

ORGANIZACIÓN MUNDIAL DEL COMERCIO

G/TBT/N/ZAF/49
8 de junio de 2005

(05-2348)

Comité de Obstáculos Técnicos al Comercio

Original: inglés

NOTIFICACIÓN

Se da traslado de la notificación siguiente de conformidad con el artículo 10.6.

1. Miembro que notifica: <u>SUDÁFRICA</u> Si procede, nombre del gobierno local de que se trate (artículos 3.2 y 7.2):
2. Organismo responsable: Ministerio de Industria y Comercio Nombre y dirección (incluidos los números de teléfono y de telefax, así como las direcciones de correo electrónico y sitios Web, en su caso) del organismo o autoridad encargado de la tramitación de observaciones sobre la notificación, en caso de que se trate de un organismo o autoridad diferente: Comercio e Inversiones de Sudáfrica Dirección del sector de textiles, vestido, cuero y calzado Shareen Osman - Private Bag X84 - Pretoria 0001 - SUDÁFRICA Teléfono: (+27) 12 394 1176 Telefax: (+27) 12 394 0136 Correo electrónico: shareeno@thedti.gov.za
3. Notificación hecha en virtud del artículo 2.9.2 [X], 2.10.1 [], 5.6.2 [], 5.7.1 [], o en virtud de:
4. Productos abarcados (partida del SA o de la NCCA cuando corresponda; en otro caso partida del arancel nacional. Podrá indicarse además, cuando proceda, el número de partida de la ICS): Los textiles que figuran en los capítulos 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 y 63 de <i>Harmonized Customs and Excise Tariff Book</i> de Jacobson. Artículos de vestido que figuran en los capítulos 61,62 y 65 de <i>Harmonized Customs and Excise Tariff Book</i> de Jacobson. Calzado y artículos de cuero que figuran en los capítulos 42, 43 y 64 de <i>Harmonized Customs and Excise Tariff Book</i> de Jacobson.
5. Título, número de páginas e idioma(s) del documento notificado: <i>General Notice in terms of the Merchandise Marks Act, 1941</i> , [Aviso general relativo a la Ley de Marcas de Mercancías, 1941 (Ley Nº 17 de 1941)] <i>Country of Origin Labelling, Notice No. 657</i> (Etiquetado de país de origen, Aviso Nº 657) – Disponible en inglés, 2 páginas
6. Descripción del contenido: Prescripciones de etiquetado de país de origen para las mercancías importadas o vendidas en la República de Sudáfrica.

7.	Objetivo y razón de ser, incluida, cuando proceda, la índole de los problemas urgentes: Prevención de prácticas que puedan inducir a error, información del consumidor y prevención de la elusión en el comercio
8.	Documentos pertinentes: Diario Oficial del Gobierno N° 27538
9.	Fecha propuesta de adopción: } Fecha propuesta de entrada en vigor: } 1° de septiembre de 2005
10.	Fecha límite para la presentación de observaciones: 31 de julio de 2005
11.	Textos disponibles en: Servicio nacional de información [], o dirección, números de teléfono y de telefax, correo electrónico y dirección del sitio Web, en su caso, de otra institución: Department of Trade and Industry Trade and Investment South Africa Textiles, Clothing, Leather and Footwear sector desk Shareen Osman Private Bag X84 Pretoria 0001 SUDÁFRICA Teléfono: (+27) 12 394 1176 Telefax: (+27) 12 394 0136 Correo electrónico: shareeno@thedti.gov.za

GENERAL NOTICE

NOTICE 657 OF 2005

NOTICE IN TERMS OF THE MERCHANDISE MARKS ACT, 1941,

(ACT NO. 17 OF 1941)

I, MANDISI MPAHLWA, Minister of Trade and Industry, hereby, in terms of section 10(1) and 11(1) of the Merchandise Marks Act, 1941 (Act No. 17 of 1941), prohibit the importation into or the sale in the Republic of South Africa, of the goods specified in the Schedule, irrespective of whether such goods were made or produced in the Republic or elsewhere, unless –

