

ANNEXURE C

Note: Comments on these draft Guidelines must be submitted to ITAC on or before 13 November 2015 at the following addresses:

ITAC
DTI Campus – Block E, 1st Floor
77 Meintjies Street
Sunnyside
Pretoria
0001

Enquiries: Ms. R Theart, Tel: (012) 394 3674, Fax: (012) 394 4674, email: rtheart@itac.org.za, Ms. M Masithela, Tel: (012) 394 3682, Fax: (012) 394 4682 email: mmasithela@itac.org.za, Mr O Madito, Tel: (012) 394 3692, Fax: (012) 394 4692 email: omadito@itac.org.za; or Mrs. A.E Gandi, Tel: (012) 394 3724, Fax: (012) 394 4724, email: endou@itac.org.za.

DRAFT GUIDELINES FOR THE APPLICATION OF A DAFF QUOTA ALLOCATION IMPORT PERMIT IN TERMS OF REBATE ITEM (rebate item number will be allocated at a later stage by SARS) AND THE APPLICATION OF A REBATE PERMIT

1. BACKGROUND

- 1.1 The South African Poultry Association (SAPA) and the USA Poultry and Egg Export Council (USAPEEC) and National Chicken Council (NCC) agreed on an annual quota of 65 000 MT (the quota) of bone-in chicken pieces, classifiable under tariff subheading 0207.14.9, that can be imported into South Africa without payment of the applicable anti-dumping duty as listed in Schedule 2 Part 1 to the Customs and Excise Act, 1964.
- 1.2 This was done by SAPA to address the concerns raised by USAPEEC and NCC during the African Growth and Opportunity Act renewal process.
- 1.3 It was further agreed that the quota will increase with an annual growth increment based on the annual average of production and consumption figures of poultry meat as published by Department of Agriculture, Forestry and Fisheries in March each year.
- 1.4 The quota will be terminated or suspended if South Africa's beneficiary status under AGOA changes.
- 1.5 It was agreed that the government of South Africa will implement the agreement referred to above by the creation of a Rebate Provision.

- 1.6 This rebate provision will not affect the payment of any other duties or taxes applicable to the importation of bone-in chicken as defined above nor the import requirement in terms of any applicable legislation.
- 1.7 This rebate provision can't be used in any sunset or interim review of the Anti-Dumping Duties to support any argument that the duty shall not be renewed, terminated or reduced or otherwise amended.

The rebate:

*"A temporary rebate of the **full anti-dumping duty** on -*

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, 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, provided that-

- (a) The meat subject to the provisions of this rebate item may not exceed a basic annual quota of 65 000 tonnes;*
- (b) The annual quota period is 1 April to 31 March;*
- (c) If the rebate item comes into force prior to 31 March 2016, the basic annual quota shall be applied on a pro rata basis;*
- (d) As from 1 April 2017 an annual growth factor as determined by DAFF shall be applied to the basic quota mentioned in (a) above;*
- (e) The meat imported in terms of this subheading may not be removed outside the Republic for consumption in any of the BLNS countries; and*
- (f) 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."*

2. Definitions

- 2.1 **"AGOA"** means the African Growth and Opportunity Act as extended and amended by the Extension Act;
- 2.2 **"Anti-Dumping Duties"** means the Anti-Dumping Duties in force on bone-in chicken pieces originating or imported from the United States of America as listed in Schedule 2 Part 1 to the Customs and Excise Act, 1964;
- 2.3 **"Bone-in Chicken Pieces"** means all products classifiable under the South African tariff sub heading 0207.14.9;
- 2.4 **"BBBEE Act"** means the Broad Based Black Economic Empowerment Act, 2003 (as amended);

- 2.5 **"DAFF"** means the Department of Agriculture, Forestry and Fisheries;
- 2.6 **"DAFF Average"** means the average of the poultry production and consumption figures for South Africa in a calendar year published by DAFF in March each year;
- 2.7 **"Effective Date"** means the date on which the amendment in Schedule No. 4 of the Customs and Excise Act, 1964, (the Act) is published in the Government Gazette to provide for a rebate of the full Anti-Dumping Duties payable in terms of Schedule No. 2 of the Act;
- 2.8 **"HDIs"** means Historically Disadvantaged People as defined in the Broad Based Black Economic Empowerment Act, 2003 (as amended);
- 2.9 **"ITAC"** means the International Trade Administration Commission of South Africa;
- 2.10 **"ITA Act"** means the International Trade Administration Act, 2002;
- 2.11 **"Quarter"** means each period of 3 calendar months commencing on 1 April, 1 July, 1 October and 1 January in each calendar year;
- 2.12 **"Quota Year"** means a period of four consecutive Quarters commencing on 1 April in each calendar year and ending at the end of March in the subsequent calendar year. The first Quota Year shall be deemed to have commenced on 1 April 2015 and shall end on 31 March 2016;
- 2.13 **"Quota"** means an annual quota of 65 000 MT, subject to an increase as set out in paragraph 3.2 below, divided into four equal Quarters provided that if the Effective Date does not fall on a day which is the commencement of a Quarter, the Quota for the period from the Effective Date until the end of the Quarter in which the Effective Date falls shall be a pro rata amount;
- 2.14 **"SARS"** means the South African Revenue Service.

