REPORT NO. 442

INCREASE IN THE RATES OF CUSTOMS DUTY ON FROZEN MEAT OF FOWLS OF THE SPECIES GALLUS DOMESTICUS: WHOLE BIRD, BONELESS CUTS, BONE-IN PORTIONS, CARCASSES AND OFFAL

The International Trade Administration Commission (ITAC) of South Africa herewith presents **Report No. 442: Increase in the rates of customs duty on frozen meat of fowls of the species Gallus Domesticus: whole bird, boneless cuts, bone-in portions, carcasses and offal.**

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Siyabulela Tsengiwe
CHIEF COMMISSIONER

PRETORIA

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REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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INCREASE IN THE RATES OF CUSTOMS DUTY ON FROZEN MEAT OF FOWLS OF THE SPECIES GALLUS DOMESTICUS: WHOLE BIRD, BONELESS CUTS, BONE-IN PORTIONS, CARCASSES AND OFFAL

Synopsis

The South African Poultry Association (SAPA) on behalf of its members, applied for an increase in the rate of customs duty on carcasses, whole bird, boneless cuts, offal, and bone-in portions classifiable under tariff subheadings 0207.12.20, 0207.12.90, 0207.14.10, 0207.14.20 and 0207.14.90, respectively.

During its deliberations and in arriving at its recommendations, the Commission considered the application in the light of the information at its disposal and with due regard to food security in its full context. In particular the Commission took the following factors into account:

- The rising levels of imports into the SACU, and the concomitant erosion in the market share of SACU producers of chicken meat;
- the considerable levels of production, employment and investment in the domestic poultry industry;
- the decreasing profitability and diminishing returns of the domestic poultry industry in the face of low-priced imports from abroad;
- the competitive position and the significant price disadvantages experienced vis-à-vis foreign producers;
- the relatively high input costs experienced by the domestic producers;
- domestic supply and demand conditions and weighing the interests of investors and producers (a fair and reasonable profit margin) and consumers (price-raising impact); and
- the price impact analysis that showed with an eight per cent profit margin applied to whole bird, boneless cuts, and bone-in portions, but none for offal and carcasses, the impact on consumer prices would be relatively low, while allowing for further investment in the industry.

The Commission considered that leg quarters (bone-in portions) constitute approximately 70% of the subject volume of production by the domestic industry in the form of individually quick frozen (IQF) portions.

The Commission's recommended duties for bone-in portions as detailed hereunder (based on actual price disadvantages experienced) are lower than those requested by SAPA. This is in order to minimise the price-raising impact for consumers in the light of the Commission's price impact consideration.

In the case for carcasses and offal, the Commission recommended a slight increase given that these products are an important source of protein for the poor.

It is in the case of whole chicken where Brazilian producers, in particular, due to the market structure, enjoy vast economies of scale compared to the domestic producers. Whole bird constitutes an insignificant percentage of the total SACU market for poultry meat in 2012, and is destined for the high end of the market. In the latter case, the Commission recommends hereunder that the WTO-bound rate be implemented.

No case was made by the applicant for the specific duties that were requested and no evidence of under-invoicing was found. The Commission recommends that transparent ad valorem duties be implemented based on the applicable production, trade and financial analysis, including the price disadvantages experienced by domestic producers.

In conclusion, the recommended tariff support would place the South African poultry producers on a similar competitive footing as their counterparts abroad, would allow for a fair and reasonable profit for producers and hence, further investment in the industry with a concomitant increase in production and employment and would not have an undue cost-raising impact on consumers. The support should enable the industry to fully utilise its existing production capacity and to achieve economies of scale through the efficient use of resources, thereby reducing the marginal cost of production.

In view of the above the Commission decided that the duties on the products in question be amended as follows:

Tariff subheading	**Product**	**Existing duty**	**Recommended duty**
0207.12.90	Whole bird	27%	82% bound rate
0207.14.10	Boneless cuts	5%	12%
0207.14.90	Bone-in portions	18% (220c/kg)	37%
0207.14.20	Offal	27%	30%
0207.12.20	Carcasses	27%	31%

It is further recommended that the duties be reviewed after a period of 5 years to determine the impact on domestic production, investment and employment.

APPLICATION

On 27 March 2013, the South African Poultry Association (SAPA or the Applicant), on behalf of its members, submitted a duly completed application for an increase in the rates of customs duty on five frozen poultry products. SAPA is a national association representing the interests of the poultry industry in general. It is comprised of five independent member organisations, including the Broiler Organisation, which represents commercial growers of live birds and processors of table poultry in South Africa.

