

## EXPLANATORY MEMORANDUM

### **AMENDMENT 2013**

Draft amendment of Schedules Nos. 1, 3, 4, 5 and 6 to the Customs and Excise Act, 1964 (the Act), in respect of the phase-down of duties for 2013 in terms of the EFTA Trade Agreement, reports made by the International Administration Commission (the Commission), as well as some technical amendments.

The amendment of Schedule No. 1 Part 1 includes -

Deletions:	1
Substitutions:	1048
Insertions:	31

The proposed amendments are in respect of -

- the phase-down of the rates of duties for 2013 in terms of the EFTA Trade Agreement with Iceland, Norway, Switzerland and Liechtenstein, with effect from 1 January 2013;
- the reduction in the general rate of duty on paper and paperboard in terms of the recommendation made by the International Trade Administration Commission (the Commission) in Report No. 151; and
- various technical amendments to Schedules Nos. 1, 3, 4, 5 and 6 to the Act with effect from the dates indicated in the respective paragraphs.

#### **1. The phase-down of duties in terms of the EFTA Trade Agreement**

In terms of the EFTA Trade Agreement, which entered into force on 1 May 2008, South Africa has an obligation to amend the rates of duties on certain products listed in Part 1 of Schedule No. 1 to the Act, on an annual basis with effect from 1 January of a particular year.

The phase-down of duties in terms of the EFTA Trade Agreement for 2013 relates to the following –

- fish and other marine products in Annex IV, table 3 categorised as List 4;
- industrial products in Annex VII, table 1 categorised as List 3, List 4 and List 5;
- agricultural products in Annex VII, table 2 categorised as List 4 and List 5; and

- agricultural products in Annex I of the Agricultural agreement between the SACU States and Switzerland, table 1 categorised as List 3.

**2. Reduction in the rate of duty on paper and paperboard of tariff subheading 4811.41.90**

The general rate of duty on paper and paperboard of tariff subheading 4811.41.90 is reduced to 4% in terms of the recommendation made by the Commission in Report No. 151 dated 8 February 2006

**3. Technical amendments to the Schedules of the Act**

The technical amendments mentioned in the following paragraph are in respect of:

**3.1 Additional tariff subheadings in Part 1 of Schedule No. 1**

Additional tariff subheadings have been added in Chapters 38, 39, 62 and 94 of Part 1 of Schedule No. 1 for the reasons indicated in the following subparagraphs:

**3.1.1 Request from Graftech for statistical tariff subheadings for unmachined electrodes**

XA International Trade Advisors requested the creation of an additional 8-digit subheading for partially manufactured graphite electrodes classifiable in tariff subheading 3801.10, on behalf of Graftech.

Graftech is a local manufacturer of graphite electrodes and in order to monitor the importation of partially manufactured graphite electrodes classifiable in tariff subheading 3801.10, an additional 8-digit tariff subheading to distinguish between “unmachined electrodes” and other artificial graphite is needed.

The following new tariff subheadings are inserted:

3801.10.10	Unmachined electrodes
3801.10.90	Other

### **3.1.2 Request from Fima Films SA (Pty) Ltd for statistical tariff subheadings for certain biaxially oriented polymers of propylene (BOPP) packaging film**

F.C Dubbelman & Associates CC requested the creation of additional 8-digit subheadings for certain types of BOPP packaging film classifiable in tariff subheading 3920.20 on behalf of Fima Films SA (Pty) Ltd (the applicant).

As the only manufacturer of BOPP packaging film in SACU, the applicant is unable to determine the origin, pricing and volumes of specific types of packaging film imported, and to compete with the locally manufactured product.

Creating 8-digit tariff subheadings for printed, unprinted, metallised and unmetallised BOPP packaging film of different thicknesses will enable the applicant to obtain crucial market related information that could enable the SACU industry to monitor the imports effectively and adjust pricing and marketing practices to be more competitive.

