



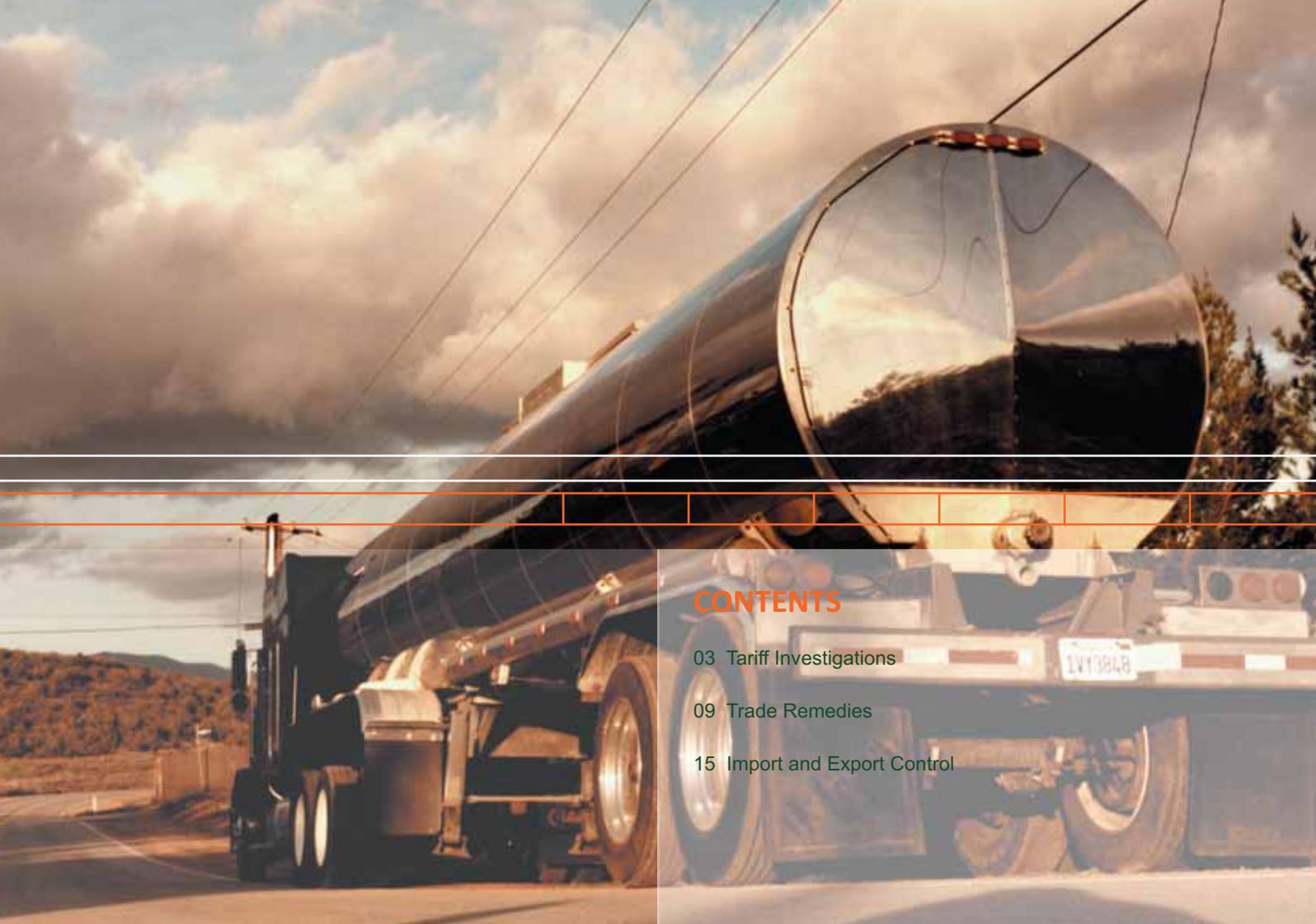
ITAC

International Trade Administration Commission of South Africa

enabling



F A I R T R A D E



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International Trade Administration Commission of South Africa



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FAIR TRADE



MANDATE, VISION, MISSION AND CORE VALUES



*Siyabulela Tesenghle,
Chief Commissioner*

Mandate

ITAC was established through an Act of Parliament, the International Trade Administration Act, (Act 71 of 2002), which came into force on 1 June 2003.

