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Customs Alert

The comprehensive review of the East African Community Common External Tariff

The East African Community (EAC) Council of Ministers, on 5th May 2022 , adopted a maximum import duty rate of 35% as the 4th band of the EAC Common External Tariff (CET). The implementation of the reviewed CET shall commence on 1st July, 2022. However, the Council agreed on flexibility in implementation of the revised CET, particularly on products currently affected by the current global economic realities.

This communication details our analysis of the change and the anticipated implications.

Background

Article 12 of the EAC Customs Union Protocol ("the Protocol") establishes a 3 band common external tariff with a minimum rate of 0% on raw materials and capital goods, 10% on intermediate goods and 25% on finished goods.

Further, there are certain products considered to be of certain economic importance to the Partner States that attract duty rates of above 25% including sugar, wheat, milk, textile products, maize, rice and cigarettes.

Additionally, the EAC Council allows for stays of application of the CET rates on certain products to enable the Partner States apply higher/lower import duty rates to protect local industries from competition arising from cheap imports or reduce the cost of inputs required by certain industries.

The EAC Partner States undertook to review the maximum rate of the CET after a period of 5 years from coming into force of the Customs Union in 2005 under Article 12 of the Protocol.

However, it is only in 2017 that the EAC embarked on a comprehensive review of the CET that was necessitated by advances in technology, consideration by the Council on protectionism measures to be adopted and the elimination of stays of the CET application.

The Council finally approved a maximum rate of 35% on 5 May 2022 during the Ministers retreat on the comprehensive review of the EAC CET. Products covered under the 35% tariff band include: dairy and meat products, cereals, cotton and textiles, iron and steel, edible oils, beverages & spirits, furniture, leather products, fresh-cut flowers, fruits and nuts, sugar and confectionery, coffee, tea and spices, textiles and garments, head gears, ceramic products and paints, among others.

The delay in concluding the review of the CET was mainly attributed to the lack of consensus amongst the Partner States on the upper band rate. Kenya, Uganda and Tanzania proposed 35% while Burundi and Rwanda were for 30% as a maximum CET rate.

According to the Sectoral Council on Trade, Industry, Finance and Investment (SCTIFI), the justification for the 35% duty rate is based the percentage point gaps between 0% to 10%, 10% to 15% and 25% to 35% as ideal for promotion of value chains and industrial transformation in the region. On the other hand, the justification for the 30% duty rate is that an increase of 10% points to 35% is too high and will have a significant impact on prices of finished goods considering other domestic taxes which would affect the purchasing power of citizens.

In its meeting of 5 May 2022, the Council agreed on flexibility in implementation of revised rates particularly on products currently affected by current global realities and directed the Partner States to identify products affected by the current global trade disruptions for consideration during the Pre-Budget Consultations meeting scheduled for 9th to 13th May, 2022.

It is expected that the revised CET will incorporate changes made under the 2022 version of Harmonised System after expiry of the 2017 version.

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Our view

The long-awaited review of the CET is a welcome move that according to SCTIFI will provide an effective rate of protection to nascent industries, create a level playing field for industries, provide favourable tariff differential to support investment in higher value chains and promote welfare through creation of employment and increased revenue.

The introduction of a maximum rate of 35% is expected to promote industrialization in the region and safeguard consumer welfare on products where the region is net importing.

In addition, the 35% rate is expected to negatively impact the purchasing power of citizens in the region. However, the welfare loss is expected to be compensated by the additional incomes earned by the citizens from the additional employment opportunities created through the expected growth in the local industries.

The promotion of local manufacturing, value addition and industrialization is also expected to boost realization of the benefits of the African Continental Free Trade Area (AfCFTA) through encouraging intra-regional trade.

The review of the CET will also eliminate stays of application of the CET which have in the past distorted intra EAC trade and undermined the credibility of the EAC CET.

Since stays of application of the CET are approved annually and vary from time to time, the elimination of the stays of application will ensure stability in the import duty rates applicable on the affected products.

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