The products that were investigated pursuant to SAPA's application consist of frozen meat of chicken. Specifically, the investigated products are whole bird; boneless cuts, such as chicken breasts; bone-in portions, such as thighs, wings and drumsticks; carcasses with all cuts removed, and offal.

As reasons for the application, the applicant submitted that –

- Producers in the South African Customs Union (SACU) are in a distressed financial state and their business is threatened mainly by a large and rapid increase in the volume of imports of extremely low priced frozen poultry meat. This state of affairs has forced some small and medium sized producers to shut down, while certain large producers have reduced their workforce and forecast further job losses;
- Low priced imports are having a negative impact on further investment in the poultry industry and associated industries, adversely affecting both commercial and emerging broiler producers, as well as SACU production capacity and SACU food security.

The applicant also noted that the cost disadvantage being faced by the SACU industry is, in part, the result of rising input costs, for example for maize, soya, sunflower and fishmeal, which are the predominant inputs into poultry feed, as well as higher administered prices and wages.

On 12 April 2013, the application was published in the *Government Gazette* No. 36358, Notice 378 of 2013 for comment by interested parties. As part of the consultative process, ITAC engaged extensively with various interested parties throughout the investigation.

These parties consisted of representatives from the SACU primary and secondary industries, importers, retailers, the Department of Trade and Industry (**thedti**), the National Agricultural Marketing Council (NAMC) and the Department of Agriculture, Forestry and Fisheries (DAFF). Representatives from the primary and downstream poultry industries, as well as the Association of Meat Importers and Exporters (AMIE), also made oral presentations to the Commission at its meeting of 11 June 2013.

It should be noted that ITAC received voluminous submissions from interested parties throughout the investigation. ITAC interrogated these submissions carefully, requiring, at times, the submission of additional information. All these submissions were considered by the Commission in its final determination.

TARIFF POSITION

The applicant requested an increase in the rates of customs duty, in the form of specific or combination duties, as set forth in the following table:

Table 1: Requested rates of duty

Tariff subheading	Product description	Current duty	Proposed duty	*Ad valorem* equivalent	Type of duty requested
0207.12.20	Carcasses (excl. necks and offal) with all cuts (e.g. thighs, wings, legs and breasts) removed	27%	991c/kg with a maximum of 82%	213%	Specific duty capped with the bound rate
0207.12.90*	Whole bird	27%	1111c/kg with a maximum of 82%	146%	Specific duty capped with the bound rate
0207.14.10	Boneless cuts	5%	12% or 220c/kg with a maximum of 82%	12%	Combination duty capped with the bound rate
0207.14.20	Offal	27%	67% or 335c/kg with a maximum of 82%	67%	Combination duty capped with the bound rate
0207.14.90**	Bone-in portions	220c/kg	56% or 653c/kg with a maximum of 82%	56%	Combination duty capped with the bound rate

*Classification of "Other" (which includes whole bird)
**Classification of "Other" (which includes bone-in portions)

The current tariff structure for chicken products that are the subject of the application is as shown in the following table:

Table 2: Current tariff structure: chicken meat being the subject of the application

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**					
	0207.12	**Not cut in pieces frozen**					
	0207.12.20	Carcasses (excluding necks and offal) with all cuts (e.g. thighs, wings, legs and breasts) removed	kg	27%	free	27%	free
	0207.12.90	Other*	kg	27%	free	27%	free
	0207.14	**Cuts and offal, frozen**					
	0207.14.10	Boneless cuts	Kg	5%	free	5%	free
	0207.14.20	Offal	Kg	27%	free	27%	free
	0207.14.90	Other**	kg	220c/kg	free	220c/kg	free

Source: SARS
*Classification which includes "Whole bird"
**Classification which includes "Bone-in portions"

The WTO bound tariff rate for the chicken products under consideration is 82 per cent *ad valorem*.

INDUSTRY AND MARKET

World market

According to the United States Department of Agriculture, the USA is the biggest producer of chicken (broiler) meat, recording production of 16 476m tons in 2012, followed by China with 13 700m tons. South Africa accounted for approximately 1.5 per cent of total global broiler production in 2012.