The aim of ITAC, as stated in the Act, is to foster economic growth and development in order to raise incomes and promote investment and employment in South Africa and within the Common Customs Union Area by establishing an efficient and effective system for the administration of international trade subject to this Act and the Southern African Customs Union (SACU) Agreement. The core functions are: customs tariff investigations; trade remedies; and import and export control.

The Commission meets once a month to evaluate investigations conducted by its investigators and make recommendations to the Minister of Trade and Industry. The ITA Act provides for a full-time Chief Commissioner and Deputy Chief Commissioner and a maximum

International Trade Administration Commission of South Africa

of ten Commissioners who can be appointed to serve on a part-time basis. The Commissioners come from diverse backgrounds including: Economics, International Trade Law, Agriculture, Business and Labour.

Vision

An institution of excellence in international trade administration, enhancing economic growth and development.

Mission

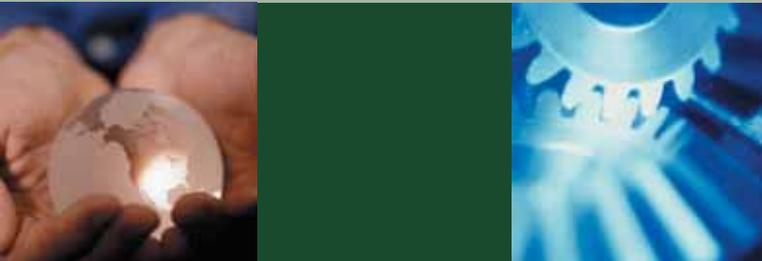
ITAC aims to create an enabling environment for fair trade through:

- Efficient and effective administration of its trade instruments; and
- Technical advice to the Economic Development Department and **the dti**.

Core Values

ITAC is guided by the following set of core values:

- Integrity;
- Trust;
- Accountability; and,
- Commitment.



TARIFF INVESTIGATIONS

The objectives of the Tariff Investigations Unit are to promote, in a complementary manner, domestic production, job retention and creation, and international competitiveness. This is done by investigating applications for rebate and drawback permits and for tariff relief and support. The process of applications is rigorous and evidence-based and includes extensive research, verifications, preparation of written submissions and assessment of the merit of the applications.

Tariff support is tied to conditions related to economic performance over time and is reviewed after a specified period. This means that tariff amendments are conditional on a commitment by beneficiaries on how they will perform against government's set policy objectives.

Services

Increase in the customs duty

Tariff increases are considered for the purpose of granting relief for domestic producers that may be experiencing threatening import pressures to adjust and restructure so that in the medium to long term these industries could become internationally competitive without any support in the form of customs duties. This is made possible by the fact that there is a difference between the applied rates and the WTO bound rates. The WTO bound rates act as a ceiling beyond which customs duty increases cannot go.



Reduction in the customs duty

A reduction or removal of duties is considered on a case-by-case basis on resource-based inputs to lower input costs into labour intensive industries in order to increase global competitiveness and also in instances where goods, (consumption goods, intermediate goods or capital goods) are not manufactured domestically or unlikely to be manufactured domestically.

Rebate or drawback of the customs duty

In instances where a product is not produced or insufficiently produced domestically or not produced in the required specifications as an industrial or agricultural input for certain critical applications, a customs duty waiver can be provided, allowing for exemption of duty on products for which detailed separate tariff lines are impracticable for tariff administration purposes.

These rebate provisions introduced by ITAC over the years for a variety of products are standing rebate and drawback provisions

in schedules No. 3, 4 and 5 to the Customs and Excise Act and are administered by SARS.

Schedule No. 3 makes provision for industrial rebates for manufacturing purposes, allowing manufacturers, including the motor vehicle and textile and clothing industries, to source their intermediate material and component inputs at world prices.

Schedule No. 4 makes provision for products for which there are temporary shortages on the domestic market, and generally also for consumption and capital goods for which separate tariff lines are not feasible.

Schedule No. 5 is similar to Schedule 3 and 4, except that drawbacks (refunds) of duties are provided for, not rebates, which requires that duties are paid first and then refunded after an investigation by Customs.

TARIFF INVESTIGATIONS

A number of provisions in Schedule 3, 4 and to a lesser extent Schedule 5 are introduced annually, whilst some are deleted when they no longer serve the required purpose or if the duty has been reduced in Part 1 of Schedule No.1. Approximately 10% to 12% of all imports enter the country through the utilization of some or other rebate or drawback provision.

Turnaround time to finalise tariff investigations (Increase, Reduction and Creation of rebate of the customs duty)

Generally it takes an average of 4 months for sectors in distress and 6 months for normal investigations.