The following new 8-digit tariff subheadings are inserted:

3920.20.25	Biaxially oriented with a thickness exceeding 0,012 mm but not exceeding 0,06 mm, not heat shrinkable, printed, not metallised
3920.20.30	Biaxially oriented with a thickness exceeding 0,012 mm but not exceeding 0,06 mm, not heat shrinkable, unprinted, not metallised
3920.20.35	Biaxially oriented with a thickness exceeding 0,012 mm but not exceeding 0,06 mm, not heat shrinkable, printed, metallised
3920.20.40	Biaxially oriented with a thickness exceeding 0,012 mm but not exceeding 0,06 mm, not heat shrinkable, unprinted, metallised
3920.20.45	Other biaxially oriented, printed, not metallised
3920.20.50	Other biaxially oriented, unprinted, not metallised
3920.20.55	Other biaxially oriented

### **3.1.3 Internal request for statistical subheadings for men's and women's trousers of denim fabric, embroidered bed and table linen as well as stuffed and embellished duvets and quilts**

SARS finds it increasingly difficult to monitor the under valuation of imported clothing and other household textile articles such as bed and kitchen linen.

The tariff structure for men's and women's trousers do not make a distinction between those of heavier fabrics such as denims and other lighter fabrics. A provision to group denim trousers separately will assist in more effectively monitoring the under valuation of imported trousers.

There is also a distinct difference in the value of bed and table linen that are plain, as opposed to those that are further worked by, for example embroidery or appliqué work. The provisions to make a distinction between plain and embroidered linen will assist in more effectively monitoring the under valuation of bed and kitchen linen.

Similarly, duvets and quilts differ in value depending on the type of stuffing used or whether they are embellished or not. Down stuffed duvets are far more expensive than those with a synthetic stuffing and plain quilts have a lower value than those embellished by embroidery or appliqué work. The provisions for distinctions between different types of duvet stuffing and embellishments will assist in more effectively monitoring the under valuation of duvets and quilts.

The following new 8-digit tariff subheadings are inserted:

6204.42.05	Obtained from fabrics of subheadings 5209.42 and 5211.42
6204.62.05	Obtained from fabrics of subheadings 5209.42 and 5211.42
6302.31.10	Embroidered or incorporating appliqué work
6302.31.90	Other
6302.32.10	Embroidered or incorporating appliqué work
6302.32.90	Other
6302.39.10	Embroidered or incorporating appliqué work
6302.39.90	Other
6302.51.10	Embroidered or incorporating appliqué work
6302.51.90	Other
6302.53.10	Embroidered or incorporating appliqué work
6302.53.90	Other
6302.59.10	Embroidered or incorporating appliqué work
6302.59.90	Other
9404.90.2	Eiderdowns and duvets:
9404.90.21	With feather or down stuffing
9404.90.22	Other
9404.90.3	Quilts and bedspread:
9404.90.31	Embroidered or incorporating appliqué work
9404.90.32	Other

### 3.1.4 Request for specific tariff subheadings for light emitting diode (LED) lamps

The Illuminating Engineering Society of South Africa (IESSA), the leading association representing the South African lighting industry, requested the creation of specific subheadings for light emitting diode (LED) lamps and modules containing LED's.

The Minister of Environmental Affairs requested IESSA to submit an industry waste management plan under section 28(1) of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008). A project was set up to create a Sustainable Collection and Recycling Scheme for gas discharge and LED lighting in South Africa, called Ecolamp.

Separate tariff subheadings for LED lamps and modules containing LED's would assist the lamp industry to collect valuable trade data on the import and distribution of the lamps and modules as part of the waste management project.

The following new 8-digit tariff subheadings are inserted:

9405.40.19	Light emitting diode (LED) lamps of the screw-in, bayonet or similar types
9405.40.21	Other, containing light emitting diodes (LED) as a source of illumination

### 3.2 Amendments in Section B of Part 2 of Schedule No. 1

Provision was made on 29 June 2012 (Notice R.488 of *Government Gazette* No. 35464) for quad bikes to be exempted from the payment of *ad valorem* duty. As a result, tariff items 126.04.02 and 126.04.10 were inserted with effect from 1 July 2012.

