

Welcome to all SAIT & Private Sector
Members - CPD Webinar



World of Customs & Global Trade
Thursday 17 October 2024

YOUR KEY TO THE TAX COMMUNITY

YOUR HOSTS TODAY



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SPECIAL GUEST

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After seven years at Deloitte, Donald left & founded XA Global Trade Advisors in 2003. Donald is one the most experienced trade practitioners in South Africa, from Customs, Logistics, Trade Policy to Trade Data Analytics. Donald founded Stratalyze in 2015 to look at how trade data could be better utilised in the commercial sphere, which resulted in a data-heavy approach to advisory work. XA Global Trade Advisors, founded by Donald, is an International Trade Consulting Practice, with a strong focus on Trade Policy issues, such as Customs Duty changes and anti-dumping issues. Its services include direct Customs Consulting, which mainly takes the form of Dispute Resolution.

DR RODRICK VAN ROOYEN (Ronnie) (News & Updates) SAIT Official Customs Coordinator

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AGENDA

1. Customs News & Updates – Dr Rodrick van Rooyen
2. **Topic: Duties & Protection – Why? ~ How? ~ When?**
 - a) Understanding Tariff Instruments
 - a) What is Duty being paid on?
 - a) Distribution of Import Duties
 - a) A Duty Increase Application
 - a) A Duty Decrease Application
 - a) More, or Less Protection?
 - a) The Legal Limits
 - a) Various implications
 - a) SACU – A General Tariff Regime

DISCLAIMER

This document has been prepared within a limited factual and contextual framework, in order to provide technical guidance regarding a specific query relating to tax practice. This document does not purport to be a comprehensive review in respect of the subject matter, nor does it constitute legal advice or legal opinion.

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SARS / Customs Local News

Media Release

Date	SARS is engaging with industry to avert any fuel shortages
14 October 2024	<ul style="list-style-type: none">• The SARS clarified misconceptions regarding a potential jet fuel shortage, emphasizing that the importation and movement of aviation kerosene is strictly regulated under the Customs and Excise Act.• Since 2022, several coastal refineries ceased production due to infrastructure issues, relying on imports to meet demand.• In April 2024, temporary special storage licenses for special storage warehouses (SOS) were granted to some refineries for imported aviation kerosene to prevent shortages during maintenance periods.• SARS is actively assisting these entities in transitioning from a manufacturing to an import model while ensuring compliance with legal requirements.• The agency plans to engage with industry stakeholders to address current challenges and uphold economic stability and travel.

Footnote: The licensee of a customs and excise warehouse is registered in accordance with rule 59A.01A(b)(iA)(dd) of the Customs Act as a supplier of aviation kerosene to aircraft.

Online reference: <https://www.sars.gov.za/whats-new-at-sars/> ; Date: 15 October 2024

SARS / Customs Local News

Media Release

Date	SARS Customs officers in R25 million cocaine bust
11 October 2024	<ul style="list-style-type: none">• The SARS Customs officers seized 47 bricks/50 kg of compressed cocaine, valued at approximately R25 million, at OR Tambo International Airport.• The 50 kg cocaine was discovered in a luggage bag from Sao Paolo, Brazil, bound for Kinshasa, DRC, and was found on a carousel without any accompanying passengers.• Following the seizure, the South African Police Service will investigate the matter.• SARS Commissioner Edward Kieswetter highlighted the high risk of drug trafficking from Sao Paolo and emphasized a collaborative approach involving SARS Customs, the Border Management Authority, and other agencies to combat narcotics.• This multi-disciplinary strategy aims to protect citizens, particularly the youth, from drug-related threats, yielding positive results in recent arrests and interceptions.

Online reference: <https://www.sars.gov.za/whats-new-at-sars/> ; Date: 15 October 2024

SARS / Customs Local News

Media Release

Date	Clarification on the criteria for the recognition of Controlling Bodies and the registration of tax practitioners
11 October 2024	<ul style="list-style-type: none">• Individuals providing tax services must register with both a Recognized Controlling Body (RCB) and SARS as Tax Practitioners.• RCBs oversee registration and ensure compliance among their members.• To assist RCBs and practitioners, SARS has updated the guidelines for the registration of Tax Practitioners and the recognition of controlling bodies.• Key resources include guides on managing tax practitioner members on e-Filing and the criteria for RCB recognition and Tax Practitioner registration.

