

LESOTHO TRADE AND TARRIFF ADMINISTRATION

Background

The pamphlet provides a synopsis of the functions and responsibilities of the current National Body Unit/ Lesotho Trade and Tariff Administration (LTTA) under the department of One Stop Business Facilitation Centre (OBFC). The Unit was established in 2012 in line with the Southern African Customs Union Agreement 2002, Article 14. This Article direct SACU Member States to establish dedicated and specialized Units to execute responsibilities of import & export control, tariff investigations and implementation of trade remedies. Currently, LTTA is working on the law that provides for the implementation of SACU Agreement.

The Unit, amongst its responsibilities, it sensitizes and educates the local industry on its mandate for the latter to fully comprehend the issues that the Unit deals with; for instance, the application and processes involved in import and export procedures, applications and processes of rebates and drawback as well as the application and processes for trade remedies investigation.

In normal circumstances the sensitisation of the local industry takes the form of workshops and media awareness. But in view of the current circumstances, where COVID 19 has rampantly exploited nations globally, the Unit has decided to produce this pamphlet as part of its daily responsibilities and as part of LTTA initiative financed under Southern African Development Community (SADC) Trade Related Facility (TRF) project. This information will be posted on the, Trade portal and will be made available in One Stop Business Facilitation Centre (OBFC) and ministry's district offices.

The pamphlet is outlined in the following manner:

IMPORT AND EXPORT CONTROL

Import and Export Control measures are applied to enforce health, environmental, security and safety, and technical standards that arise from domestic laws and International Agreements. The import and export control measures or restrictions are limited to those allowed under the relevant World Trade Organization (WTO) Agreements.

The role of Import and Export Control

The key role of Import and Export Control is essentially to ensure that the industry derive the optimal benefits out of the trade Agreements that the country is party

to. This is done by ensuring that the exporters utilize the most preferable trade regime when exporting to the countries with which Lesotho has trade Agreements. The other function is to enforce health, environmental, security and safety, and technical standards that arise from domestic laws and International Agreements. How is it done? The government through various ministries issue import and export permits as the control measure and tools for statistical collection.

The section also conducts inspections to ensure that those issued with the permits adhere to the guiding rules and regulations.

Legislation

Import and export control is managed through multiple Acts administered across different ministries. For instance, fruits and vegetables are controlled under the Agricultural Marketing Act (No. 26 of 1967, as amended; and its regulations) in the Ministry of Small Business Development, Cooperatives and Marketing.

Imports

The Ministry of Trade and Industry (MTI) administers Export & Import Control Act (No. 16 of 1984, as amended; and its regulations) for control of:

- a) Used clothing;
- b) Used vehicles;
- c) Used tyres.

Exports

International trade is conducted under a set of rules, procedures and preferences outlined in GATT for WTO members, and or under the various trade Agreements that the country is party to.

To show the origin of goods countries use different movement certificates (Rules of Origin (RoO) certificates). The movement certificate can be general or specific. A specific Movement certificate applies to a certain trade Agreement that the country is party to or to a preferential trade arrangement that the country qualifies for. For example, Lesotho qualifies to export duty and quota free under the African Growth Opportunity Act (AGOA), which is a preferential trade arrangement that the United States extend to the Sub Saharan Countries.

The use of the appropriate movement certificate helps the exporter to benefit from certain trade agreements by paying lower duties and not being restricted to quotas.

How to obtain the import permit from MTI?

Importation of all controlled items is subject to the issuance of the permit **BEFORE** an importer can import the said item(s)/good. The permit will give pre-determined conditions, quantities and use of the goods.

For applicant to qualify for import permit, the controlled goods must come from outside SACU. For instance, applications for used tyres and clothes must meet the following requirements:

For individuals

- a) Submit to the clearing agent proforma invoice, passport/ID copy and an affidavit;
- b) The clearing agent will submit application for review by the Officer;
- c) And if the application complies with requirements import permit will be granted.

For businesses

- a) Submit to the clearing agent valid traders license, tax clearance and proforma invoice;
- b) The clearing agent will submit application for review by the Officer;
- c) And if the application complies with the requirements, an import permit will be granted.

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TARIFF INVESTIGATIONS

Tariffs are used as Trade and industrial instruments whose key objective is to promote, in a complementary manner, domestic production, job creation and retention, and international competitiveness.

In light of the pressing challenge of unemployment, the criteria for adjudicating tariff applications are applied in a manner that is sensitive to employment outcomes.