Proclamation No. 19 (published on 19 March 2012 in *Government Gazette* No. 35133), announced the exclusion of *ad valorem* duty from customs duties, which influenced the structure of *ad valorem* duties in Section B of Part 2 of Schedule No. 1 to the effect that only one column for *ad valorem* duty remained.

This amendment was published in Notice R.607 of 3 August 2012 in *Government Gazette* No. 35562, and implemented with retrospective effect from 1 April 2012.

As the new subheadings for quad bikes were not included in the amendment of 3 August 2012, they are now being inserted, with effect from 1 July 2012 to reflect one column for *ad valorem* duty.

### 3.3 Amendment of Schedule No. 3

Technical corrections are made in rebate items 311.42/55.14/01.04 and 320.02/55.14/01.04 to reflect the correct wording of “**goods**” classifiable in the subheadings listed instead of “mattress covers” as recommended by the Commission in Report No. 317 of 10 November 2009.

The scope of the subheadings listed is not limited to mattress covers, but includes other goods as well.

Therefore, the amendments are proposed to be as follows:

311.12/55.14/01.04	Woven fabrics of synthetic staple fibres, containing less than 85 per cent by mass of such fibres, mixed mainly or solely with cotton, of a mass exceeding 170 g/m <sup>2</sup> , dyed or printed, in rolls of a width of 200 cm or more, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, for the manufacture of <b>goods</b> classifiable in tariff headings 63.02, 63.03, 63.04 and 94.04, with retrospective effect from 9 September 2010
311.12/55.14/01.04	Woven fabrics of synthetic staple fibres, containing less than 85 per cent by mass of such fibres, mixed mainly or solely with cotton, of a mass exceeding 170 g/m <sup>2</sup> , dyed or printed, in rolls of a width of 200 cm or more, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, for the manufacture of <b>goods</b> classifiable in tariff headings 63.02, 63.03, 63.04, with retrospective effect from 1 January 2012

320.02/55.14/01.04	Woven fabrics of synthetic staple fibres, containing less than 85 per cent by mass of such fibres, mixed mainly or solely with cotton, of a mass exceeding 170 g/m <sup>2</sup> , dyed or printed, in rolls of a width of 200 cm or more, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit, for the manufacture of <b>goods</b> classifiable in tariff heading 94.04, with retrospective effect from 1 January 2012
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### **3.4 Amendment of Schedule No. 4**

The following redundant rebate items in Schedule No. 4 are deleted:

#### **3.4.1 Deletion of the provisions for the 2010 FIFA World Cup, South Africa**

Provisions were made in 2009 for imported goods admitted under rebate of duty for sale, consumption or use in the 2010 FIFA World Cup South Africa, when imported by qualifying persons and employees of qualifying persons (Notice R.472 published in *Government Gazette* No. 32190 of 8 May 2009).

It is now two years since the closing ceremony of this event and the provisions have become redundant. As a consequence the following rebate items for the 2010 FIFA World Cup, South Africa, including the Notes thereto, are deleted:

- 413.00
- 413.01
- 413.01/00.00/01.00
- 413.02
- 413.02/00.00/01.00
- 413.03
- 413.03/00.00/01.00
- 413.04
- 413.04/00.00/01.00
- 413.05
- 413.05/00.00/01.00
- 413.06
- 413.06/00.00/01.00

- 413.07
- 413.07/00.00/01.00

#### **3.4.2 Deletion of the provisions for the Textile and Clothing Industry Development Programme (TCIDP)**

In terms of the TCIDP, imported textile yarns and fabrics could qualify for a rebate of duty earned through locally manufactured textile articles exported. The TCIDP has lapsed on 30 September 2012 and the Commission informed the Southern African Development Community (SADC) Secretariat that the TCIDP will not be extended.