Brazil is the leading exporter of chicken meat, accounting for 39.7 per cent of world-wide chicken exports in 2012. This exceeded the United States, which held a global market share of 32.5 per cent. It is expected that Brazilian exports will increase by 3 per cent to 3.6 million tons in 2013. Global exports are expected to increase by 2 per cent in 2013, while global production is estimated to increase by 1% to a record 83.5 million tons.

SACU market

Analysis of the SACU market is based on general information and on company-specific information. Company-specific information relates to the following major South African producers:

- Rainbow Farms Ltd;
- Astral Operations Ltd;
- Sovereign Food Investments Ltd;
- AFGRI Poultry Ltd; and
- Supreme Poultry Ltd (Country Bird Holdings).

These five producers account for approximately 50 per cent of total SACU production.

Chicken production involves long lead times. In the SACU, it takes approximately 22 months to breed the genetic material in a form of a day-old-chick into a broiler that is ready for processing into chicken meat. According to the applicant, these long lead times limit the flexibility of local producers to respond to sudden increased volumes of imports.

The five chicken products in question are sold as end products for human consumption. They are sold through retail outlets for personal consumption, with only a small percentage sold to the food service industry such as restaurants, fast food chains and hotels.

The preferred chicken products consumed in the SACU are bone-in portions sold as individually quick frozen (IQF) products known as "braai packs". The demand for these products has increased over the three year period for which data was collected. Based on this market-specific demand, in the SACU birds are slaughtered after a growth period of between 28 and 35 days, compared to other countries that slaughter chickens after 42 days. According to the applicant this is because of the market requirements for smaller IQF portions, when compared to other markets where the prime market is breasts (boneless cuts) which require a bird to grow bigger to maximize the value of breast meat.

All SACU countries have poultry producing industries. According to the applicant, there are several hundred broiler producers in South Africa and approximately 280 of them are affiliated with SAPA. According to a report, titled "The Poultry and Egg Industry" by **Who Owns Whom**, an independent research organisation on issues pertaining to the South African business and economic environment, although broiler farming has a national footprint in South Africa, production is concentrated in the North West Province, Western Cape, Mpumalanga and Kwa Zulu–Natal, that together, account for almost 80% of total production.

The applicant estimated that the South African poultry industry accounts for approximately 90 per cent of total SACU production. The 10 per cent production estimate for the BLNS was based on various factors, including the fact that the population of the BLNS is approximately 13% of the South African population. Botswana and Swaziland have been expanding production substantially and Namibia has established a substantial poultry industry in 2012.

The poultry industry is the largest agricultural sub-sector in South Africa, accounting for 23 per cent of all agricultural production. In terms of value, this output represents R22.9 billion for chicken meat and R6.7 billion for eggs.

The volume of poultry products produced in South Africa increased by approximately 40 per cent over the last ten years, from 1.1 million tons in 2003 to 1.5 million in 2012. Over the same period, consumption increased from 1.2 million tons to approximately 2.2 million tons, an increase of over 80 per cent, indicating that consumption of poultry meat in South Africa grew at a faster rate than domestic production.

According to the National Agricultural Marketing Council (NAMC), the increase in production and consumption reflects the important role of chicken meat. Chicken meat is the cheapest and main source of dietary animal protein for South Africans. In terms of the annual per capita consumption of animal protein, the share of poultry is 49 per cent. The combined per capita consumption of chicken meat and eggs equals 41.44kg per annum, which is significantly greater than the combined per capita consumption of beef, pork, mutton and goat at 25.39kg per annum.

Regarding integration in the poultry industry, many of the major producers own their own abattoirs, as well as their own processing and packaging plants. The dominant players in the South African poultry industry, Rainbow Chicken Ltd, Astral Foods, Country Bird Holdings and Sovereign, are all fully integrated broiler producers. These producers breed, hatch and rear their own broilers, using feed from their own feed mills. These companies have their own abattoirs and also handle the processing, distribution and marketing of their brands.

The five chicken products that are the subject of the SAPA's application and were investigated by ITAC are discussed in greater detail below. Relevant trade data in terms of the SACU market for each product is also considered in this discussion.

Bone-in cuts

Of the five investigated products, bone-in cuts, such as thighs and wings, are the predominant product sold in the SACU market, whether in terms of value or volume. The SACU industry alleges that the majority of its SACU sales are made at suppressed prices.

According to the Applicant, bone-in cuts are regarded as "lower value" products in developed countries. There is a preference for the consumption of breast meat in developed countries, with the result that bone-in cuts are exported to SACU in relatively large quantities and at low prices.