The procedure for conducting tariff investigations

Applications for customs duty amendments are received from industry. ITAC may also decide to conduct proactive investigations. All these applications go through the following stages:

- Application

- Prepare submission for preliminary consideration by Commission
- Publication of an investigation through a Government Gazette notice
- Receive public comments from interested parties
- Commission makes final finding
- Submit report to Minister of Trade and Industry
- If a tariff amendment is justified, the Minister of Trade and Industry makes a request to the Minister of Finance for implementation by SARS.

Permit applications to ITAC for rebate or refund of the duty

ITAC administers the export-promoting rebate provision 470.03 and drawback provision 521.00 in Schedule No.4 and 5 of the Customs and Excise Act. This rebate or refund of duty is an incentive that allows manufacturers to source their material and components at world prices, thus improving their competitiveness in export markets.



Other provisions are also administered by ITAC on a permit basis in stances where a product is not available in SACU in the required quantities or specifications.

Procedure for assessing permit applications

- Submit application to ITAC
- Adjudicate merits of the application
- Submission prepared for consideration by the delegated authority
- Approve/Reject application for rebate permit.

Turnaround time

Generally 1 to 2 weeks.

MIDP/APDP

Rebates and drawbacks form a key pillar of certain industrial development programmes, such as the Motor Industry Development Programme (MIDP) which will be superseded by the Automotive Production Development Programme (APDP) in 2012. ITAC administers four (4) elements of this programme, namely:

- Import Rebate Credit Certificates (IRCC) for the export of motor vehicles, automotive components and tooling
- Productive Asset Allowance (PAA)
- Eligible Export Certificates (EEC) for the export of automotive components and tooling; and
- Heavy Commercial Vehicle Certificates (HCV) for the export of medium and heavy motor vehicles.

(i) Procedure for submitting IRCC claim

- Submission of claim by industry
- Verification of claim by the delegated authority
- Issue IRCC if approved/Rejection notice, if rejected
- Original IRCC sent to SARS
- Applicant notified about certificate for collection.

TARIFF INVESTIGATIONS

IRCC's can be transferred among participants

ii) The procedure for transfer of IRCC claims

- Submission of authorisation to transfer IRCC
- Verification of unused balance of IRCC with SARS
- Issue IRCC to authorised beneficiary
- IRCC delivered to SARS
- Notification to authorised beneficiary and original holder of certificate that IRCC has been issued.

iii) The procedure for PAA

- Submission of project/business plan to **the dti** for consideration
- Independent verification report by engineers
- Adjudication of a claim to ensure alignment with the initial business plan projections and consideration of engineers' report by ITAC
- Issue duty rebate certificate.

(iv) Procedure for Eligible Export Certificates (EEC) and Heavy Commercial Vehicle certificates (HCV)

- Approval of automotive components and tooling to be eligible for export benefits under MIDP
- Adjudication of application for product as an eligible product by Technical Working Group (TWG)
- Verification visit to applicant
- Consideration of application and TWG recommendation by ITAC
- Issue EEC if approved/rejection letter if rejected.

Turnaround time

EEC: 3 months from date of receipt of the complete application.

HCV: 1 month from the date of receipt of the complete application

IRCC: 40 working days

PAA: 3 months

Further information is available from ITAC's website: www.itac.org.za or

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International Trade Administration Commission of South Africa

TRADE REMEDIES

ITAC is responsible for conducting investigations of anti-dumping actions, countervailing duties to counteract subsidisation in foreign countries, and safeguard measures when a surge of imports is threatening to overwhelm a domestic producer, in accordance with domestic law and regulations, and consistent with WTO rules.

These instruments are a critical government intervention to retain jobs and promote investments.

Relative to the other two trade remedies, applications to ITAC, in the main, are for anti-dumping protection.

In the context of international trade, dumping is defined as a situation where imported goods are being sold in our market at prices lower than in the country of origin. If such discriminatory pricing is causing material injury to domestic producers of like goods, ITAC may recommend the imposition of additional duties on imports, duties that are equivalent to the dumping margin (or to the margin of injury, if this margin is lower).

Services

Anti-Dumping (Action against dumping)

Protection for SACU industry against unfair trade practices where foreign producers export their products to the SACU at prices lower than their domestic selling prices and causing material injury to the SACU industry.



Countervailing Measures (Anti – subsidy)

Protection for SACU industry against products imported at prices that are subsidised by the Government of the exporting country and causing material injury to the SACU industry.

