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Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
	GENERAL NOTICES • ALGEMENE KENNISGEWINGS		
	Trade, Industry and Competition, Department of / Handel, Nywerheid en Kompetisie, Departement van		
2291	International Trade Administration Commission of South Africa: Guidelines for the application for Tariff Rate Quota (TRQ) permits in terms of Rebate Provisions 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07	50042	3

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 2291 OF 2024****INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA****GUIDELINES FOR THE APPLICATION FOR TARIFF RATE QUOTA (TRQ) PERMITS IN TERMS OF REBATE PROVISIONS****460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07****THE REBATE PROVISIONS**

1. *Applications in terms of the rebate provisions concerned should be submitted within 10 days from the date of a publication notice published in the Government Gazette, commencing with this notice of 26 January 2024.*
2. *“Temporary rebate provision for the full customs duties in Part No. 1 of Schedule No. 1 on meat and edible offal, not cut in pieces, frozen, of fowls of the species Gallus domesticus, classifiable under tariff subheading 0207.12, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission (ITAC) may allow by specific permit after consultation with the Director General: The Department of Agriculture, Land Reform and Rural Development (DALRRD), for the duration of a shortage of chicken as a result of an outbreak of highly pathogenic avian influenza (HPAI) in South Africa, provided that ITAC or an equivalent authority in SACU member states, is satisfied that –*
 - i. *the chicken is only for consumption or manufacture of products for consumption in the country of import; and*
 - ii. *the chicken imported in terms of this rebate item is not re-exported to any other SACU member state.”*
3. *“Temporary provision for a partial rebate of “full duty less 30%” on the customs duties in Part No. 1 of Schedule No. 1 on boneless cuts, frozen of fowls of the species Gallus domesticus, classifiable under tariff subheading 0207.14.1, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission (ITAC) may allow by specific permit after consultation with the Director General: The Department of Agriculture, Land Reform and Rural Development (DALRRD), for the duration of a shortage of chicken as a result of an outbreak of highly pathogenic avian influenza (HPAI) in South Africa, provided that ITAC or an equivalent authority in SACU member states, is satisfied that –*
 - iii. *the chicken is only for consumption or manufacture of products for consumption, in the country of import; and*

- iv. *the chicken imported in terms of this rebate item is not re-exported to any other SACU member state.*
4. *“Temporary rebate provision for the full customs duty in Part No. 1 of Schedule No. 1 on offal, frozen of fowls of the species Gallus domesticus, classifiable under tariff subheading 0207.14.2, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission (ITAC) may allow by specific permit after consultation with the Director General: The Department of Agriculture, Land Reform and Rural Development (DALRRD), for the duration of a shortage of chicken as a result of an outbreak of highly pathogenic avian influenza (HPAI) in South Africa, provided that ITAC or an equivalent authority in SACU member states, is satisfied that –*
- i. *the chicken is only for consumption or manufacture of products for consumption, in the country of import; and*
- ii. *the chicken imported in terms of this rebate item is not re-exported to any other SACU member state.”*
5. *“Temporary provision for a partial rebate of “full duty less 25%” on the customs duties in Part No. 1 of Schedule No. 1 on meat, frozen, other, of fowls of the species Gallus domesticus, classifiable under tariff subheading 0207.14.9, in such quantities, at such times and subject to such conditions as the International Trade Administration Commission (ITAC) may allow by specific permit after consultation with the Director General: The Department of Agriculture, Land Reform and Rural Development (DALRRD), for the duration of a shortage of chicken as a result of an outbreak of highly pathogenic avian influenza (HPAI) in South Africa, provided that ITAC or an equivalent authority in SACU member states, is satisfied that –*
- i. *the chicken is only for consumption or manufacture of products for consumption, in the country of import; and*
- ii. *the chicken imported in terms of this rebate item is not re-exported to any other SACU member state.”*
6. *The above rebate provisions may allow by specific permit, after consultation with the Director General of the Department of Agriculture, Land Reform and Rural development (DALRRD), for the duration of the shortage of chickens as a result of an outbreak of highly pathogenic avian influenza (HPAI) in South Africa, valid for a period of 3 months from the date of implementation or such period as deemed appropriate by ITAC -*
- a) *The meat subject to the provisions of this rebate item may not exceed a basic annual quota of 172 000 metric tonnes or such volume as the Commission may, in conjunction with the Minister of Agriculture, Land*