Online reference: <https://www.sars.gov.za/whats-new-at-sars/> ; Date: 16 October 2024

List of currently recognised controlling bodies

- [Chartered Institute of Management Accountants \(CIMA\)](#)
- [Chartered Governance Institute of Southern Africa \(CGISA\)](#)
- [Financial Planning Institute \(FPI\)](#)
- [Institute of Accounting and Commerce \(IAC\)](#)
- [SA Institute of Chartered Accountants \(SAICA\)](#)
- [SA Institute of Professional Accountants \(SAIPA\)](#)
- [SA Institute of Taxation \(SAIT\)](#)
- [The Association of Chartered Certified Accountants \(ACCA\)](#)
- [Chartered Institute for Business Accountants \(CIBA\)](#)

Online reference: <https://www.sars.gov.za/tax-practitioners/controlling-bodies-for-tax-practitioners/> ; Date: 16 October 2024

SARS / Customs Local News

Media Release



Effective Date: 11 October 2024



CRITERIA FOR THE REGISTRATION OF TAX PRACTITIONERS

4.1 REGISTRATION

- a) To register as a tax practitioner, an individual must be registered with both a Recognised Controlling Body (RCB) and SARS. Therefore, anyone wishing to register as a tax practitioner who is not yet registered with an RCB should ensure that they meet the requirements outlined in this document, as well as any additional requirements specified by the RCB they choose to register with.

4.5 CONTINUOUS PROFESSIONAL EDUCATION (CPE)

- a) A registered tax practitioner must ensure that they adhere to the CPE requirements that are set out below.

Requirements:

- A tax practitioner must have successfully completed a minimum of 18 verifiable CPE hours per year, which consists of 10 tax hours, 2 ethics hours, and 6 hours relating to the service provided.
- A tax practitioner is required to retain a record of their CPE for 5 years, e.g., competency certificates.

Please note: A year commences on 1 January and ends on 31 December of a year, and therefore the 18 hours is calculated on a pro rata basis for newly registered tax practitioners depending on the registration date.

Online reference: <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/GEN-GEN-59-G01-%E2%80%93-Criteria-for-the-Registration-of-Tax-Practitioners-%E2%80%93-External-Guide.pdf> ; Date: 16 October 2024

SARS / Customs Local News

Legal Counsel: International Treaties & Agreements – MAAs on Customs

Date	Legislation	Description
10 October 2024	Customs and Excise Act, 1964	Nigeria CMAA Agreement – date of entry into force is 1 May 2024

Footnote: The purpose of the agreements regarding mutual administrative assistance between two or more customs administrations is to –

- enable the administrations to exchange information
- provide each other with technical assistance
- undertake surveillance and investigations together, with, and on behalf of, each other
- co-operate with each other in order to enhance the efficiency of their operations

Online reference: Online: <https://www.sars.gov.za/whats-new-at-sars/> ; Date: 16 October 2024

TOPIC FOR TODAY



Guest Speaker: Mr Donald Mackay,
CEO of X A Global Trade Advisors

“Duties & Protection – Why? ~ How? ~ When?”

International Traders must ensure Customs Compliance for all Import Declarations.

Quite often, they do not understand why a Duty even exists, its Origin, and/or how to increase/decrease Import Duties, and the like...



Understanding instruments

Donald MacKay, CEO
XA Global Trade Advisors

tariff



Tariff instruments

Fair trade instruments

constrained by WTO
bound rate
commitments



Normal duties
Schedule 1, part 1

Temporary exemption from the bound rate



Safeguard duties
Schedule 2, part 3

Unfair trade instruments

Constrained by ability to
offset injury



Anti-dumping duties
Schedule 2, part 1



Countervailing duties
Schedule 2, part 2

The line between ITAC and SARS



International Trade Administration Commission of South Africa

Sets the duty rates

Part of the Department of Trade,
Industry and Competition



Collects the duties

Part of the Department of Finance

Taxes are raised to generate **government revenue** or to **disincentivise behaviour**

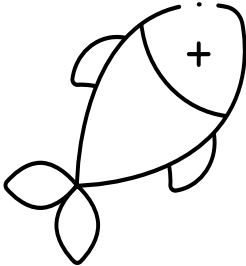
Customs duties raise the cost of imports to encourage the consumption of the domestic alternative.