Safeguard Measure

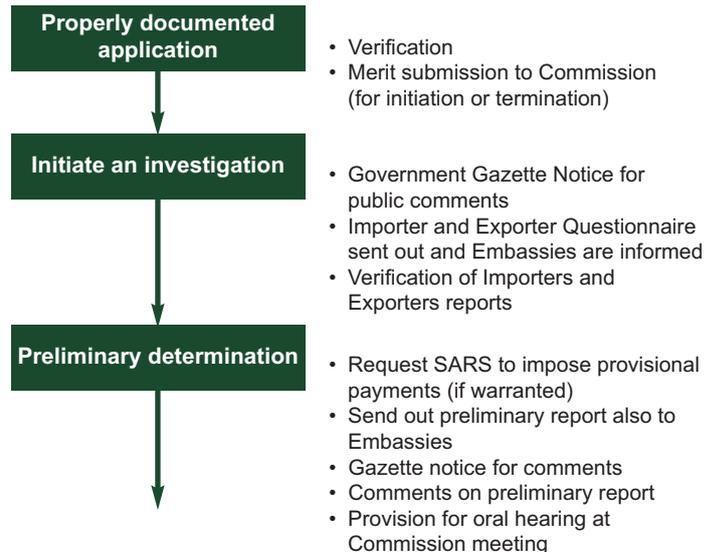
Actions against fair trade that a domestic industry is unable to cope with, which differentiates it from antidumping and countervailing measures that are actions against unfair trade. Safeguards are used against an unforeseen surge of imports that causes serious injury and are temporary measures to allow the domestic industry to adjust and improve its competitiveness.

Turnaround time to finalise an Anti-Dumping, Countervailing and Safeguard measure

On average, it takes 10 months from date of initiation.

Procedure for trade remedy investigations

The investigation follows the procedure below:



TRADE REMEDIES

Final determination/decision before essential facts

- Send out essential fact letters, setting out the Commissions findings and determination
- Responses on essential facts within 14 days
- Final submission with final findings after essential facts



Final decision

- Minister of Trade and Industry for approval
- Minister of Finance for implementation
- Implementation by SARS if duties are recommended
- Gazette notice by ITAC if no duties are imposed

Countervailing Investigations

Countervailing duties are imposed to offset the injury to the SACU industry caused by subsidised imports. The procedure followed and the time taken to complete an investigation, are similar to that of an anti-dumping investigation.

Safeguard Investigations

Safeguards are short-term measures to remedy serious injury to a SACU industry caused by a sudden surge in imports as a result of unforeseen events.

Reviews

A review involves a re-examination of the level of dumping, material injury and/or the need for the continued imposition of anti-dumping or countervailing duties. To do this, the request must be supported by evidence justifying the need for a review. There are different types of reviews:

Sunset review

Anti-dumping and countervailing duties remain in place for a period of five (5) years after the imposition of the last substantive review of the duties. In line with WTO requirements, sunset review procedures are initiated before the expiry of the duty in place.



Purpose

- Assessment of the continuing need for an anti-dumping or countervailing duty
- Determine whether there is likelihood that the removal of the duty would lead to a continuation or recurrence of injurious dumping or injurious subsidisation.

Turnaround time

An average of 10 months from date of initiation.

Procedure of investigation

The procedure for the sunset review is the same as that of Antidumping, Countervailing and Safeguard investigations.

Anti-circumvention reviews

This review is undertaken in cases where it is alleged that the anti-dumping duty or countervailing duties are being circumvented for instance through incorrect tariff classification or country-hopping.

Purpose

- Protection for SACU industry against unfair trade practices
- Provide adequate protection and effective remedies against the circumvention

Turnaround time

Average of 10 months from date of initiation.

Procedure of investigation

- Receive complaint from SACU industry
- Acceptance of properly documented petition
- Government Gazette Notice for initiation and notification to foreign Government
- Verification of importers and exporters information
- Preliminary submission for Commission consideration
- Essential facts letters sent to interested parties
- Final determination by Commission
- Submit report to Minister of Trade and Industry
- If duties are recommended, report to Minister of Finance for implementation by SARS.

TRADE REMEDIES

Interim Review

Reviews conducted during the period that anti-dumping measures are in force, on the necessity of whether to continue those measures in the original form and at the original level based on evidence that circumstances such as dumping margins have changed since the anti dumping measures entered into force.

Purpose

- To assess if there are changed circumstances that warrants an adjustment of the level of anti dumping or countervailing duty.

