

REF. NO: 14/3/2

Dr. Rob Davies, MP
Minister of Trade and Industry
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Dear Minister

MINUTE M08/2015: TEMPORARY REBATE OF THE FULL ANTI-DUMPING DUTY OF BONE-IN CUTS OF THE SPECIES GALLUS DOMESTICUS, FROZEN, CLASSIFIABLE IN TARIFF SUBHEADING 0207.14.9 AND IMPORTED FROM OR ORIGINATING IN THE UNITED STATES OF AMERICA

The Minister of Economic Development directed the International Trade Administration Commission of South Africa (ITAC) in terms of Section 16(1)(d)(i) of the International Trade Administration Act, to investigate and evaluate the creation of a rebate provision of the full anti-dumping duty on bone-in cuts of the species *Gallus Domesticus*, frozen, classifiable in tariff subheading 0207.14.9, imported from or originating in the United States of America (USA).

The dti stated as motivation for the creation of the rebate provision concerned, the following:

In order to address some of the concerns that were raised by the United States in the context of South Africa's continued participation in the Africa Growth Opportunity Act (AGOA), the South African Poultry Association (SAPA) commenced negotiations with the US poultry industry to allow a certain volume of US bone-in chicken portions in the market without payment of the anti-dumping duty.

SAPA and the USA Poultry and Egg Export Council (USAPEEC) and the National Chicken Council (NCC) reached an agreement to allow a quota of 65 000 MT of US bone-in chicken portions into the South African market from which anti-dumping duties would be exempt.

After AGOA was extended by 10 years in July 2015, the United States began with an out-of-cycle review of the eligibility of South Africa to continue to receive benefits under AGOA. South Africa needed to implement the agreement reached in Paris as soon as possible as this would facilitate the continued participation of South Africa in AGOA.

The tariff structure for bone-in cuts of the species *Gallus Domesticus*, frozen, classifiable in tariff subheading 0207.14.9 is as shown in Table 1 below:

Table 1: Current tariff structure: bone-in cuts of the species *Gallus Domesticus*, frozen

Tariff heading	Tariff subheading	Description	Statistical unit	Rate of duty			
				General	EU	EFTA	SADC
02.07		Meat and edible offal, of the poultry of headings 01.05 fresh, chilled or frozen					
	0207.14	Cuts and offal, frozen:					
	0207.14.9	Other:					
	0207.14.91	Whole bird cut in half	Kg	37%	free	37%	free
	0207.14.93	Leg quarters	Kg	37%	free	37%	free
	0207.14.95	Wings	Kg	37%	free	37%	free
	0207.14.96	Breasts	Kg	37%	free	37%	free
	0207.14.97	Thighs	Kg	37%	free	37%	free
	0207.14.98	Drumsticks	Kg	37%	free	37%	free
	0207.14.99	Other	Kg	37%	free	37%	free

Source: SARS

On 5 April 2012, the second sunset review of the anti-dumping duties on bone-in cuts originating in or imported from the United States of America was finalised and the Commission recommended that the duties be maintained.

The anti-dumping duties against the USA in terms of the products concerned are as set out in Table 2 below:

Table 2: Anti-dumping duties against USA

201.00 LIVE ANIMALS; ANIMAL PRODUCTS					
201.02 MEAT AND EDIBLE MEAT OFFAL					
Item	Tariff heading	Code	Description	Imported from or originating in	Rate of Anti-dumping duty
201.02	0207.14.91	01.08	Whole bird cut in half	United States of America	940c/kg
201.02	0207.14.93	01.08	Leg quarters	United States of America	940c/kg
201.02	0207.14.95	01.08	Wings	United States of America	940c/kg
201.02	0207.14.96	01.08	Breasts	United States of America	940c/kg
201.02	0207.14.97	01.08	Thighs	United States of America	940c/kg
201.02	0207.14.98	01.08	Drumsticks	United States of America	940c/kg
201.02	0207.14.99	01.08	Other	United States of America	940c/kg

Source: SARS

On 30 October 2015, the investigation on the creation of the rebate provision was published in the Government Gazette No. 39352, Notice 1047 of 2015 for comment by interested parties. Interested parties were also invited to comment on the draft guidelines for administration of the rebate provision.

The Draft Guidelines were developed by the Department of Agriculture, Forestry and Fisheries (DAFF), the Department of Trade and Industry (the dti), South Africa Revenue Service (SARS) and the International Trade Administration Commission of South Africa (ITAC) and published in the Government Gazette for comment by stakeholders.