Tariff Investigations are done on a case by case approach and take into account the specific circumstances of the sector involved and the applications across the spectrum of the value chain.

Tariff support is tied to conditions related to economic performance over time and is reviewed after a specific period. This means that tariff amendments are conditional on a commitment by beneficiaries on how they will perform against government's set policy objectives.

There are three types of tariff amendments which are administered by the Tariff Investigations Unit. These comprise:

- a) investigations of increases in ordinary customs duties;
- b) reductions in ordinary customs duties;
- c) and the creation of rebate and drawback provisions.

The common rebate applications that businesses usually submit to the Unit include when a manufacturer buys inputs from outside SACU, and produce in Lesotho but sell internationally, then the business qualifies for a rebate on the tax paid on the inputs.

Besides the customs duty amendments, the Unit also administers various kinds of rebate and drawback provisions falling under Schedules 3, 4, and 5 of the Tariff Book [visit: www.lra.org.ls].

Types of tariff amendments

Increase in customs duty

An increase in the rate of customs duties is considered for the purpose of granting relief for domestic producers that may be experiencing threatening import pressures. This is done to help them to adjust and restructure so that in the medium to long term they could become internationally competitive without any support in the form of customs duty support.

Reduction in the customs duty

A reduction or removal of duties is considered on a case-by case basis on resource-based inputs to lower input costs into labour intensive industries. This is meant to enhance global competitiveness and also in instances where goods (for instance, consumption goods, immediate goods or capital goods) are not manufactured domestically or unlikely to be manufactured domestically.

Rebates and the customs duty

The primary aim of these provisions is to provide a customs duty waiver to allow the industry to access the inputs at world competitive prices that are not produced or insufficiently produced domestically.

Drawbacks of the customs duty

Industry may also apply for a refund of duties payable on inputs used for manufacturing goods destined for the export market. The refund of the duty on inputs for export purposes is an incentive for allowing manufacturers to source their intermediate material and component inputs at world prices.

Rebates and drawbacks form a key pillar of certain industrial development programmes, such as those for textiles and clothing.

Legislation and Policy

Industrial and Trade policies guide the Unit in recommending amendments to the Tariff Book.

Who can lodge an application?

The domestic industry can lodge

Domestic industry can lodge an application of any of the four instruments mentioned above. The application is lodged with detailed information including both confidential and no confidential information to support the application. The tariff investigation unit may also initiate an investigation where there is need.

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TRADE REMEDIES

The section is mandated to conduct investigations of possible actions against dumped, subsidized and surge of imports when they threaten to injure the domestic producers of the like products. These actions are explained as follows:

- **Dumping:** Occurs when an imported product is being sold in your country for much less than the price it would be sold for in its home country/country of origin, or the price for which it is being sold in your country is much less than the cost of production.
- **Subsidisation:** Relates to the goods that have been subsidized by government or any agency.

- **Import surge:** A situation in which the quantity or the value of imports suddenly exceeds a normal level.

Trade remedies explained

There are measures that the Section will take to offset the alluded situations. Such measures are allowed under World Trade Organisation (WTO) and it is the responsibility of the Section that every investigation conducted must be consistent with the WTO Rules and domestic regulations and laws. The following table depicts which WTO Agreements authorize the use of trade remedies:

Measures	General Agreement of Trade and Tariffs (GATT) 1994	WTO Agreements
Anti-Dumping	Article VI	Anti-Dumping Agreement
Subsidies	Articles VI & XVI	Agreement on Subsidies & Countervailing measures)
Safeguards	Article XIX	Agreement on Safeguards

These are trade policy instruments that governments implement to offset the effects of dumping, subsidization and imports surge with the intention to rescue the domestic industry from the injury. WTO has identified three (3) primary types. These are:

- Safeguards measures (temporary relief from import surges)
- Countervailing measures (counteracting subsidies)
- Antidumping measures (counteracting unfairly low prices)

The implementation of these measures is in the form of additional duties. By implementing these measures, the intention is to create employment, promote investment, retain the already existing employment in the country and foster economic growth.

Who can lodge an application?

The domestic industry can lodge an application and seek trade remedy protection from dumped imports, subsidized imports and surge of imports. The

industry is expected to provide data and information to assist Trade Remedies Section in its analysis. A summary of preliminary steps in this process is as follows:

- a. Application: Domestic industry submits a request for trade remedies with relevant evidence included.
- b. A detailed questionnaire is sent to the domestic producers requesting detailed information on sales, cost of production and other information which will assist the section to assess the magnitude of the injury.

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