Procedure and turnaround time

The procedure is the same as that of the anti-circumvention reviews mentioned above. The turnaround time is an average of 8 months from date of initiation.

New shipper Reviews

Conducted on request in case where an exporter in a country that is subject to a residual anti-dumping duty, which did not export to SACU during the original investigation period, wishes to start

exporting to SACU, and where such an exporter is not related to any other party in the exporting country specifically covered by the anti-dumping duties.

Purpose

To enable the new shipper to prove that it will not be dumping the product on the SACU market.

Turnaround time

Average of 8 months from date of initiation.

Procedure

- Receive request from Exporter
- Prepare Government Gazette Notice to notify interested parties, including Foreign Government
- Verification of information from domestic industry, including importers and exporters
- Submission prepared for Commission's final determination
- Submit report to Minister of Trade and Industry
- Implementation by SARS.

Further information is available from ITAC's website: www.itac.org.za or

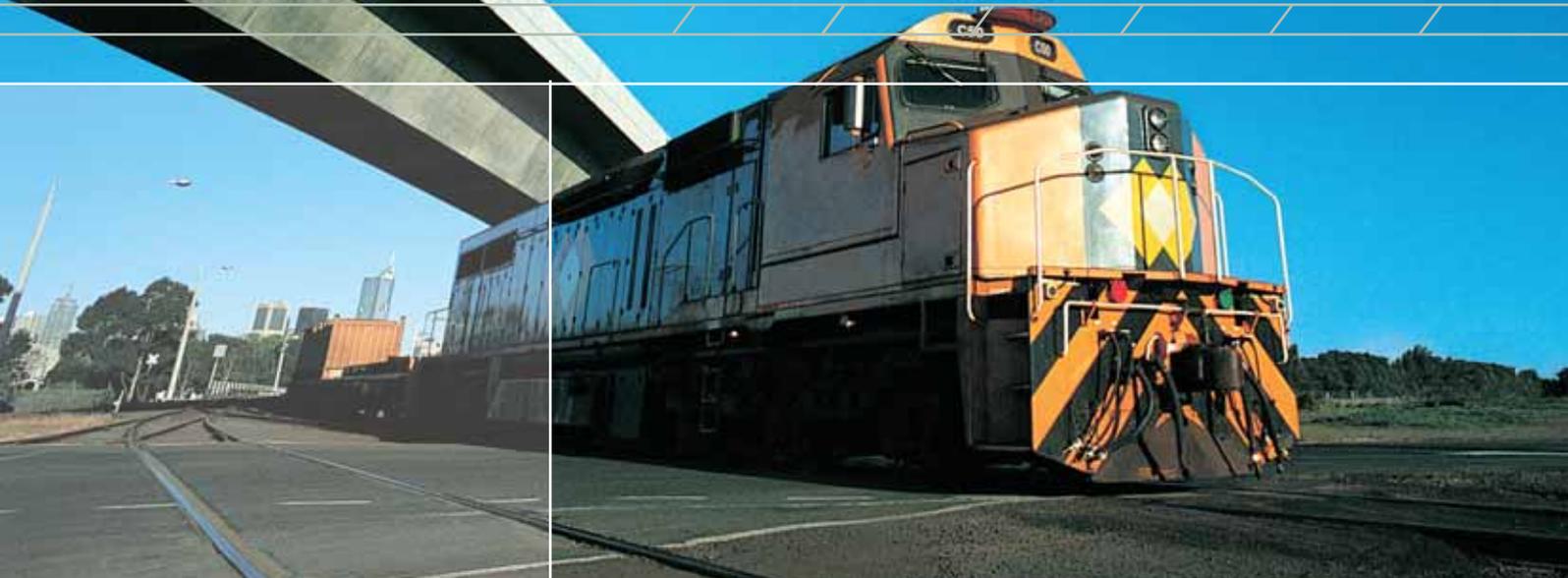
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International Trade Administration Commission of South Africa



Import and Export Control

Import and export control measures essentially are applied to enforce health, environmental, safety, and technical standards that arise from domestic laws and international agreements, such as the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and the 1988 UN Convention Against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

In addition, all used and second-hand goods are subject to import control.

Enforcement and inspections are also conducted to ensure effective compliance with conditions contained in permits, compliance with provision of the Regulations and for detection of contraventions of the Act.

The primary function of the Unit is the administration of the provisions of the International Trade Administration Act, 2002, (Act 71 of 2002), with regards to the issuing of import and export permits of Section 6 of the Act and investigations and enforcement in terms of Part E of the Act.