The main conditions attached to the rebate provision pertain to the following:

- From the date this rebate item comes into operation up to and including 31 March 2016, meat imported in terms of this rebate item shall be on a first-come-first-serve basis against a quota of 16 250 metric tonnes;
- The meat subject to the provisions of this rebate item may, in the first quota year not exceed a basic annual quota of 65 000 metric tonnes;
- The annual quota period is 1 April to 31 March;
- As from 1 April 2017 an annual growth factor as determined by DAFF shall be applied to the basic quota;
- The meat imported in terms of this rebate item may not be removed outside the Republic for consumption in any of the BLNS countries;
- The permit is not transferable and may not be used to obtain meat to the benefit of any entity or person not named in the permit issued by ITAC;
- This rebate item shall be suspended if any benefits that South Africa enjoyed under AGOA as at 1 November 2015 are suspended, and shall remain suspended for as long as those benefits under AGOA remain suspended; and
- This rebate item is suspended as from the date the Minister of Trade and Industry submits written confirmation to the Minister of Finance that South Africa's benefits under AGOA have been suspended.

According to information at the Commission's disposal, the 65 000 mt constitutes 6 per cent of the total SACU production of bone-in chicken in 2014.

Imports from the European Union (EU) may reduce as a result of the recent introduction of anti-dumping duties. The reduced level of imports from the EU could be replaced by imports from the US.

ITAC received and evaluated comments on the publication concerned, including comments from the USA Poultry and Egg Export Council (USAPEEC) & US National Chicken Council (NCC), the South African Poultry Association (SAPA), Association of Meat Importers and Exporters of South Africa (AMIE), Merlog Foods (Pty) Ltd, Humeat Import and Export (Pty) Ltd, Shoprite Checkers, Quantum Ventures, Transglobal Gateway, the South African Association of Freight Forwarders (SAAFF), Kwendo Chicks cc, Redisol Group (Pty) Ltd and PSJ 976 (Pty) Ltd – Dr Sam Motsuenyane Rural Development Foundation.

The comments received were evaluated taking into account the Directive from the Minister of Economic Development, based on the letter submitted by the Minister of Trade and Industry.

The guidelines have been developed mindful of the importance of the development and protection of and encouragement to the poultry sector in terms of production, investment and employment but also ensuring effective utilisation of the rebate provision concerned.

In considering the proposed rebate provision it was borne in mind that the import quota should be used to pursue transformation and empower Historically Disadvantaged Individuals (HDIs) in the poultry sector in line with economic imperatives.

The Commission recommends that the following rebate provision be created:

A temporary rebate of the full anti-dumping duty on -
Frozen meat of the species *Gallus domesticus*, cut in pieces with bone in, classifiable in tariff subheading 0207.14.9 and imported from or originating in the United States of America, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission (ITAC) may allow by specific permit on recommendation of the Director General: Department of Agriculture, Forestry and Fisheries (DAFF), provided that -

- (a) With effect from 1 April 2016, permits may be issued by ITAC for meat imported in terms of this rebate;
- (b) From the date this rebate item comes into operation up to and including 31 March 2016 meat imported in terms of this rebate item shall be on a first-come-first-served basis;
- (c) The meat subject to the provisions of this rebate item may not exceed a basic annual quota of 65 000 metric tonnes;
- (d) The annual quota period is 1 April to 31 March;
- (e) Prior to 1 April 2016, the quota shall be 16 250 metric tonnes;
- (f) As from 1 April 2017 an annual growth factor as determined by DAFF shall be applied to the basic quota mentioned in (c) above;
- (g) The meat imported in terms of this rebate item may not be removed outside the Republic for consumption in any of the BLNS countries;
- (h) The permit is not transferable and may not be used to obtain meat to the benefit of any entity or person not named in the permit issued by ITAC;
- (i) This rebate item shall be suspended if any benefits that South Africa enjoyed under AGOA as at 1 November 2015 are suspended, and shall remain suspended for as long as those benefits under AGOA remain suspended; and
- (j) This rebate item is suspended in terms of paragraph (i) as from the date the Minister of Trade and Industry submits written confirmation to the Minister of Finance that South Africa's benefits under AGOA have been suspended.

Yours sincerely



Siyabulela Tsengile
Chief Commissioner
02.12.2015