The SACU market for bone-in cuts increased by 4.6 per cent from 2010 to 2012. The SACU producers' share of this market declined by 5 percentage points, from 2010 to 2012, whereas the market share of imports during this period increased by 5 percentage points. The volume of imports increased by 109 per cent from 2010 to 2012, albeit from a low base.

Boneless Cuts

Boneless cuts are relatively expensive products, second in price only to whole bird. According to local producers, this category of chicken meat is mostly consumed by high income households, hence the relatively low demand by consumers in the SACU.

The SACU market for boneless cuts increased by 17.97 per cent from 2010 to 2012. A breakdown of this data shows that the market for this product increased by 21.72 per cent from 2010 to 2011, but declined by 3.08 per cent from 2011 to 2012.

The SACU producers' market share for boneless cuts increased by 1 percentage point from 2010 to 2011, and increased by an additional 4 percentage points from 2011 to 2012. This increase in market share can be attributed to a decline in the volume of imports because of the anti-dumping investigation against Brazil and the resultant provisional payments imposed in 2012 against imports of boneless cuts from Brazil.

The market share of imports declined by 5 percentage points from 2010 to 2012. In terms of volume, imports remained relatively constant increasing by 0.63 per cent from 2010 to 2012.

Offal

Chicken offal includes parts such as the feet, head, liver and gizzard of chickens. These products constitute a relatively affordable source of protein and, as a result, are mostly consumed by low income groups. Despite being regarded as a consequential by-product not impacted by significant input price fluctuations by the industry, its affordability by low income groups means there is a high local demand for offal.

In addition to being relatively low priced by reason of being a by-product in the production of other chicken products, offal is also low priced because it is not impacted by significant input price fluctuations and some producers do not allocate the recovery profit margin to them.

In terms of the categories under investigation, the demand for offal is second only to bone-in portions.

The overall market for offal increased by 7.51 per cent from 2010 to 2012. Over this period, the SACU producers' market share declined by three percentage points. The three percentage point increase in imports from 2010 to 2012 represents, in volume terms, an increase of 53 per cent.

Whole bird

Whole bird occupies only a relatively small share of the SACU market compared to other chicken products. The reason for this is that whole bird is relatively expensive compared to other products and local producers prefer to separate the parts of a whole bird to maximize value. As a result, the major proportion of domestically produced whole bird is cut into pieces and is sold in the form of Individually Quick Frozen (IQF) packs.

In other countries, such as Brazil, the sale of whole birds constitutes a significant proportion of the total sales of chicken products. In addition to economies of scale, producers in Brazil also have a comparative advantage in producing chicken because of relatively cheaper feed production costs. This is attributed to the fact that Brazil is a major producer of soya which is an important input in the manufacture of poultry feed.

In analysing the SACU market for whole bird, it should be noted that imports of this product and carcasses entered under the same "catch-all" tariff subheading (0207.12.90) in 2010 and 2011. A separate 8-digit tariff subheading for carcasses was created only in January 2012. As a result, for 2010 and 2011 the market data for whole bird and carcasses are based, in part, on estimates provided by the applicant.

According to this information, the SACU market for whole frozen bird declined by 46.9 per cent from 2010 to 2012. As regards the SACU producers' market share, this declined by 16 percentage points from 2010 to 2011, but increased by 13 percentage points from 2011 to 2012. The increase in market share can be attributed to a decline in the volume of imports because of the anti-dumping investigation against Brazil in 2012 and the resultant provisional payments imposed on imports of whole bird from Brazil.

Carcasses

Carcasses are what remain of a chicken once all other parts have been removed. Carcasses are predominantly sold to low income groups and small informal food outlets. This product is typically sold in what is termed "soup packs". Given its affordability, this product is in relatively high demand.

In addition to being a by-product in the production of other chicken products, carcasses are also relatively low priced because it is not impacted by significant input price fluctuations and some producers do not allocate the recovery profit margin to them.

The SACU market for carcasses increased by 20.5 per cent from 2010 to 2012. The market share percentages for 2010 and 2011 are based on SACU industry data, reflecting its view that it held a 100% market share for carcasses in both years. As a result of the introduction of the additional tariff subheading for carcasses, trade data showed that SACU producers held a 90 per cent share of the SACU market in 2012.

Employment

The poultry industry in South Africa directly employs at least 48 000 employees, with a further 60 000 indirectly employed in support industries that are dependent on the poultry industry. These figures exclude employment figures for the BLNS countries.