- Reform and Rural Development and the Minister of Trade, Industry and Competition determine to be appropriate during the current HPAI outbreak in South Africa; which may be divided into four equal quarters i.e. 43 000 tons per Quarter, depending on the trajectory of the recovery of the domestic SA poultry industry;*
- b) *Allocations: The allocation will be shared between HDIs and HIs on a 50/50 basis, with all applicants allocated the same minimum quantity, with additional quantities allocated by ITAC across all applicants based on their market share. All new entrants will be allocated a minimum quantity.*
- c) *Rebate permits for the importation of poultry meat subject to the rebate provisions, will be allocated taking into account the following variables:*
- ☐ *The market shares of applicants derived from historical import data for the past three years from the date of implementation of the temporary rebate provisions;*
 - ☐ *Quota applied for by applicants;*
 - ☐ *Number of applicants; and*
 - ☐ *The total quota available.*
- d) *The annual quota period is for a period of 12 months, dependant on confirmation from DALRRD that the current HPAI outbreak still has an impact on domestic production and supply prior to any new permits being issued for a subsequent quarter under these rebate items;*
- e) *The issuance of permits under the rebate provisions may be discontinued if DALRRD indicates that domestic production of poultry has satisfactorily recovered from the impact of the Highly Pathogenic Avian Influenza (“HPAI”) in South Africa; and*
- f) *These rebate items may be suspended as from the date the Minister of Trade, Industry and Competition, in consultation with the Minister of Agriculture, Land Reform and Rural Development, submits written confirmation to ITAC that the shortage of poultry as a result of a HPAI outbreak in South Africa is under control and domestic production has returned to levels which safeguards food security in SACU.*

1. DEFINITIONS

- 1.1 “Annual quota” means a quota of 172 000 tonnes which will be divided into four equal quarters, i.e. 43 000 tons per Quarter dependant on confirmation from DALRRD that the current HPAI outbreak still has an impact on domestic production and supply prior to any new permits being issued for a subsequent quarter under these rebate items.

- 1.2** "Customs and Excise Act" means the Customs and Excise Act, 91 of 1964, as amended or substituted from time to time.
- 1.3** "DALRRD " means the Department of Agriculture, Land Reform and Rural Development or its successor.
- 1.4** "Effective Date" means the date on which the amendment in Schedule No. 4 to the Customs and Excise Act, was published in the Government Gazette to provide for a partial or full rebate on ordinary customs duties rebated in terms of Schedule No. 4 to the Customs and Excise Act.
- 1.5** "HIs" means historical importers, which are importers which were importing poultry meat products prior to the Effective Date.
- 1.6** "HDIs" means Historically Disadvantaged Individuals as defined in the Broad Based Black Economic Empowerment Act, 53 of 2003, as amended or substituted from time to time.
- 1.7** "ITA Act" means the International Trade Administration Act, 71 of 2002, as amended, substituted or novated from time to time.
- 1.8** "ITAC" means the International Trade Administration Commission of South Africa or its successor.
- 1.9** "New entrants" A New Entrant is a party which did not import poultry under TH 0207.1 for the last 3 years from the Effective Date.
- 1.10** "Person" means, depending on the context, a natural person (individual) or a juristic person.
- 1.11** "Quota" means imports of poultry meat benefitting from a temporary partial or full rebate on the ordinary customs duty, subject to both the annual quota and quarterly quota.
- 1.12** "Quarter" means each period of 3 calendar months commencing on the effective date.
- 1.13** "Quarterly Quota" means 1 quarter of the annual quota, subject to the provisions of paragraph 6(a)
- 1.14** "Quota Year" means a period of four consecutive Quarters commencing on the effective date.
- 1.15** "SARS" means the South African Revenue Service.