Since the TCIDP provisions applied to goods entered for home consumption up to and including 30 September 2012, they are now redundant and the following items are therefore deleted:

- 460.11/00.00/07.00
- 460.11/00.00/08.00

#### **3.4.3 Rebate items and Notes in terms of exchange letters between South Africa and the People's Republic of China (PRC)**

Notice R.358 (published in *Government Gazette* No. 33165 of 7 May 2010), provided for imported goods admitted under rebate of duty in terms of the exchange of letters between the Governments of the Republic of South Africa and the PRC on the construction of an Agricultural Technical Demonstration Centre.

The provisions were implemented with retrospective effect from 1 October 2009 and the agreed date of completion of the Agricultural Technical Demonstration Centre was 31 October 2010.

More than two years have lapsed since the agreed completion date and the following rebate items are deleted as they have become redundant:

- 460.28
- 460.28/00.00/01.00
- 460.28/00.00/02.00
- 460.28/00.00/03.00
- 460.28/00.00/04.00
- 460.28/00.00/05.00



### 3.4.4 Amendment of rebate item 460.17/87.00/03.02 of Schedule No. 4

New tariff subheadings were introduced in Part 1 of Schedule No. 1 to assist with the alignment of commodities throughout Schedule No. 1 as well as the new tariff subheadings for vehicles subject to carbon emissions introduced on 1 September 2010.

These amendments were published in Notice R.771 in *Government Gazette* No. 33514 of 31 August 2010 and Notice R.119 in *Government Gazette* No. 33817 of 1 December 2010, respectively.

However, due to an oversight, the consequential amendment of rebate item 460.17/87.00/03.02 to replace the old subheadings with the new subheadings applicable to motor vehicles was omitted.

The following new subheadings are inserted to replace the existing tariff subheadings, with retrospective effect from 1 September 2010 and 1 January 2011, being the effective dates these subheadings came into effect initially:

<b>Old tariff subheadings</b>	<b>New tariff subheadings</b>	<b>Dates of implementation</b>
8702.10.80	8702.10.81 8702.10.85 8702.10.87	1 January 2011
8702.90.10	8702.90.81 8702.90.85 9702.90.87	1 January 2011
8704.21.80	8704.21.81 8704.21.83	1 September 2010
8704.31.80	8704.31.81 8704.31.83	1 September 2010
8704.90.80	8704.90.81 9404.90.83	1 September 2010
8706.00.10	8706.00.05 8706.00.15	1 January 2011

### 3.5 Amendment of rebate item 537.02/87.00/01.02 of Schedule No. 5

New tariff subheadings were introduced in Part 1 of Schedule No. 1 to assist with the alignment of commodities throughout Schedule No. 1 as well as the new tariff subheadings for the vehicles subject to carbon emissions introduced on 1 September 2010.

These amendments were published in Notice R.771 in *Government Gazette* No. 33514 of 31 August 2010 and Notice R.119 in *Government Gazette* No. 33817 of 1 December 2010, respectively.

However, due to an oversight, the consequential amendment of rebate item 537.02/87.00/01.02 to replace the old subheadings with the new subheadings applicable to motor vehicles was omitted.

The following new subheadings will be inserted to replace the existing tariff subheadings with effect from 1 September 2010 and 1 January 2011, respectively, being the effective dates the new subheadings came into effect.

<b>Old tariff subheadings</b>	<b>New tariff subheadings</b>	<b>Dates of implementation</b>
8702.10.80	8702.10.81 8702.10.85 8702.10.87	1 January 2011
8702.90.10	8702.90.81 8702.90.85 9702.90.87	1 January 2011
8704.21.80	8704.21.81 8704.21.83	1 September 2010
8704.31.80	8704.31.81 8704.31.83	1 September 2010
8704.90.80	8704.90.81 9404.90.83	1 September 2010
8706.00.10	8706.00.05 8706.00.15	1 January 2011

### **3.6 Amendment of Schedule No. 6**

An editorial amendment to Note 6(f)(iv)(aa) is made in the Afrikaans Notice only where the paragraph numbers were incorrectly published in *Government Gazette* No. 33817 of 1 December 2010.