- a) there shall be permanently applied to them in a conspicuous and easily legible manner words stating clearly-
 - (i) the country in which they were made or produced;
 - (ii) the tax payer identification number of the manufacturer for locally produced goods and the SARS importer registration code for imported goods;
 - (iii) in the event of a RSA textile manufacturer using imported greige fabric to produce dyed, printed or finished fabric in the RSA, that such fabric has been dyed, printed or finished in South Africa from imported fabric; and
 - (iv) that a locally manufactured product using imported material must state made in South Africa from imported materials.

- b) they, in terms of Notice No. 2410 of 2000, published in the Government Gazette dated 30 June 2000, conform to the South African national standards for fibre content and care labeling.

- c) there shall, if after they have been reconditioned, rebuilt or remade, whether in the Republic or elsewhere, be applied to them in a conspicuous and easily legible manner, words stating clearly that they have been reconditioned, rebuilt or remade, as the case may be.

- d) the label states clearly: made in South Africa and the product is wholly assembled in South Africa, the product will not qualify for a "made in South Africa label."

SCHEDULE

Textiles as listed in Chapter 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 63 of Jacobson's Harmonized Customs and Excise Tariff Book.

Clothing as listed in Chapter 61, 62 and 65 of Jacobson's Harmonized Customs and Excise Tariff Book.

Shoes and leather goods as listed in Chapter 42, 43 and 64 of Jacobson's Harmonized Customs and Excise Tariff Book.

This Notice will come into effect on 23 May 2005, and this Notice repeals the Notice published on 23 September 2004.

MANDISI MPAHLWA, MP
MINISTER OF TRADE AND INDUSTRY

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COMMENTS FROM THE EUROPEAN COMMUNITIES RELATING TO NOTIFICATION G/TBT/N/ZAF/49

GENERAL NOTICE IN TERMS OF THE MERCHANDISE MARKS ACT, 1941, (ACT NO.17 OF 1941)

COUNTRY OF ORIGIN LABELLING, NOTICE NO. 657

The European Communities (EC) welcomes the opportunity to comment on the draft text notified by South Africa (ZAF) relating to the General Notice in terms of the Merchandising Marks Act, 1941.

Since the EC received the text of the notified technical regulation only on 12 July 2005 (more than one month after the notification was carried out), the EC requests the South African authorities to take the comments set out below into account regardless of the time-limit for comments indicated in the notification.

The notified text sets out labelling requirements for the goods specified in the schedule (textile, clothing, shoes and leather goods). In item a) it is stated that, among others, the country of origin and - with regard to imported goods - the SARS importer registration code must be "*permanently applied*" to the goods in a "*conspicuous and easily legible manner*".

The EC is concerned about the possible disproportionate effects of these mandatory labelling requirements. A permanent labelling of the SARS importer registration code to be applied directly on the good would impose significant handling difficulties and accompanying high costs on the importers of the goods concerned, which would have considerable impact on the trade in these goods originating from outside South Africa.

The EC considers that the requirement to indicate the SARS importer registration code to be irrelevant for the information of the consumer. Therefore, it does not need to appear on the good itself. Should the South African authorities consider the indication of the importer registration code necessary for other reasons, importers should have the possibility to indicate their SARS registration code on the packaging of the good. The EC is therefore convinced that the objective pursued may be achieved by less trade restrictive measures according to Article 2.2 of the TBT Agreement which provides that technical regulations shall not be more trade restrictive than necessary to fulfil a legitimate objective.

With regard to the 'country of origin' labelling, the EC seeks confirmation from South Africa that as an alternative to the indication of a specific country also the label "made in EU" may be used.

