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**PRETORIA**  
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Dear Minister

**MINUTE M02/2014: INCREASE IN THE RATE OF CUSTOMS DUTY ON MUSSELS CLASSIFIABLE IN TARIFF SUBHEADINGS 1605.53.20 AND 1605.53.90**

On 19 December 2012, the Commission, in its Report 413, recommended an increase in the rate of customs duty on mussels, classifiable under tariff subheadings 0307.39.10 and 0307.39.90, from 5.5c/kg and free of duty respectively, to 25 per cent ad valorem. The recommendation was implemented by SARS on 15 February 2013.

The current tariff position for mussels classifiable in Chapter 3 of the Customs Tariff is shown in Table 1 below:

**Table 1: Current tariff position for molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine**

SECTION 1		LIVE ANIMALS: ANIMAL PRODUCTS					
CHAPTER 3		FISH AND CRUSTACEANS, MOLLUSCS AND OTHER AQUATIC INVERTEBRATES					
Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
03.07		Molluscs, Whether in Shell Or Not, Live, Fresh, Chilled, Frozen, Dried, Salted Or in Brine:					
	0307.3	Mussels (MYTILUS SPP., PERNA SPP.):					
	0307.31	Live, fresh or chilled	kg	Free	Free	Free	Free
	0307.39	Other					
	0307.39.10	Smoked	kg	25%	5,5c/kg	Free	Free
	0307.39.20	Frozen, not shelled (excluding smoked)	kg	25%	5,5c/kg	Free	Free
	0307.39.30	Frozen, in half shells (excluding smoked)	kg	25%	5,5c/kg	Free	Free
	0307.39.40	Frozen, shelled meat (excluding smoked)	kg	25%	5,5c/kg	Free	Free
	0307.39.90	Other	kg	25%	Free	Free	Free

It has been brought to the attention of the Commission that there has been an increase in imports of mussels classifiable in Chapter 16 of the Customs Tariff, which provides for: "Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates-mussels, other". These imports directly compete with the domestically produced mussels.

The current tariff position for mussels classifiable under Chapter 16 is shown in Table 2 below:

**Table 2: Current tariff position for Crustaceans, molluscs and other aquatic invertebrates prepared or preserved:**

CHAPTER 16		PREPARATIONS OF MEAT, OF FISH OR OF CRUSTACEANS, MOLLUSCS OR OTHER AQUATIC INVERTEBRATES					
Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
16.05		Crustaceans, Molluscs And Other Aquatic Invertebrates, Prepared Or Preserved:					
	1605.5	Molluscs:					
	1605.53	Mussels:					
	1605.53.10	Homogenised composite food preparations	kg	Free	Free	Free	Free
	1605.53.20	Other, in airtight metal containers	kg	5.5c/kg	5.5c/kg	Free	Free
	1605.53.90	Other	kg	5.5c/kg	5,5c/kg	Free	Free

The Commission therefore initiated an investigation through a publication in the Government Gazette on 18 July 2014, for an increase in the rate of customs duty on mussels classifiable under tariff subheadings 1605.53.20 and 1605.53.90 from 5.5c/kg to 25 per cent ad valorem.

During its investigation, the Commission established that the frozen half-shell mussels which are produced from the processing of live mussels are pre-cooked by placing them in a steamer. After pre-cooking the two shells of the mussel open and the mussel is then cleaned by hand to remove the byssus, i.e. the mass of strong threads secreted by the mussel that attaches the mussel body to the hard shell surface.

One half of the shell is then discarded leaving the remaining half-shell with the meat inside. The product is rinsed and placed on a freezer belt where it is frozen to below minus 18°C. The frozen product is covered with a protected water layer, which is also frozen and then packed in 1 kg plastic bags. Heat treatment is required during the process to ensure that the mussel flesh is not damaged during the freezing process.

The application of heat in the freezing process was not deemed to constitute cooking, a requirement for the mussels to be classifiable in Chapter 16 rather than in Chapter 3. However, the South African Revenue Service (SARS) confirmed that due to the fact that it is not in a position to distinguish whether a product is minimally cooked or fully cooked, a ruling was made that whenever any heat is applied to a product it will be deemed "cooked".

Two comments in support of the amendment were received during the publication period. One objection was received, stating that the domestic industry lacks the capacity to supply the SACU market.

However, according to information at the Commission's disposal, any expansion of capacity in the mussel farming industries cannot be done precipitously, since any cultivating mussel stock from seed to the live mussel is a long and protracted process. It is estimated that it will require at least seven to ten years of continuous investment before the SACU industry will be able to reach a reasonable and sustainable production capacity. The SACU industry currently is still in its early developmental stages.

Adequate and comprehensive tariff support for the mussel aquaculture sector, as recommended should lead to an improved utilisation of existing production capacity and to further investment in the industry to achieve economies of scale.

In light of the foregoing the Commission recommends that the rate of customs duty on mussels, classifiable under tariff subheadings 1605.53.20 and 1605.53.90, be increased from 5.5c/kg to 25 per cent ad valorem.

Yours sincerely



**Siyabulela Tsengiwe**  
**Chief Commissioner**  
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