Customs duties are a tax on consumers and a subsidy to producers

R86 billion

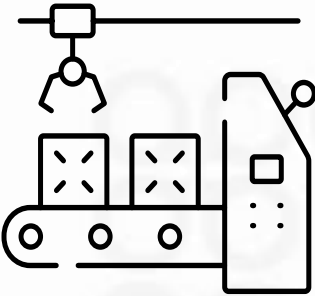
customs duties paid from July 2023 to June 2024

Distribution of the import duties



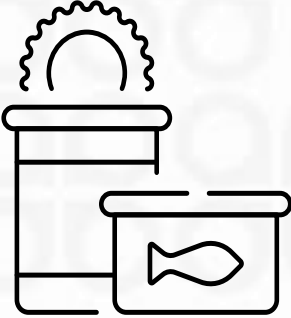
Intermediate Consumption

R18 billion



Gross Fixed Capital Formation

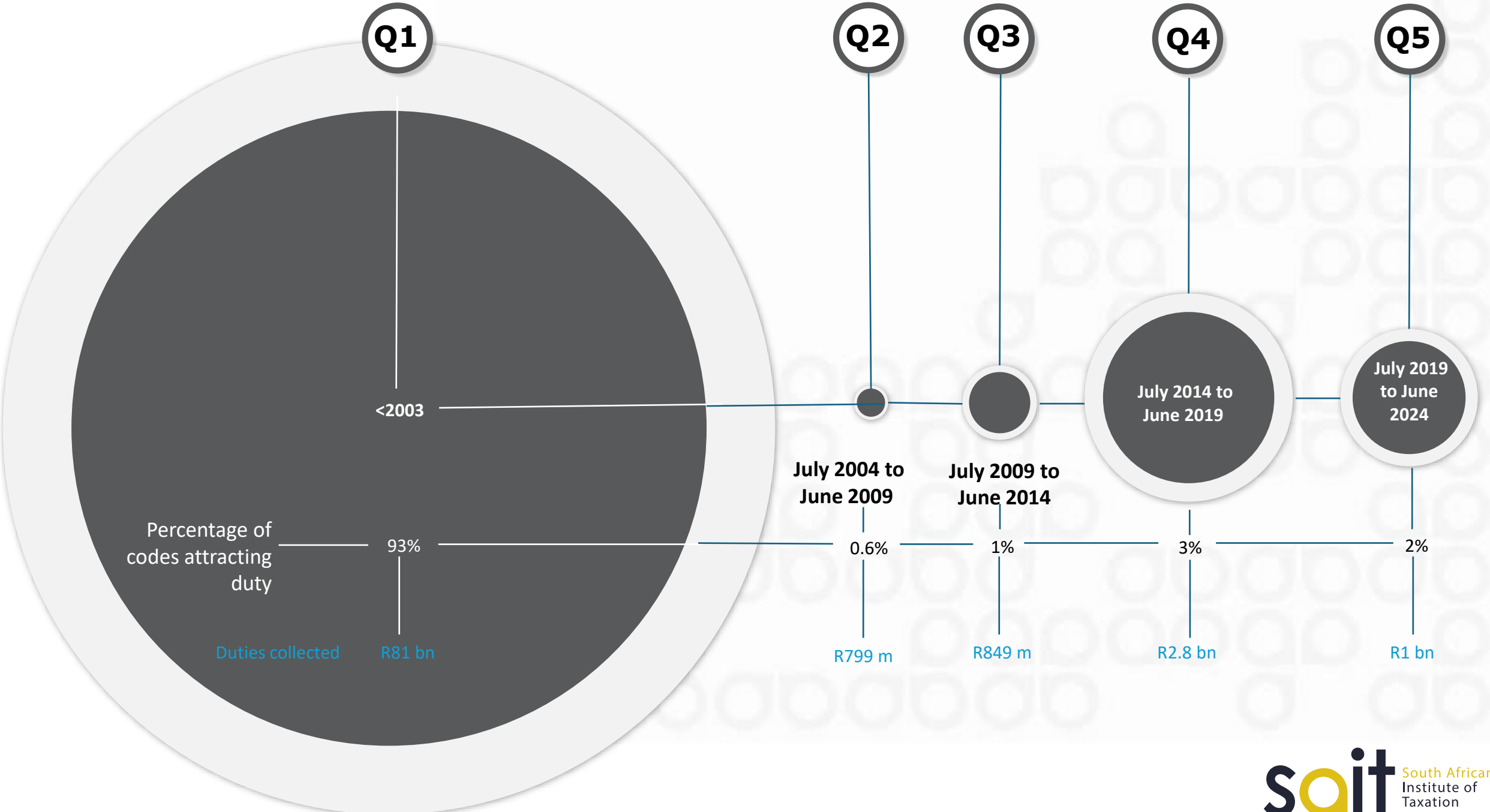
R4 billion



Final Consumption

R64 billion

R81 billion of the total R86 billion paid in customs duties have not had their duties reviewed in more than **20 years**