Moreover, in item b) it is stated that the goods concerned shall conform to the South African national standards for fibre content and care labelling. The EC would like to learn more about the content of these standards which appear to be made mandatory. In particular, it invites the South African authorities to explain whether the South African standard for care labelling is based on the relevant international standard ISO 3758 on care labelling codes for textiles in accordance with Article 2.4 TBT Agreement.

Finally, the EC requests clarification with regard to the current status of the notified technical regulation. In the notification, the South African authorities indicate as proposed date of adoption and entry into force 1 September 2005. The notified text itself states that it shall come into effect on 23 May 2005. However, it was reported that application of the measure is currently suspended. The South African authorities are reminded that according to Article 2.9.2 TBT Agreement notification of a proposed technical regulation shall take place at an early appropriate stage, when amendments can still be introduced and comments taken into account. Moreover, the South African authorities are requested to allow a reasonable interval between the publication of the technical regulation and its entry into force according to Article 2.12 TBT Agreement.

The EC would appreciate if South Africa would take the above comments into account and reply to them in accordance with Article 2.9.4 TBT Agreement.



Sabine Lecrenier
Head of Unit
European Commission

Fax 322 2998043

Dear Mr. / Ms Lecrenier

RE: G/TBT/N/ZAF/49 – General Notice in terms of the Merchandise Marks Act, 1941, (Act No. 17 of 1941) – Country of Origin Labeling, Notice No. 657 – EC Comments

This follows our previous correspondence (fax) regarding the query that was forwarded to us. In the General Notice in Terms of the Merchandise Marks Act, 1941, (Act No. 17 of 1941) **paragraph 7** "Moreover in item (b) it is stated that the goods concerned shall conform to the South African national standards for fibre content and care labeling. The EC would like to learn more about the content of these standards, which appear to be made mandatory. In particular, it invites the South African authorities to explain whether the South African standard for care labeling is based on the relevant international standard ISO 3758 on care labeling codes for textiles in accordance with Article 2.4 TBT Agreement".

In the revised standard ISO 3758 that was published in approximately November 2004, South Africa, Europe and Japan voted against it. South Africa aligns itself with previous standard edition. There has been communication between this directorate (CSP Textile and Clothing) and the South African representative for the European Commission and the SA code of practice relating to care labeling, has been provided to them.

In light of this, it is believed that the SA standard is less onerous than the existing ISO standard and that the SA standard is a minimum requirement not a maximum one. Therefore it is believed that this SA standard cannot be seen to be a TBT.

It is hoped that you find this in order.

Yours sincerely

S.O.
Shareen Osman
CSP Manager: Clothing, Textile and Leather Footwear
TBT Enquiry Point of the Republic of South Africa

Date: *05/09/* 2005

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G/TBT/N/ZAF/49

**GENERAL NOTICE IN TERMS OF THE MERCHANDISE MARKS ACT, 1941, (ACT No.17
OF 1941)**

COUNTRY OF ORIGIN LABELLING, NOTICE No. 657

EC reaction to the South African reply

The European Communities (EC) would like to thank the South African authorities for their reply of 5 September 2005 to the EC comments on the draft technical regulation relating to the General Notice in terms of the Merchandising Marks Act, 1941, - Country of origin labelling, Notice No. 657.

The EC notes that the reply only addresses the issue of national standards for fibre content and care labelling. No answer, however, was given with regard to the other concerns raised by the EC, notably in respect of the requirement to indicate the SARS importer registration code on the products concerned. The South African authorities are urged to take these concerns into account.

The South African authorities are also invited to pursue the dialogue established in this respect with the European Commission Delegation and other stakeholders on the ground.

In this context, the EC welcomes that the competent South African authorities seem to consider amendments to the notified text such as the removal of the clause relating to the SARS importer registration code and the postponement of the implementation of the envisaged measure in order to make it compatible with the relevant provisions of Article 2 of the TBT Agreement and to dissipate the legal uncertainty for business it creates in this typically seasonal industry. The EC would be grateful to be informed about the steps the South African authorities will decide to take.