- 1.16** “Stipulated timeframe for submitting applications” means the indicated date as per the Government Gazette Notice.
- 1.17** “the dtic” means the Department of Trade, Industry and Competition or its successor.

2. THE QUOTA

- 2.1** The Quota is implemented in terms of rebate items 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07 (“the Rebate Items”). The Rebate Items comes into force on the Effective Date.
- 2.2** Neither the Quota nor the Rebate Items will affect the payment of any other duties or taxes applicable to the importation of the poultry meat subject to the provisions of these rebate items, nor the import requirements in terms of any applicable legislation.

3. PURPOSE

Under these Rebate Provisions the Quota is allocated equally between HDIs and HIs. These Guidelines seek, in part, to ensure there is a fair allocation of the Quota.

4. APPLICATION PROCEDURE

- 4.1** Applicants must be registered with South African Revenue Service (“SARS”) as an importer when applying to ITAC for a rebate certificate. Applicants must also acquaint themselves with the provisions of the Customs and Excise Act, the ITA Act and other legislation relating to the importation of goods into the Republic of South Africa.
- 4.2** Applicants must provide ITAC with the required information as per the relevant application form/ Spreadsheet (**Annexure A**) within the stipulated timeframe for submitting applications. Should the space provided in the application form not be sufficient, applicants may use the format of the application form as a guide for the format in which the required information should be submitted.

- 4.3** These Guidelines must be read and understood before completing the application form. Completed original applications for certificates may be forwarded to: smshegu@itac.org.za / dngobeni@itac.org.za / jmawasha@itac.org.za / avarachia@itac.org.za.

PLEASE NOTE THAT THE USE OF AN INCORRECT EMAIL ADDRESS OR THE FORWARDING OF THE SAME EMAIL MULTIPLE TIMES TO THE ABOVE ADDRESSES MAY DELAY THE PROCESSING OF AN APPLICATION.

- 4.4** An application will be regarded as deficient if, amongst others, the following is found:
- (a) The application is not submitted in the correct format;
 - (b) The application has not complied with the guidelines, rules and conditions as set out in this document;
 - (c) The requisite information is not submitted; and
 - (d) The application contains conflicting or incorrect information.
- 4.5** Should an application be found to be deficient, it may not undergo further processing until the deficiencies have been addressed and the application is accepted as properly documented within the stipulated timeframe for submitting applications.
- 4.6** Applicants who submit deficient applications must re-submit properly documented application forms within the stipulated timeframe for submitting applications to replace the deficient application forms, should they wish to proceed. Failure to submit the amended properly documented application form within the stipulated timeframe for submitting applications, the application will be considered as withdrawn and not proceeded with.
- 4.7** A properly documented application means an application that contains all required information and for which all supporting documents referred to in paragraph 5.6 have been provided.

- 4.8** The application period for Quarter 1 will be opened via an invitation through the Government Gazette as explained in paragraph 1 under the division related to: "Rebate provisions", as set out above. Invitations for applications for the subsequent quarters will be announced following consultations with the Director General of the DALRRD.
- 4.9** Applicants should allow an issuance period of 10 days from the closing date for the submission of applications in a particular quarter.
- 4.10** Permits issued in terms of Rebate provisions 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07 may be valid for a period of three-month or such period as deemed appropriate by ITAC and no extensions will be granted. Consequently, if the entire quantity of goods stipulated in a permit are not cleared for home consumption on or before the expiration of the validity period on the permit, the volume of unused quota allocation shall be forfeited on the date that the permit expires.
- 4.11** ITAC and other relevant Government entities will continuously monitor the volume of poultry meat being imported under Rebate Items 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07. Should ITAC, with input from the DALRRD, determine that, based on available data, domestic production is sufficient to meet current or anticipated demand for such poultry products as a result of the domestic production of poultry having satisfactorily recovered from the impact of HPAI, ITAC may discontinue issuing rebate permits in the following quarter. This discontinuation will be communicated via a publication notice on its website and may also be published in a notice in the Government Gazette.
- 4.12** Should an application be rejected, the applicant will be informed in writing of the decision and the reasons thereof.