The 5 companies concerned have 22 166 employees, of which 21 490 are directly involved in the manufacturing of the products concerned. The claim is made by the applicant that should the application be approved, an additional 11 995 direct and 14 892 indirect jobs would be created in the poultry and support industries. A further 4 525 jobs would be created in the crop farming sector as a result of the demand for feed created by the poultry industry.

However, AMIE stated that if the requested duties are approved this could lead to significant job losses in the import value chain.

Financial performance

The decline in financial performance, as stated in the 2012 annual reports of all five listed companies, is attributed principally to high raw material costs, notably the energy and maize feed prices. A particular reference is made to feed costs, which makes up a large percentage of the cost of production. Imports, particularly from Brazil and the EU, were also noted as a factor that contributed to this decline.

Production costs

An analysis of the production costs of the poultry industry in South Africa shows that domestic poultry producers are burdened by relatively high cost structures, such as high feed costs, in comparison to the major poultry producing regions of the world. In regard to feed costs, these account for between 65-70 per cent of the total costs associated with poultry rearing. An important input in the manufacture of poultry feed is soya bean meal, of which approximately 90 per cent is imported.

Overall trade data

It should be noted that this data, given its importance, was the subject of disagreement among interested parties. To ensure it had obtained the most accurate data available, ITAC obtained trade data from SARS that reflected vouchers of corrections (VOCs). By means of VOCs, SARS makes periodic corrections to its data to reflect necessary adjustments. The overall trend indicated by the data is that there has been an increase in the size of the SACU market, as well as an increase in the market share and volume of imports.

The SACU market of the five investigated products grew by 2.5 per cent from 2010 to 2012. The SACU producer's share of this market was 91 per cent in 2010 and decreased to 89 per cent in 2012.

By comparison, imports increased their share of the SACU market by 2 percentage points from 9 per cent in 2010 to 11 per cent in 2012. In absolute volume terms, imports of the 5 investigated products increased by 74 per cent from 2010 to 2012.

In terms of origin, imports from the European Union (EU) saw the largest gain, increasing from 5 per cent in 2010 to 32 per cent of total imports in 2012. Bone-in portions occupied the largest share of EU exports to South Africa during the period 2010-2012. For this product, EU imports constituted 69 per cent of total imports in 2012 up from 39 per cent in 2010. It should be noted that this application cannot address imports from the EU because of the TDCA between South Africa and the EU. Brazil remained the largest exporter of most of the products investigated under the "general column" in the tariff schedule, followed by Argentina.

COMPETITIVE CONSTRAINTS

In order to enable the poultry industry to operate at levels that are sustainable and allow for re-investment, increased production and employment, the following medium to long term factors should also be addressed as increased duties alone would not enable the sector to realise a successful turnaround strategy.

The following are viewed as key risks, which need to be mitigated:

Risk	Mitigating Factors
Risk 1: Mortalities (bio-security risk)	• Experience/knowledgeable & full time management involvement essential • Latest technology required with suitable climatic control (mainly imported) • Site selection critical for success
Risk 2: Feed cost (60% of producer prices)	• Integrated operations would enable businesses to pass on price increases • Adequate capitalisation and reserve build-up to absorb years of high raw material prices
Risk 3: Market risk (influence of retail sector & importers targeting the independents)	• Careful selection of product mix (LSM focus) & marketing channels • Relationship management with clients • Scale and volumes would improve negotiation power with retailers • Lowest cost producer strategies

Mitigants also include:

(i) Optimal breed selection;
(ii) Feed procurement and utilisation (feed cost = 60% of producer price);
(iii) Efficient use of abattoirs and sound management of cold chain;
(iv) Product mix;
(v) Marketing logistics; and
(vi) An overall sector strategy addressing all the listed challenges.

Brining

A contentious issue raised during the investigation was the use of brine in the production of chicken meat by local producers. Various parties were consulted on this issue. According to information received from the Industrial Development Corporation (IDC), the use of brine in the food industry is not illegal and internationally it is commonly used in the food processing industry. In chicken meat, brine improves moisture holding capacity, cooking yield, flavour, colour, succulence and tenderness. However, there is an issue as to the permissible level of brine in chicken meat.

The Department of Agriculture, Forestry and Fisheries (DAFF) provided information indicating that the issue of brining will be addressed in its poultry meat regulations currently being finalized in terms of the Agricultural Product Standards Act, 1990.