3. ISSUING OF AN IMPORT REBATE PERMIT UNDER THE QUOTA

- 3.1 Applications for a DAFF import permit under the quota must be submitted to DAFF. DAFF will be responsible for the allocation of the import permit under the Quota for a full Quota Year as set out in Section A below.
- 3.2 The Quota will increase with effect from 1 April in each calendar year, commencing on 1 April 2017 by the percentage, if any, by which the DAFF average for the calendar year immediately preceding the calendar year in which that month falls ("**the Relevant Year**") has increased from the DAFF average for the calendar year immediately preceding the relevant year.
- 3.3 Applications for a rebate permit for the use of Rebate Provision can only be submitted to the International Trade Administration Commission of South Africa_(ITAC) after the import permit allocated by DAFF under the quota has been issued as provided for in paragraph 3.1 above. ITAC will be responsible for the issuing of the rebate permits as set out in Section B below.

SECTION A: DAFF PROCESS

4. GENERIC APPROACH

- 4.1 There is a need to use the import quota to pursue transformation, hence the DAFF will in addition to targeting HDI's as key beneficiaries of the quota, also use the guidelines contained in the Agricultural Black Economic Empowerment Sector Code under Section 9(1) derived from the BBBEE Act to do the allocations.
- 4.2 Fifty per cent of the annual Quota will be allocated to HDIs. This percentage can be reviewed.
- 4.3 The rest of the annual Quota will be allocated to historical importers of Bone-in Chicken Pieces as set out in paragraphs 6.1 and 7 below.
- 4.4 A notice relating to the allocation of the Quota will be published in the Government Gazette during the third quarter of each Quota Year to invite all interested parties to submit their applications for import permits to be allocated by DAFF under the quota for the next Quota Year. The import permit allocated by DAFF under the quota will be valid for a period of three months.

5. ELIGIBILITY

- 5.1 In order to be considered for an import permit by DAFF under the quota, the applicants must meet the following requirements, they must:
 - Be a South African citizen with valid identity documents;
 - Submit proof of registration with SARS as user of rebate item.....

- Be a legal entity with valid certificate of registration/incorporation in South Africa;
- Have a valid veterinary import permit in line with the Meat Safety Act, 2000 (Act No. 40 of 2000) and comply with regulations associated with the Act;
- Have a valid SARS Tax Clearance certificate; and
- Be registered at SARS as an importer.

6. CRITERIA FOR ALLOCATION

6.1 Established companies must be fully BBBEE compliant and the following must be submitted:

- A completed and signed application form as enclosed in Annexure A;
- A signed affidavit;
- Must not be related to another applicant;
- Proof of registration with SARS as user of rebate item.....
- The last three (3) years audited financial statements (Balance Sheet, Income and Cash Flow statements); and
- Documentation to indicate its BBBEE status in terms of the BBBEE Act and Code.

6.2 For HDIs, the following is required:

- Completed and signed application form as enclosed in Annexure A;
- The signed affidavit;
- Must not be related to another applicant;
- Business plan with the clear indication of sustainability of the business in the long term, including proof of access to cold chain logistics (sea and land transport and storage) finance, insurance, arrangements with freight forwarders, etc.;
- Curriculum Vitae / profile of the applicant detailing the applicant's experience in meat import or related industries;
- Company must be wholly owned by HDIs with certified copies of shareholding certificates / BEE certificate to confirm BEE status;
- A valid Tax Clearance certificate;
- Off take agreement with the buyers of imported meat; and
- Proof of ability and capacity to import a minimum of 25 tons of bone in chicken pieces in a consignment.

