South Africa has always been a net exporter of raw groundnuts, with a high demand for our product in especially European countries and Japan. Likewise, we have a stable local demand with an average commercial consumption of around 60 000mt – of which half goes toward the direct edible market and just over 40% to the manufacture of peanut butter.

When considering exports – which are limited more by supply than demand – and local requirements against production, the import and export figures published by the South African Revenue Service (SARS) under the different tariff lines help to gain some insight and perspective.

Three tariff lines are relevant in groundnut trade (excluding peanut butter):

- 1202.42: Groundnuts, not roasted or otherwise cooked, shelled or broken.
- 2008.11.20: Groundnuts, roasted.
- 2008.11.90: Groundnuts, other.

Eight years’ trade volume data (2009 – 2016) are available on the SARS website for all three tariff lines. For six out of the eight years, the combined imports exceeded the exports. During this period, an average of 95% of exports were reported under tariff line 1202.42, or so-called ‘raw’ groundnuts.

Changes to import duties

Between 2009 and 2013, on average only 21% of the imports were counted as ‘other’ under tariff 2008.11.90. The relevance of these figures is the fact that for as long as anyone in the industry can recall, blanched groundnuts have always been declared under the ‘other’ tariff line. In 2014, the ‘other’ or blanched portion substantially increased to 48% of the combined imports, according to SARS data.

According to internal policy and circumstances, countries attach different import duties to certain harmonised commodity description and coding system – harmonised system (HS) – tariff lines. In South Africa, import duties for tariff 1202.42 and 2008.11.90 are set at 10% and 0.99c/kg respectively.

Significant effect on importers

The effect of this unforeseen reclassification had a significant and detrimental effect on importers. Firstly, existing seasonal contracts were not negotiated considering the higher import duty prescribed for heading 1202.42, and as such the economic viability of these contracts were suddenly highly questionable.

Secondly, SARS began a process of auditing all imports for the preceding two years (2013 and 2014), claiming duty, interest and fines on the basis that 1202.42 should have applied. Especially in light of the increased blanched imports for 2014, the amounts in question run into the millions of rand and if enforced will most probably have a crippling effect on numerous smaller import businesses. Based on prior determinations and practice, individual importers have engaged in the lengthy process of appealing these findings with SARS.

On further enquiry, it became clear that interpretation of this specific issue differs among groundnut-trading countries – with some classifying blanched groundnuts under Chapter 12 and others under Chapter 20. The SAGF requested SARS – representing South Africa at the WCO – to lodge an official request for the classification and tariff code determination for blanched groundnuts. The secretariat received a letter from South Africa in July 2015, requesting the committee to address the issue at the 56th session of the Harmonised System Committee (HSC) at the WCO headquarters in Brussels.
The secretariat further noted that for heading 12.02 to apply, the heat treatment applied must fulfill two conditions:

- It must be carried out at temperatures below that of roasting and cooking of groundnuts.
- It must not alter the character of the seeds as natural products.

It therefore seems that the issue would be resolved by either amending the wording in the headings and/or explanatory notes, or to determine whether the process of blanching does indeed alter the character of the kernels.

At the 57th session held in March 2016, the HSC continued their investigation into the matter and it was concluded that three volunteer administrations – Japan, the United States (US) and Korea – would analyse samples of blanched groundnuts submitted by South Africa, relating to parameters deemed most relevant by the Science Sub-Committee (SSC), with particular reference to organoleptic properties, moisture content, enzyme activity (peroxidase and polyphenols) and nitrogen (N) solubility index.

**Classification implementation**

These results were made available to the committee and discussed at the 58th session held between 28 September and 7 October 2016. When put to a vote, the HSC decided by 26 votes to 19 to classify blanched groundnuts under heading 20.08 (Subheading 2008.11) by application of General Interpretation Rules 1 and 6.

**We have a stable local demand with an average commercial consumption of around 60 000mt.**

Member countries had two months in which to file reservations against the implementation of the decision. Considering the great impact this decision would have on European imports in particular – where duty would increase from zero to between 11,2 and 12,8% – it is expected that major exporters such as the US and Argentina will continue with their diplomatic efforts to have this decision reconsidered at the next session set for March 2017.

For the time being, the SAGF has advised members to continue using heading 1202.42 until the process has run its course and the World Health Organisation (WHO) and SARS have given official statements and rulings in this regard. In any event, importers should ensure that they have an official SARS tariff determination at all times for any product they import, regardless of what is deemed as prevailing general practice.

Any further updates will be communicated via the usual industry channels, including the SAGF meetings and correspondence as well as postings on the following blog page: https://saggroundnut.com/. For more information, contact Adri Botha at groundnutforum@opot.co.za. Visit www.wcoomd.org to learn more.