administration Commission of South Africa ("ITAC" or "the Commission") has drafted the attached reference and procedural guide for the imposition of an agricultural safeguard measure under Article 35 of the EU-SADC EPA.

The SACU Council of Ministers has approved the attached guidelines. The Minister of Trade, Industry and Competition of South Africa instructed 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 EU-SADC EPA, in accordance with ITAC's reference and procedural guide about the imposition of an agricultural safeguard measure under Article 35 of the EU-SADC EPA.

It should be noted that these guidelines are published for implementation purposes.

For further information, please contact Mr Zuko Ntsangani, at zntsangani@itac.org.za or Mr Busman Makakola, at bmakakola@itac.org.za.

GUIDELINES FOR THE IMPOSITION OF AN AGRICULTURAL SAFEGUARD MEASURE PROVIDED FOR IN 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 (EU-SADC EPA)

1. PURPOSE

- 1.1 These Guidelines provide a reference and procedural guide for the imposition of an agricultural safeguard measure in terms of Article 35 of the EU-SADC EPA.

2. SCOPE

- 2.1 The scope of these Guidelines covers the process for imposition of an agricultural safeguard measure in terms of Article 35 of the EU-SADC 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. MANDATE

The SACU Council has mandated the International Trade Administration Commission of South Africa (ITAC) to administer the agricultural safeguard provision provided for in Article 35 of the EU-SADC EPA on behalf of SACU in line with these Guidelines.

4. PROCEDURE

- 4.1 The SACU Member States will submit import volumes for the products listed in the attached Annexure to the SACU Secretariat by the 5th of each month. The SACU Secretariat shall collate the Member States' import volumes and by the 10th of each month, provide all SACU Member States and ITAC with the collated import volumes for the products listed in the attached Annexure.
- 4.2 When the import volumes as per the collated data for the SACU market indicate that the trigger volume for a specific product as contained in the attached Annexure has been reached, the SACU Secretariat shall immediately inform all SACU Member States and ITAC of the following:
- (a) that the trigger volume for a specific product has been reached;
 - (b) the relevant rate of safeguard duty to be applied, which shall be the maximum possible rate; and
 - (c) the duration of the measure as provided for in Article 35 of the EU-SADC EPA.
- 4.3 Within five (5) days of receipt of the communication referred to in paragraph 4.2 from the SACU Secretariat, ITAC will prepare a Ministerial Minute for the Minister of Trade, Industry and Competition of South Africa indicating that the trigger volume for a specific product has been reached, the specific amount of the duty and the specific period for the duty to be imposed, in line with the relevant provisions in Article 35 of the EU-SADC EPA.
- 4.4 The Minister of Trade, Industry and Competition of South Africa will request the Minister of Finance of South Africa, to make the necessary amendments to the SACU Tariff Book as set out in the Ministerial Minute. The amendment to the relevant schedule to the Customs and Excise Act will be published by the South African Revenue Service.

- 4.5 Within ten (10) working days after applying 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.

ADOPTED BY THE SACU COUNCIL OF MINISTERS ON THE 28th DAY OF JUNE 2023.

ANNEX IV
AGRICULTURAL SAFEGUARDS

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

Reference quantities (metric tons)													
	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
	<u>Edible offals</u>												
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	1 005	1 106	1 206	1 307	1 407	1 508	1 609	1 709	1 810	1 910	2 011	2 111
4	02063000	100	110	121	133	146	161	177	195	214	236	259	285
5	02064900	5 000	5 500	6 000	6 500	7 000	7 500	8 000	8 500	9 000	9 500	10 000	10 500
	<u>Worked cereals</u>												
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	2 373	2 613	2 874	3 161	3 478	3 825	4 204	4 628	5 089	5 595	6 152	6 771
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
	<u>Meat preparations</u>												

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
<u>Ultra high temperature (UHT) or long-life" milk</u>													
15	04011007	100	110	121	133	146	161	177	195	214	236	259	285
16	04012007	2 373	2 613	2 874	3 161	3 478	3 825	4 204	4 628	5 089	5 595	6 152	6 771
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
<u>Preserved cucumbers and olives</u>													
19	20011000	1 302	1 432	1 576	1 732	1 905	2 096	2 305	2 536	2 791	3 069	3 376	3 714
20	20019010	270	297	328	360	396	436	480	527	580	638	701	771
<u>Chocolate</u>													
21	180631	3 046	3 350	3 655	3 959	4 264	4 569	4 873	5 178	5 482	5 787	6 091	6 396
22	180632	938	1 032	1 126	1 220	1 314	1 408	1 501	1 595	1 689	1 783	1 877	1 971
23	180690	7 196	7 916	8 635	9 355	10 074	10 794	11 514	12 233	12 953	13 672	14 392	15 112