Of the **94** duty increases in the last 20 years, **52** were identified for review by ITAC. Of these **34** are overdue for review

Duties are seldom reduced even when there is no local production. This has been replaced by temporary rebates

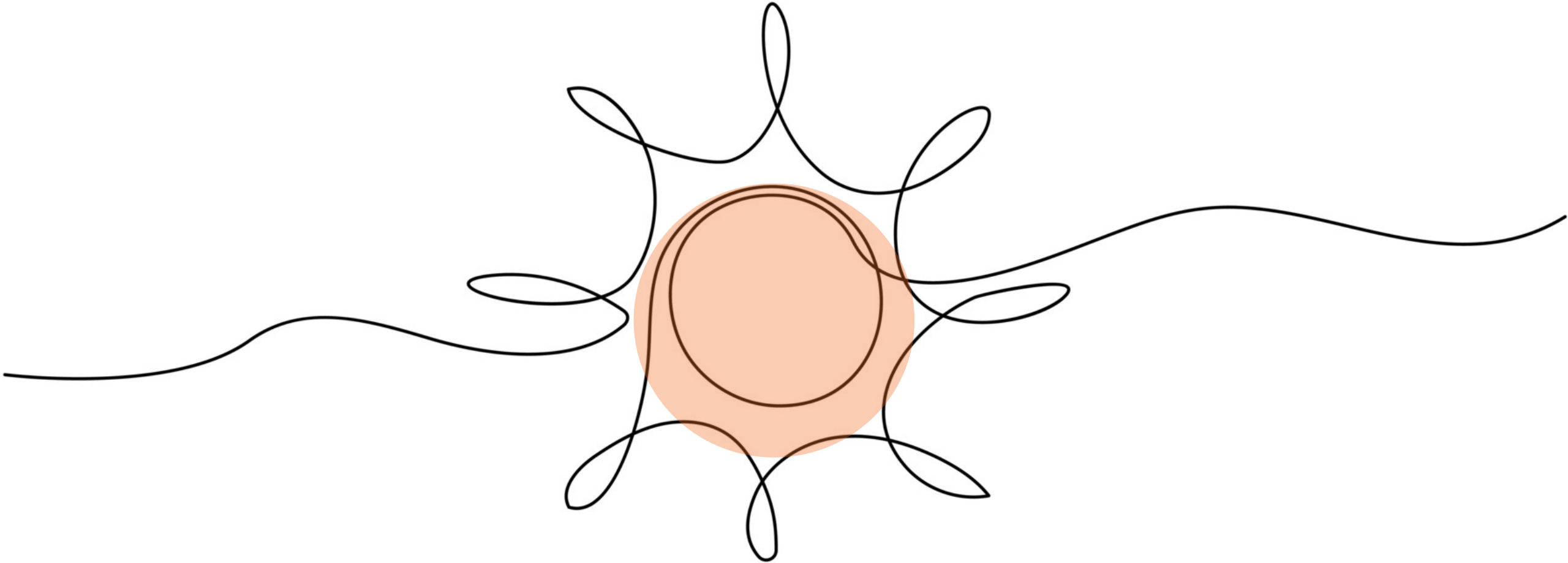
Rebates are conditional and the conditions can be changed at any time at the discretion of ITAC

Even when there is no local production, duty relief still takes years

No one manufactures onion powder in South Africa and the application was unopposed



What was gained by taking over **five years** to take a decision on the import duties on **solar panels**?