7. METHOD OF QUOTA ALLOCATION

7.1 The allocation of the quota will be done on the basis of the Permit Allocation System/Model which takes into account the following variables:

- a) The market share of applicants derived from historical data for the past three years;

- b) Quota allocations in multiples of 25 tons;
 - c) Quota applied for by applicants;
 - d) Number of applicants;
 - e) The quota available.
- 7.2 Time period for application: Any person interested in importing poultry meat under this rebate provision must submit an application form provided in Annexure A to DAFF. The application form is available electronically, on request, from DAFF from the contact provided under paragraph 7.6 below. Only duly completed application forms will be accepted. The following procedure will be followed in allocating the quota on a quarterly basis and in order to avoid volatility in the market:
- 7.2.1 Any portion of the Quota, which is not used in the first Quarter of a Quota Year commencing on 1 April, may only be extended to be used in the second Quarter of the Quota Year commencing on 1 July;
 - 7.2.2 Any portion of the Quota for the first and second Quarters of each Quota Year commencing respectively on 1 April and 1 July not used by 30 September shall be forfeited;
 - 7.2.3 Any portion of the Quota which is not used in the third Quarter of a Quota Year commencing on 1 October may only be extended to be used in the fourth Quarter of the Quota Year commencing on 1 January;
 - 7.2.4 Any portion of the Quota for the third and fourth Quarters commencing, respectively, 1 October and 1 January in a Quota Year not used at the end of March shall be forfeited;
 - 7.2.5 Quotas forfeited during the Quota Year will be reallocated at the end of the third Quarter of the Quota Year; and
 - 7.2.6 Any portion of the Quota in each Quota Year, not used at the end of a Quota Year, shall be forfeited.
- 7.3. Completed application forms must be submitted to the Department during the following time periods:
- a) For the initial period until a full Quota Year commence applications must be made within two weeks from the Effective Date.
 - b) For the first quarter of the Quota valid for importation during the period 01 April to 30 June: Within four weeks from the date of publication referred to paragraph 4.4 above.
 - c) For the second quarter of the Quota valid for importation during the period 01 July to 30 September: From 01 to 31 May.

- d) For the third quarter of the quota valid for importation during the period 01 October to 31 December: from 01 to 31 August.
- e) For the fourth quarter of the quota valid for importation during the period 01 January to 31 March: From 01 to 30 November.
- 7.4 Applications for extensions of import permits allocated by DAFF under the quota will only be considered for permits issues for the first and the third quarter. No extension longer than three months will be granted.
- 7.5 Quota allocations may not be transferred in any manner by the holder thereof to any other person, or be used to the benefit of any person not named in import permit allocated by DAFF under the quota.
- 7.6. The applications must be hand delivered to the following address from 08H00 – 16H00 Monday to Friday:
- Sefala building, Room No. 715,
503 Belvedere Street, Arcadia, Pretoria,
Contact person: Ms. Khumo Tjale
Contact number: 012 319 8083
Email: KhumoB@daff.gov.za

8. FEES FOR IMPORT PERMITS TO BE ALLOCATED BY DAFF UNDER THE QUOTA

- 8.1 The fees payable will be prescribed by DAFF annually.
- 8.2 All application forms should be accompanied by proof of payment (bank deposit slip or cashier receipt)

Payment is to be made as follows:

Payment to Department of Agriculture, Forestry and Fisheries bank account

Bank: Standard Bank
Branch: Arcadia
Branch No: 01-08-45
Account No.: 013024175
Account Name: NDA: Marketing Administration-Trade Incentives

OR

Payment in cash: Department of Agriculture, Forestry and Fisheries Cashier,
Pretoria
Agricultural Place, 20 Steve Biko Drive,
Arcadia,
Block S: Room GF 14

Payment must be made per application period and no payments should be made in advance for another period.

