DEPARTMENT OF TRADE AND INDUSTRY NOTICE 560 OF 2019

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

GUIDELINES AND CONDITIONS PERTAINING TO IMPOSITION OF AN AGRICULTURAL SAFEGUARD MEASURE IN TERMS OF 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

Emanating from the Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the Southern African Development Community (SADC) EPA States, of the other, Article 35 of the EPA provides for safeguard action in defined circumstances.

The International Trade Administration Commission of South Africa (the Commission) has drafted the attached reference and procedural guide pertaining to the imposition of an agricultural safeguard measure in terms of Article 35 of the EPA.

All interested parties are invited to comment on the draft guidelines within 10 calendar days of the date of publication of this notice. The Commission will finalise the guidelines after considering all comments received.

Comments can be submitted to the Chief Commissioner, International Trade Administration Commission of South Africa, Private Bag X 753, Pretoria or delivered by hand to the DTI Campus (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.

Further information can be obtained from the Senior Manager: Trade Remedies I, Ms Carina Janse van Vuuren, at (012) 394 3594 or cvanvuuren@itac.org.za.

GUIDELINES AND CONDITIONS PERTAINING TO IMPOSITION OF AN AGRICULTURAL SAFEGUARD MEASURE IN TERMS OF 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

1. PURPOSE

1.1 The purpose of this document is to provide a reference and procedural guide pertaining to the imposition of an agricultural safeguard measure in terms of Article 35 of the EPA.

2. SCOPE

- 2.1 The scope of this document covers the process for imposition of an agricultural safeguard measure in terms of Article 35 of the 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. PROCEDURE

- 3.1 The Minister of Trade, Industry and Competition will instruct the International Trade Administration Commission of South Africa (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 EPA.
- 3.2 Member States of SACU will submit import figures for the products listed in the attached Annexure to the SACU Secretariat by the 3rd of each month. The SACU secretariat shall collate the import figures from Member States and by the 5th of each month, provide Member States and ITAC with the collated import volumes for the products listed in the attached Annexure.
- 3.3 As soon as the collated import volume, or alternatively the import volume into South Africa, indicate that the trigger volume for a specific product as contained in the attached Annexure has been reached, ITAC will send a Minute to the Minister of Trade, Industry and Competition, recommending the imposition of an agricultural safeguard measure.
- 3.4 The recommendation to the Minister of Trade, Industry and Competition will include the amount of the duty to be imposed as well as the period

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of imposition of the measure, taking the provisions as stated above into account.

- 3.5 On approval of ITAC's recommendation, the SACU Secretariat will be notified and a request will be sent to the Minister of Finance for implementation of the measure.
- 3.6 Within ten (10) days after implementation of 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.

ANNEXURE AGRICULTURAL SAFEGUARDS

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

| Ref | Reference quantities (metric tons)(1) | | | | | | | | | | | | |
|-----|---------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|------------|------------|------------|
| | 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 |
| | Edible offals | | | | | | | | | | | | |
| 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* | 1005 | 1106 | 1206 | 1307 | 1407 | 1508 | 1609 | 1709 | 1810 | 1910 | 2011 | 2 111 |
| 4 | 02063000 | 100 | 110 | 121 | 133 | 146 | 161 | 177 | 195 | 214 | 236 | 259 | 285 |
| 5 | 02064900* | 5000 | 5500 | 6000 | 6500 | 7000 | 7500 | 8000 | 8500 | 9000 | 9500 | 10000 | 10500 |

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| Reference quantities (metric tons)(1) | | | | | | | | | | | | | |
|---------------------------------------|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|------------|------------|------------|
| | 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 |
| | Worked cereals | | | | | | | | | | | | |
| 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* | 2373 | 2613 | 2874 | 3161 | 3478 | 3825 | 4204 | 4628 | 5089 | 5595 | 6152 | 6771 |
| 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 |
| | Meat preparations | | | | | | | | | | | | |
| 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 |
| | Ultra high temperature (UHT) or "long-life" milk | | | | | | | | | | | | |
| 15 | 04011007 | 100 | 110 | 121 | 133 | 146 | 161 | 177 | 195 | 214 | 236 | 259 | 285 |
| 16 | 04012007* | 6353 | 6986 | 7701 | 8457 | 9315 | 10234 | 11256 | 12379 | 13625 | 14973 | 16485 | 18119 |
| 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 |

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| Reference quantities (metric tons)(1) | | | | | | | | | | | | | |
|---------------------------------------|--------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|------------|------------|------------|
| | 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 |
| | Preserved cucumbers and olives | | | | | | | | | | | | |
| 19 | 20011000* | 1302 | 1432 | 1576 | 1732 | 1905 | 2096 | 2305 | 2536 | 2791 | 3069 | 3376 | 3714 |
| 20 | 20019010* | 270 | 297 | 328 | 360 | 396 | 436 | 480 | 527 | 580 | 638 | 701 | 771 |
| | Chocolate | | | | | | | | | | | | |
| 21 | 180631* | 3046 | 3350 | 3655 | 3959 | 4 264 | 4569 | 4873 | 5178 | 5482 | 5787 | 6091 | 6396 |
| 22 | 180632* | 938 | 1032 | 1126 | 1220 | 1314 | 1408 | 1501 | 1595 | 1689 | 1783 | 1877 | 1971 |
| 23 | 180690* | 7196 | 7916 | 8635 | 9355 | 10074 | 10794 | 11514 | 12233 | 12953 | 13672 | 14392 | 15112 |