The solar panel timeline



15 Feb 2018
Ramaphosa becomes President of SA

31 May 2017
ARTSolar application received by ITAC

15 months

20 Aug 2018
ARTSolar application duly completed

7 months

29 Mar 2019
Investigation initiated in government gazette

5 months

10 Sep 2019
Recommendation to the Commission

4 April 2022
Lockdown ends in SA



24 Feb 2022
Russia invades Ukraine



1 Jan 2022
WCO split of solar panel code into cells and panels



9 July 2021
Durban riots



23 Mar 2020
SA goes into lockdown



30 months

10 Feb 2021
Commission recommendation to Minister of Trade to increase duties

15 months

25 Aug 2023
Solar panel rebate investigation initiated in government gazette

5 months

4 Dec 2023
Commission recommendation to Minister of Trade to create rebate

7 months

28 Jun 2024
Implementation of duty increase and rebate

7 Oct 2023
 Hamas attacks Israel



17 June 2024
Government of National Unity



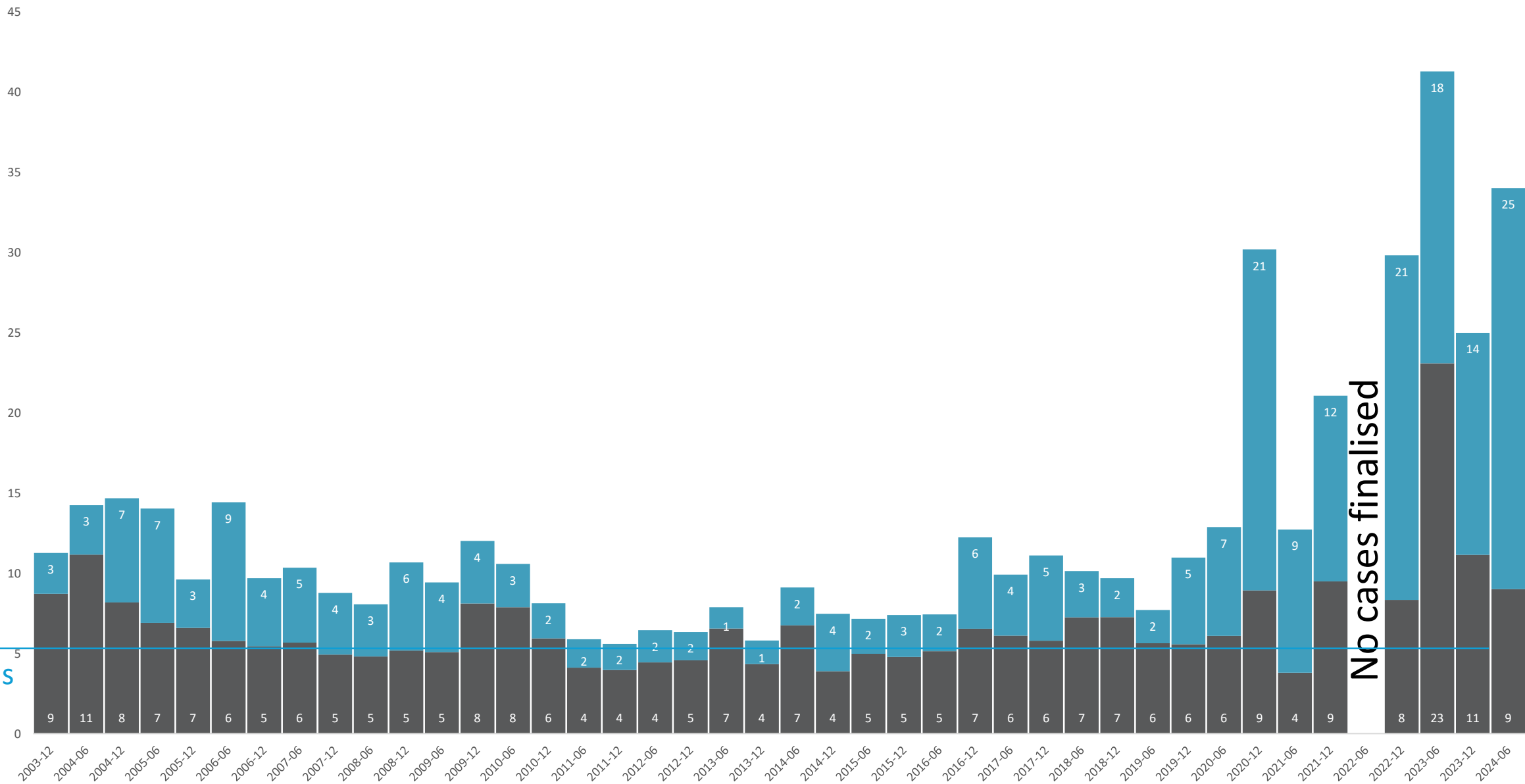
Administrative
Transparent

Political
Opaque

Although most of the work is done at ITAC, investigations now spend the most time with the Ministers