Procedure of applications for import permits

- Receive permit application and check for completeness
- Adjudicate permit application in terms of the regulations and policy
- Reject/approve permit application



- Forward letter of rejection
- Import permit via electronic permit system
- Post permit/keep for collection/deliver to Customs/export permit/forward electronically to Customs.

A list of goods that are subject to import control and export control measures is available on the ITAC website (www.itac.org.za).

Some of the products subject to import control include:

- **Radioactive chemical elements**

Control is exercised to assist the Department of Health (radiation control) to control and monitor the importation of radioactive isotopes and chemical elements for medical and industrial purposes.

- **New pneumatic tyres**

Control is exercised to assist the National Regulator for Compulsory Specifications (NRCS) in ensuring that all new pneumatic tyres comply with the safety/quality specification and that tyres have been subjected to a process of homologation.

- **Chemicals listed in the 1988 Convention**

Control is exercised to assist the SAPS in ensuring that importers/exporters of listed chemicals are recorded and the movements of these chemicals are adequately monitored as required by the Convention.

- **Fossil fuels**

Fossil fuels are controlled to assist the Department of Mineral Resources in regulating the industry for purposes of promoting efficient manufacturing, wholesaling and retailing of petroleum products, creating an environment for investment, and creating small business and employment opportunities in the industry.

- **Arms and ammunition**

Arms and ammunition is controlled to assist the SAPS with maintaining safety and security.

Import and Export Control

- **Gambling devices**

Gambling devices are controlled for social reasons and quality. To assist the National Gambling Board in the development of the industry with specific reference to manufacturing and Information Technology. Also, to ensure compliance with NRCS specifications.

Used goods

- **Used electronic equipment**

Used electronic equipment is controlled to assist the Department of Environment Affairs to address the problem of dumping of electronic waste.

- **Used medical equipment**

Used medical equipment is controlled to assist the Department of Health to address the problem of inferior quality used medical equipment being imported, such as used x-ray machines.

- **Used aircraft**

The importation of used aircraft is controlled to assist the Civil Aviation Authority and ensuring that the requirements of airworthiness have been complied with.

- **Waste and scrap**

Waste and scrap is controlled as the generation of waste and scrap exceeds recycling programmes resulting in many developed countries paying developing countries for receiving waste and scrap for purpose of landfill.

However, in many instances the importation of waste and scrap is allowed as a raw material for manufacturing purposes such as waste paper, glass, rubber or lead. In all these instances, the provisions of the Basel Convention must be complied with.

Procedure of application for export permits

- Receive permit application and check for completeness
- Advise on requirements of that a permit



- Adjudicate permit application in terms of the regulations and policy
- Reject/approve permit application
- Post/keep for collection/deliver to Customs.

Turnaround time

It takes 2 working days on average with an exception of export permits for scrap metals which take 10 working days for circulation plus time for processing and issuing.

Some of the products subject to export control measures include:

- **Tiger's eye and sugulite**

The exportation of precious stones, such as tiger's eye and sugulite is controlled to assist the Department of Mineral Resources with strategies of domestic beneficiation.

- **Raw materials for manufacturing**

The exportation of ferrous and non-ferrous waste and scrap, for example, inter alia is controlled to assist the local foundries in acquiring ferrous and non-ferrous waste and scrap prior to its exportation.

- **Assisting strategies for crime prevention**

The exportation of used motor vehicles is controlled to assist law enforcement agencies in curtailing the exportation of used, stolen motor vehicles.

- **Control in terms of international agreements**

Export control measures are also exercised to comply with the provisions of the mentioned international agreements.

Import and Export Control

Enforcement and Investigations

Investigate contravention of the International Trade Administration Act (manufacturers, importers or any other interested party of whom the sustainable economic business activities are in jeopardy due to the illegal importation/proposed exportation of goods, the importation/exportation of which are subject to the provisions of the Act, may lodge a formal complaint with the Import and Export Control Unit.

Purpose

- Ensure compliance with conditions contained in permits
- Ensure compliance with provisions of the Act and Regulations
- Curtail contravention of the Act.

Procedure

- Receipt of complaint from industry or Proactive investigation by ITAC
- Visit premises and inspect goods and applicable documentation
- Adjudicate to ensure that a contravention occurred
- Seize goods and remove or leave on premises
- Institute legal proceedings.

Turnaround time

6 to 12 months.

Further information is available from ITAC's website: www.itac.org.za or

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