5. GENERAL CONDITIONS

- 5.1** Applicants must comply with the provisions of the Customs and Excise Act, the ITA Act and all other South African legislation relating to the importation of goods into the Republic of South Africa, relevant to the transaction.
- 5.2** Notwithstanding anything to the contrary herein, permits are issued at the discretion of the ITAC and an application for a permit does not assure approval thereof. In exercising discretion, ITAC shall have regard to the ITA Act and other applicable legislation, as well as these Guidelines and the facts relating to each application.
- 5.3** In terms of section 26 (4) of the ITA Act, ITAC may, *inter alia*, require an applicant to provide additional information in respect of the application. The conditions attached to, and the information requested below, reflect the minimum requirements which ITAC would apply to evaluate an application under this rebate provision.
- 5.4** Only products described in the rebate permit may be imported.
- 5.5** Applicants may procure the products specified in the rebate permit from the bonded warehouse, subject to adherence to the provisions outlined in sections 19 and 20 of the Customs and Excise Act, as well as any applicable import control legislation.
- 5.6** Applicant must submit the following supporting documents together with a completed application form:
- (a) Proof that the applicant is registered with SARS as an importer under the rebate provisions concerned;
 - (b) The current SARS electronic access PIN (to allow ITAC to verify full tax compliance status);

- (c) The applicant must provide their Companies and Intellectual Property Commission (CIPC) registration document as proof of registration;
- (d) Completed Excel application spreadsheet (see Annexure A); and
- (e) Once a permit has been issued, the applicant must submit a monthly report to ITAC indicating the volume and value of goods imported under these rebate provisions.

5.7 A request for the amendment of a rebate permit will only be considered when the error in the permit issued was made by ITAC.

5.8 Should, for instance, the permit holder misplaces a permit, the permit holder will be required to submit a request in writing for re-issuing of a replacement permit. The request must clearly set out the circumstances giving rise to the situation and must show good cause or reasons why a replacement permit should be issued.

6. ADDITIONAL CONDITIONS:

6.1. The chicken imported in terms of these rebate items may only be for consumption or manufacture of products for consumption, in the country of import and may not be re-exported to any other SACU member state. Every member state will have access to the rebate to ensure its own population has access to poultry during shortages that occur as a result of an outbreak of HPAI in South Africa.

7. NON-COMPLIANCE

7.1. Where non-compliance is detected, appropriate action will be taken against the relevant party in terms of the ITA Act and/or the Customs and Excise Act. This action may include (without limitation) criminal charges and the withdrawal of the permit(s) concerned.

7.2. If the conditions of rebate provisions 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07

are not complied with, the permit holder will, upon detection of such contravention, be issued with a compliance notice to show good cause. The applicant must submit evidence within seven (7) days of receipt of the compliance notice why ITAC should not make any adverse finding/s on the *prima facie* evidence of non-compliance with the above conditions. Thereafter the matter will be considered by ITAC and if ITAC determines that a contravention of any of these permit conditions has occurred, the permit may be varied, amended or revoked/rescinded.

- 7.3. Should non-compliance with any applicable legislation be detected by ITAC at any time, ITAC will take such non-compliance by a permit holder or related party who facilitates such conduct into account in considering whether to revoke/rescind a permit issued in terms of Rebate Provisions 460.03/0207.12/01.06, 460.03/0207.14.1/01.07, 460.03/0207.14.2/01.07 and 460.03/0207.14.9/02.07. In terms of section 54(1)(b) of the International Trade Administration Act, Act 71 of 2002, it is an offence to fail to comply with a condition stated in a permit and any person found guilty of such an offence is liable to a fine not exceeding R500 000,00 or to imprisonment for a period not exceeding ten years or to both such fine and imprisonment.

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