Number of months to complete an investigation

■ Average months at ITAC ■ Average months with the ministers

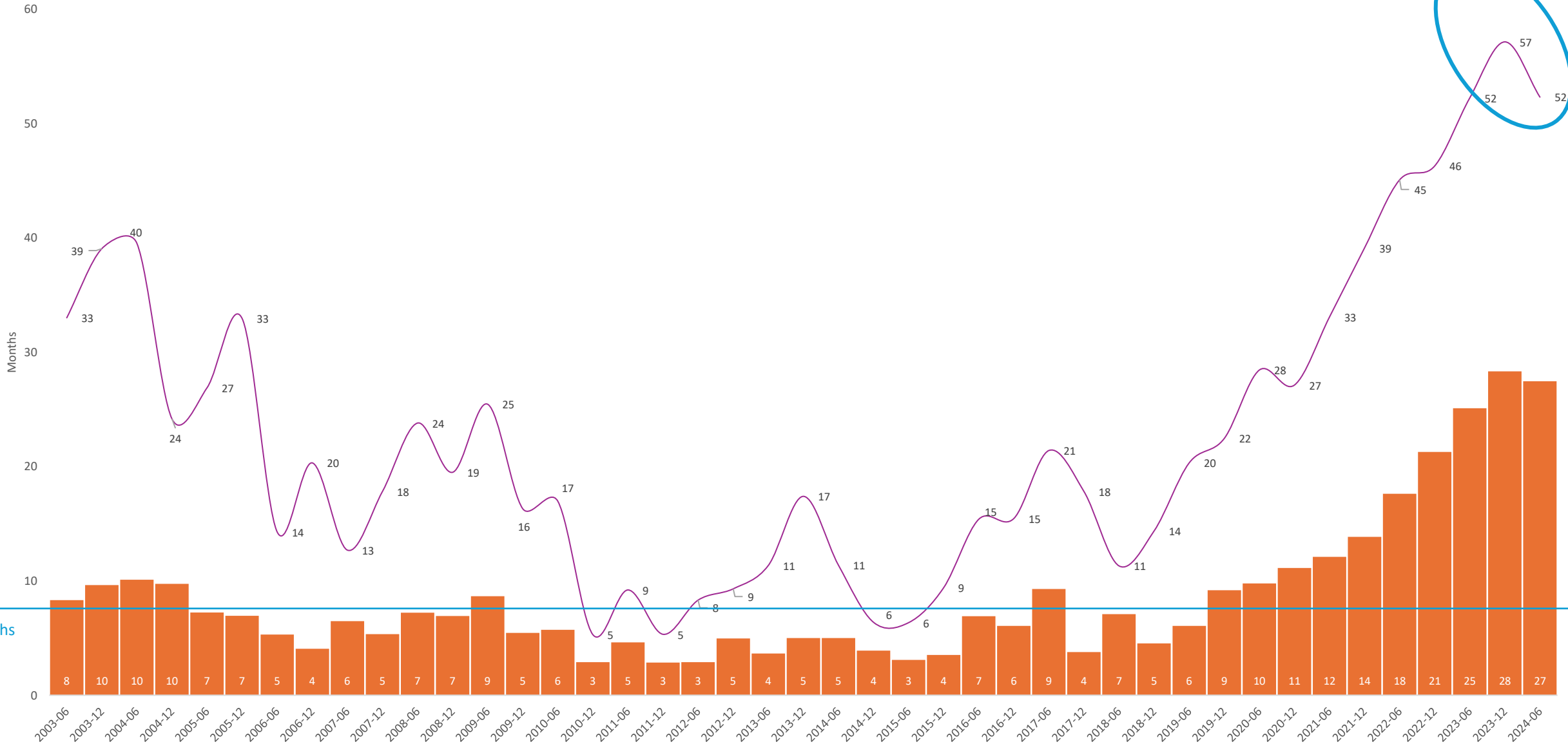


Six months

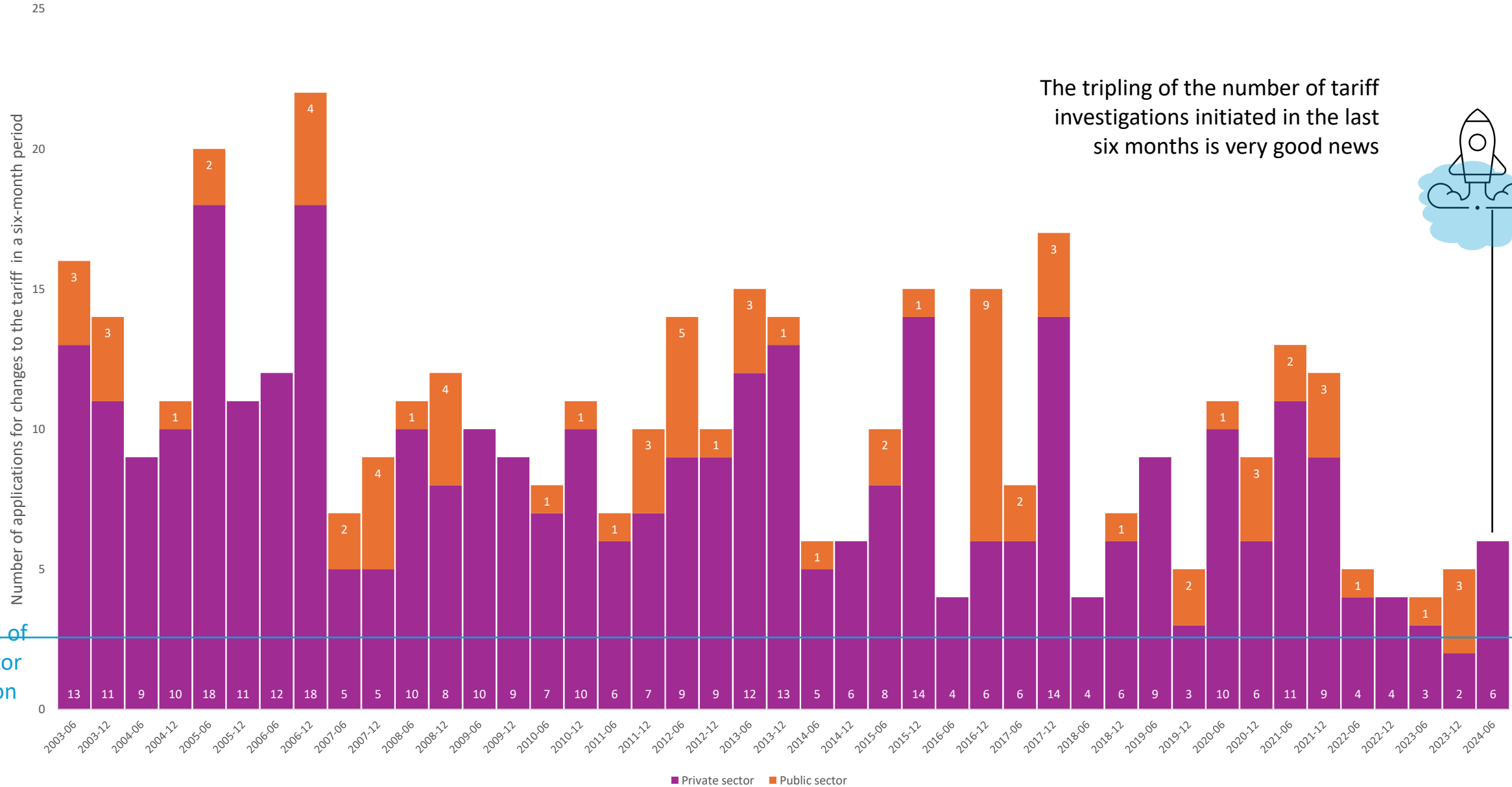
No cases finalised

Tariff investigations should be completed in 6-months, but are taking on average 27 months to complete

Average Months open Oldest months



Following the lowest level of private sector tariff applications, we are seeing a significant increase in the number of investigations initiated



The tripling of the number of tariff investigations initiated in the last six months is very good news