COMPETITIVE POSITION

Amongst other critical factors in adjudicating tariff applications is the determination whether a domestic producer is suffering price disadvantages vis-à-vis foreign producers.

To determine the competitive position of domestic producers vis-à-vis imports, a comparison between the two price structures was done by the Commission at the appropriate point of comparison.

The Commission found that the domestic poultry industry experiences price disadvantages vis-à-vis foreign producers.

Price impact

Several impact analyses were submitted to determine the effect of a duty increase on the prices for the 5 investigated products. Studies were submitted by SAPA through a report done by Genesis Analytics, the National Agricultural Marketing Council through a report done by the Bureau for Food and Agricultural Policy (BFAP) and an impact analysis was submitted by AMIE. These studies/analyses used different methodologies and assumptions, and each resulted in different conclusions as to the price-raising effects given the proposed duties. The estimated price-raising effects ranged from approximately 6 per cent to 50 per cent, on either side of the application, depending on the different assumptions made.

ITAC also conducted its own impact analysis. The analysis revealed that should the requested tariffs by SAPA be applied, the prices of frozen chicken charged by the domestic producers could rise on average by 23 per cent.

The Commission's recommended eight per cent profit margin, when applied to whole bird, boneless cuts, and bone-in portions, but none for offal and carcasses yielded the lowest impact on consumer prices, at 12 per cent on average. When considering that the lower income group consumes offal and carcasses, the effect on consumer prices for this group will be four per cent on average.

COMMENTS ON THE APPLICATION

By the closing date for comments, 10 May 2013, ITAC had received a substantial number of comments. In addition to comments by the applicant, ITAC received comments from parties opposing the application. Parties opposing the application included the Association of Meat Importers and Exporters (AMIE), which represented a number of parties that submitted separate comments, including Merlog Foods, I&J, IJC, Fercon Foods, Dee Imports and Exports, Marios Meat Wholesalers, The Shoprite Group, Gluckman Trading, Etlin, Federated Meats, Britos Food International, Britos Meat, Jwayelani, Rhodes, Assign Trading, Yum Restaurants, Cresta Meats, Chester Wholesale Meat, Boxer Superstores and Pick 'n Pay. All of the comments were carefully reviewed by ITAC.

Most of these companies opposing the application shared the same or similar views as listed below.

AMIE's objections to the application focused, inter alia, on the following:

a) The assumptions feeding into the formulae used to calculate the requested levels of the duties are unfounded and incorrect;
b) Imported prices are higher than domestic selling prices;
c) The right to food in the Constitution and food security will be threatened if imports are stopped, combined with the negative impact on the poor;
d) Modest price increases will impact consumers as well as Government departments i.e. Department of Education, -Defence, -Health, -Correctional Services and -Social Welfare, severely;
e) The SACU industry should rather focus on accessing export markets and diversify their product range;
f) The growth in consumption is taken-up by small domestic players and not imports;
g) SAPA should have applied for a rebate on soya oilcake, which is the highest cost factor;
h) The SACU industry injects brining in their chicken, in excess of legal standards; and
i) The SACU poultry industry is profitable and is vertically integrated, which contributes to their profitability.

Commission's consideration of comments by AMIE:

a) The specific duties have been found not to be the appropriate measure to be implemented and the correct information was used by the Commission in determining the appropriate levels of duties.

b) The methodology used by SAPA was questioned and corrected information was submitted subsequent to the verifications conducted

and price disadvantages were found at the appropriate point of comparison.

c) *As indicated in the calculation of comparing the five companies concerned's ex-factory selling prices with the landed cost, it is evident that these companies are experiencing price disadvantages against imported products. Duties are determined taking into account food security in its full context.*

d) *It is important to also give consideration to a country being able to produce a strategic protein source but at affordable prices to accommodate the lower income group. A balance between the viability of domestic producers of a strategic industry with the affordability of food for the lower income group is critical for food security.*

e) *The SA poultry industry exported small quantities to other African markets; however, neighbouring countries have rejected SA's food imports, on sanitary grounds i.e. Genetically Modified Organisms which are prevalent in poultry feed. In terms of disease control, poultry is internationally classified in the same category as Ostriches. Should Ostriches contract a disease, restrictions are also placed on poultry, which industry can then also not export its products. This issue is currently being addressed by DAFF.*

f) *It is evident from trade data contained in the submission that low-priced imports increased significantly from 2010 to 2012.*

g) *Thedti has developed a Sector plan for the soya bean value chain to encourage increased plantings of soya beans, which will subsequently also increase the local availability of soya oilcake.*

h) *DAFF is the appropriate department to address the issue.*

i) *The SACU poultry industry experienced decreasing profitability levels and diminishing returns in the face of, inter alia, low-priced imports from abroad.*