SECTION B: ITAC PROCESS

9. After issuing of a quota allocation import permit to an entity, DAFF will send a recommendation, including a copy of the original application and import permit, to ITAC.
10. Entities with a DAFF quota allocation import permit must have registered with the South African Revenue Service (SARS) as a user of rebate item.....
11. Applications, in the form of the application form as provided for in Annexure B for rebate permits can only be submitted to ITAC after an import permit from DAFF has been obtained.
12. The documents as listed in par. 9 & 11 above must be addressed to the Senior Manager: Tariff Investigations 1, International Trade Administration Commission of South Africa (ITAC), Private Bag X 753, Pretoria or delivered by hand to the DTI Campus, (Block E), 77 Robert Sobukwe Street, Sunnyside, Pretoria, 0002.
13. At least seven (7) working days should be allowed for the issuing of permits.
14. Each rebate permit issued defines the quantity of the goods and the period during which the goods concerned can be cleared under the applicable rebate item. Rebate permits will only be issued for the period corresponding with the validity period of the DAFF quota allocation import permit.
15. Applications for extensions, endorsement or amendment of rebate permits will only be considered if the corresponding DAFF quota allocation import permit by DAFF has been extended, endorsed or amended. No rebate permit will be extended for a period longer than that for which the corresponding DAFF quota allocation import permit has been extended.
16. Rebate permits may not be transferred in any manner by the holder thereof to any other person, or be used to the benefit of any person not named in the permits.
17. The following conditions apply to this rebate provision:
 - 17.1 None of the products entered under this rebate permit may be removed, sold or otherwise be disposed of in the Republic of Botswana, Kingdom of Lesotho, Republic of Namibia or the Kingdom of Swaziland;
 - 17.2 Goods referred to in rebate item..... shall not be shipped unless the importer is in possession of an appropriate, valid DAFF quota allocation import permit and ITAC rebate permit in which such goods are specifically described;

- 17.3 Goods referred to in rebate item.....that arrive at ports of entry in the RSA and for which the importer cannot produce a valid DAFF quota allocation import permit and ITAC rebate permit, shall be deemed to have been imported in contravention of relevant legislation;
- 17.4 Contraventions of the provisions of the ITA Act and/or the Customs and Excise Act will result in the withdrawal or cancellation of the rebate permit and/or may result in criminal prosecution in terms of the ITA Act and/or the Customs and Excise Act;
- 17.5 Quotas will not be re-instated. Example: where goods were intended for home consumption and cleared as such and the available quota was written off but later changed to an export transaction for example, warehoused for export, duty paid ex warehouse, etc such written off quota will not be re-instated;
- 17.6 An importer's rebate permit will be withdrawn if goods imported in terms of this rebate provision were removed to the Republic of Botswana, Kingdom of Lesotho, Republic of Namibia or the Kingdom of Swaziland and the importer will not be considered for any further rebate permits under this rebate provision;
- 17.7 If all the information requested in the application form is not submitted, the application will be deemed as deficient and the application will not be considered;
- 17.8 Only goods described in the rebate permit may be imported;
- 17.9 The rebate permit is issued without amendments of any kind and any unauthorised amendment will render the permit invalid;
- 17.10 Nothing in these Guidelines shall absolve an importer from the obligation of also complying with the provisions of other legislation relating to the importation of goods into the RSA; and
- 17.11 ITAC may require additional documentation in order to make informed decisions and to ensure sound administration of the rebate provision. ITAC officials may at any time inspect premises, documentation or imported goods for compliance.



APPLICATION FORM FOR IMPORT PERMITS FOR THE CALENDAR YEAR
(Please note that an application form is necessary for each product)

1. **NAME OF IMPORTER:**.....
2. **POSTAL ADDRESS:**..... **CODE:**
3. **PHYSICAL ADDRESS:**.....**CODE:**.....
4. **RESPONSIBLE PERSON:**
5. **TELEPHONE NUMBER: CODE:** **NUMBER:** **CELL NO.:**.....
6. **FAX NUMBER: CODE:** **NUMBER:**
7. **E-MAIL ADDRESS:**

8. LOCATION OF THE BUSINESS

PROVINCE	LOCAL MUNICIPALITY	DISTRICT

9. **COMPANY/CC REGISTRATION NUMBER:**
(NB: First time applicants: Please include a copy of the registration certificate (obtainable from the Companies and Intellectual Property Commission (CIPC))
10. **CUSTOMS CODE NO:**.....
(NB: First time applicants: Please include a copy of the Customs Code Certificate (obtainable from SARS))
11. **SARS TAX CLEARANCE CERTIFICATE NUMBER AND DATE:**
(NB: Please attach the copy of the SARS Certificate-applicable to all applicants)

12. INDICATE PRINCIPAL BUSINESS:

AGENT	MANUFACTURER	PROCESSOR	RETAILER	OTHER

IF other please specify.....

13. For classification please complete:-

ENTERPRISE CLASSIFICATION	
LARGE	
QSE	
EME	
Investment (Financial and Human)	
Turnover in Rand	R
Capital Investment	R
Number of permanent employees	
Number of part-time employees	

14. APPLICATION – SUBMISSION FOR THE PERIOD

TARIFF HEADING OF PRODUCT	DESCRIPTION OF PRODUCT	QUANTITY APPLYING FOR: Tonne / Litres

16. Summary of BILLS OF ENTRY IMPORT

Quantity imported over the past 2 or 3 years.