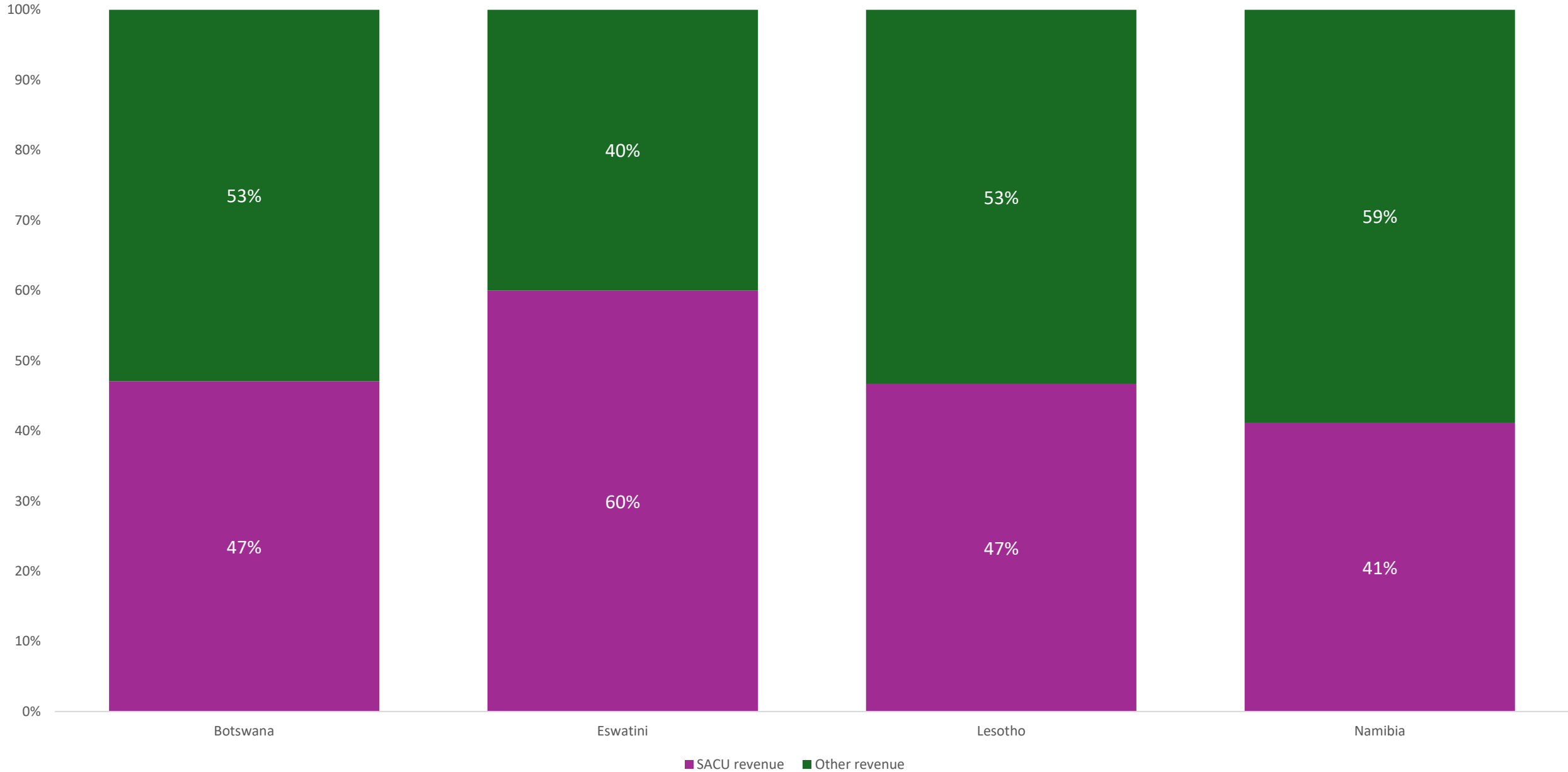


Lowest level of private sector participation

South Africa pays the rest of the SACU members to set the industrial and trade policy for the union

South Africa pays the rest of the SACU members to set the industrial and trade policy for the union

In 2024, all of the BELN states had a Sacu contribution of more than 40% of their total revenue



SA gets a bigger market behind a tariff wall and
keeps production in SA

There is an incentive to keep duties high in BELN
even when goods are not made locally

The more the BELN states import from SA, the more they get paid. The more they produce locally, the less they earn

Conclusion

The tariff instrument no longer accomplishes what it should. Instead, it locks in protection for legacy businesses and keeps smaller businesses out of the market

SA industrial policy has taken aim at the other SACU members with the clear intention to locate factories out of BELN to SA

The process of using tariff instruments has become so slow and transactional that businesses have lost faith in the instruments

This is changing and we are hopeful, these instruments can be returned to their former level of strategic utility.

Thank You

For all who have attended CPD Webinars in the past.

For all who attend Work Group Meetings.

For all who promote SAIT Customs Professional Membership, attending, and chairing meetings.

SAIT CPD Webinar Questions & Answers Thursday 17-10-24

- Q1** Does SARS set the duty rates for imports? (Yes/No)
- Q2** ITAC is part of the Department of Finance? (Yes/No)
- Q3** The bound rate is SA's commitment for the maximum amount of duty we will levy on imported products? (Yes/No)
- Q4** Duties are determined by the revenue needs of the National Treasury? (Yes/No)
- Q5** South Africa is a member of SACU and SADC? (Yes/No)
- Q6** Who ultimately carries the cost of customs duties paid? (The foreign country? the Importer?, or the Consumer?)
- Q7** Once the duty rate has been set by ITAC, can an importer approach SARS for a special concession to not pay the duties? (Yes/No)
- Q8** Why have temporary rebates begun replacing duty reductions?
- Q9** Is it worth getting a Ruling from SARS on goods to be imported, to be sure they are classified correctly and that correct Duties are being paid? (Yes/No)
- Q10** ITAC can also introduce Rebates on certain goods if an ITAC Permit is applied? (Yes/No)
- Q11** A local Manufacturing Company can apply for an increase in Duty on the products it manufactures? This is known as protectionism (Yes/No)