Merlog Foods (Pty) Ltd, a wholesaler of frozen foods, predominantly poultry, submitted that, through an associate, it packs certain imported chicken from its bulk imported chicken form, into retail packs for the mid- to low-end consumer. It submitted that in terms of labour and capital investment the company will not survive in its current form if the duties were increased as requested by SAPA, which will negatively affect the approximately 2 000 delivery points, which are serviced on a weekly basis.

It would further have a negative spill-over effect on service providers, clearing agents, transport companies inward and outward, cleaning and hygiene services etc. It stressed that the Wholesale Food Supply chain is denominated by being labour and capital intensive and is further denominated as being a high throughput, low margin industry.

The **BLNS** countries' Poultry Associations supported the application as did the Animal Feed Manufacturers Association (AFMA). Their main concerns were that if the customs duties were not increased to address the substantial inflow of low-priced products from various countries, the SACU industry would not be able to produce and sell it products at prices that would make economic sense. They submitted that if imported products are allowed to erode the SACU market, domestic producers would suffer irreparable harm, experience substantial job losses and that food security would be threatened.

FINDINGS

During its deliberations and in arriving at its recommendations, the Commission considered the application in the light of the information at its disposal and with due regard to food security in its full context. In particular the Commission took the following factors into account:

- The rising levels of imports into the SACU, and the concomitant erosion in the market share of SACU producers of chicken meat;
- the considerable levels of production, employment and investment in the domestic poultry industry;
- the decreasing profitability and diminishing returns of the domestic poultry industry in the face of low-priced imports from abroad;
- the competitive position and the significant price disadvantages experienced vis-à-vis foreign producers;
- the relatively high input costs experienced by the domestic producers;
- domestic supply and demand conditions and weighing the interests of investors and producers (a fair and reasonable profit margin) and consumers (price-raising impact); and
- the price impact analysis that showed with an eight per cent profit margin applied to whole bird, boneless cuts, and bone-in portions, but none for offal and carcasses, the impact on consumer prices would be relatively low, while allowing for further investment in the industry.

The Commission considered that leg quarters (bone-in portions) constitute approximately 70% of the subject volume of production by the domestic industry in the form of individually quick frozen (IQF) portions.

The Commission's recommended duties for bone-in portions as detailed hereunder (based on actual price disadvantages experienced) are lower than those requested by SAPA. This is in order to minimise the price-raising impact for consumers in the light of the Commission's price impact consideration.

In the case for carcasses and offal, the Commission recommended a slight increase given that these products are an important source of protein for the poor.

It is in the case of whole chicken where Brazilian producers, in particular, due to the market structure, enjoy vast economies of scale compared to the domestic producers. Whole bird constitutes an insignificant percentage of the total SACU market for poultry meat in 2012, and is destined for the high end of the market. In the latter case, the Commission recommends hereunder that the WTO-bound rate be implemented.

No case was made by the applicant for the specific duties that were requested and no evidence of under-invoicing was found. The Commission recommends that transparent ad valorem duties be implemented based on the applicable production, trade and financial analysis, including the price disadvantages experienced by domestic producers.

In conclusion, the recommended tariff support would place the South African poultry producers on a similar competitive footing as their counterparts abroad, would allow for a fair and reasonable profit for producers and hence, further investment in the industry with a concomitant increase in production and employment and would not have an undue cost-raising impact on consumers. The support should enable the industry to fully utilise its existing production capacity and to achieve economies of scale through the efficient use of resources, thereby reducing the marginal cost of production.

RECOMMENDATION

In view of the above the Commission decided that the duties on the products in question be amended as follows:

Tariff subheading	**Product**	**Recommended duty**
0207.12.90	Whole bird	82% bound rate
0207.14.10	Boneless cuts	12%
0207.14.90	Bone-in portions	37%
0207.14.20	Offal	30%
0207.12.20	Carcasses	31%

It is further recommended that the duties be reviewed after a period of 5 years to determine the impact on domestic production, investment and employment.

[62/2012]