TARIFF HEADING	TOTAL FOR (from 1 November – 31 October)	TOTAL FOR (from 1 November – 31 October)	TOTAL FOR (from 1 November – 31 October)

**17. INDICATE PAYMENT OPTION IN ACCOUNT NO. 013024175
AND ATTACH PROOF OF PAYMENT**

BANK	CASH RECEIPT NO

AFFIDAVIT

I the undersigned

do hereby make oath / affirmation and declare that:

- 1. I am duly authorized to depose to this affidavit on behalf of the applicant; and
- 2. The particulars contained in the application form are true and correct.

SIGNED at _____ on this _____ day of _____ 2016/17

DEPONENT

(to be signed in the presence of a Justice of the Peace or Commissioner of Oaths)

1. I certify that before administering the oath/affirmation, I asked the deponent the following questions and wrote down his/her answers in his/her presence.

(1) Do you know and understand the contents of the declaration?

Answer

(2) Do you have any objection to taking the prescribed oath/affirmation?

Answer

(3) Do you consider the prescribed oath/affirmation to be binding on your conscience?

Answer

2. I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration. The deponent utters the following words: "I swear that the contents of this declaration are true so help me God" / "I truly affirm that the contents of the declaration are true." The signature/mark of the deponent is affixed to the declaration in my presence.

.....

**JUSTICE OF THE PEACE
COMMISSIONER OF OATHS**

TO BE COMPLETED BY THE JUSTICE OF THE PEACE/COMMISSIONER OF OATHS:

FULL FIRST NAMES AND SURNAME (BLOCK LETTERS) _____

DESIGNATION: _____

PHYSICAL ADDRESS: _____

DATE: _____

PLACE: _____

PLEASE COMPLETE THE ABOVE AFFIDAVIT WHICH IS AN INSEPARABLE PART OF THE APPLICATION FORM



ANNEXURE B

INFORMATION REQUIRED IN SUPPORT OF AN APPLICATION FOR A REBATE PERMIT IN TERMS OF REBATE ITEM FOR REBATE OF THE FULL ANTI-DUMPING DUTY ON BONE-IN CUTS OF THE SPECIES GALLUS DOMESTICUS, FROZEN, CLASSIFIABLE IN TARIFF SUBHEADING 0207.14.9

1. Details of applicant:

1.1 Name of company:.....
1.2 Postal address:.....
.....
.....
1.3 Telephone no.:.....
1.4 E-mail address:.....
1.5 Name of contact person:.....
1.6 Physical address:.....
.....

2. Details of products in respect of which a Rebate Permit is required:

2.1 Description of goods to be imported:.....
.....
.....
2.2 Quantity in kg:.....
2.3 F.o.b. Value in R:
2.4 Country of origin:
2.5 Planned date of import or period during which it is planned to import:
.....
2.6 Port of entry:.....

3. **Submit written proof that the applicant is registered with SARS as a user of the rebate provision concerned.**

4. **Complete the following declaration:**

DECLARATION IN RESPECT OF AN APPLICATION FOR A PERMIT IN TERMS OF REBATE PROVISION OF SCHEDULE 4 TO THE CUSTOMS AND EXCISE ACT, 1964

NB: The obligation to complete and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the applicant

I,..... (Full names) with identity number,, in my capacity as

of..... (Hereinafter referred to as the applicant) hereby declare that –

- a) I have satisfied myself that the preparation of the application has been done in conformity with the regulations in respect of the above-mentioned rebate provision, with which I have fully acquainted myself and to which I unconditionally agree to;
- b) I accept that the decision by the International Trade Administration Commission will be final and conclusive and that the said Commission may at any time conduct or order that an investigation to verify information furnished in the application form, be conducted;
- c) The information furnished in this application is true and correct to the best of my knowledge and belief;
- d) The applicant or any one of its associates, or related party is not a subject of an investigation by any organ of State or other regulatory authority.

NAME: DESIGNATION:

SIGNATURE: DATE AND YEAR:

I CERTIFY THAT THE DEPONENT HAS ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, AND THAT HE/SHE HAS NO OBJECTION TO TAKING THE PRESCRIBED OATH, AND THAT HE/SHE CONSIDERS THIS OATH TO BE BINDING ON HIS/HER CONSCIENCE.

SIGNED and SWORN to before me at on this day of
.....month year.

.....

COMMISSIONER OF OATHS

FULL
NAMES:.....

CAPACITY:
.....

BUSINESS ADDRESS:
.....
.....

AREA: