

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

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Importers Express Concern over the Amended Poultry TRQ Guidelines

Report Categories:

Poultry and Products

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Report Highlights:

On February 1, 2019, South Africa notified Post of the amended guidelines for the utilization of tariff rate quota allocations for U.S. bone-in chicken imports. The amended guidelines are supposed to address the primary challenges that have arisen since the inception of the quota in 2016, and will take effect on April 1, 2019. Some local importers have expressed their concerns that certain amendments could adversely affect the full utilization of the quota. Post will continue engaging with South African government and industry contacts to monitor the changes and resulting impact on the administration of the quota. Through the first 10 months of the 2018-2019 quota year, the United States has exported 58,600 tons of U.S. bone-in chicken meat to South Africa compared with 51,600 tons during the same period in 2017-2018 quota year.

Background

U.S. bone-in broiler meat exports to South Africa have been subject to an anti-dumping duty since 2000. At that time, the antidumping duty was set at R2.35 per kilogram, and in 2012, the anti-dumping duty was extended for another 5 years and increased to R9.40 per kilogram. In June 2015, representatives from the United States and South African poultry industries met in Paris and agreed in principle on a tariff-rate quota (TRQ) for 65,000 tons of U.S. bone-in broiler meat imports into South Africa free from the anti-dumping duty. Imports are still subject to the most favoured (sic) nation ad valorem duty of 37 percent. The creation of the TRQ effectively allowed South Africa to continue to have duty-free access to the United States market under the African Growth and Opportunity Act for a wide range of South African products for the following decade. In January 2016, negotiations of the final health certificates were concluded and the first shipment of U.S. bone-in broiler meat landed in South Africa in March 2016. Notwithstanding the TRQ, in 2017, South Africa extended the anti-dumping duty by another 5 years (see [South Africa Extends Anti-dumping Duties on U.S. Bone-in Chicken](#)). Due to the prohibitively high anti-dumping duty, access to and functionality of the TRQ is vital to sustainability of U.S. chicken exports to South Africa.

Main Challenges with Original Guidelines

As noted by the International Trade Administration Commission of South African (ITAC), various challenges have risen in the administration of the quota since its inception in 2016. The quota operates through a quarter system spanning across an April – March quota year. Each quarter, importers must apply for rebate permits and imports permits that correspond with their quota allocations. The original poultry quota guidelines required the importer to be in possession of separate permits from both ITAC and the South African Department of Agriculture, Forestry and Fisheries (DAFF) prior to ordering or receiving products (see attached guidelines). The guidelines also required that shipments arrive in South Africa in the same quarter in which the corresponding import permits are allocated. This was a problem for importers because DAFF may only grant extensions for the first and third quarters, which allows the product to arrive in the subsequent quarter. The traders are of the view that the original guidelines were overly burdensome and practically impossible to follow.

The agreement of establishing the poultry quota system stipulates that the “Historically Disadvantaged Individuals” (HDI) will get at least 50 percent of the annual quota and the balance will be allocated to “traditional importers”. This arrangement was introduced at the suggestion of the South African Poultry Association with the professed objective of economic transformation. At the outset, the HDIs received allocations in amounts that could be commercially viable because of the small applicant pool. However, over the following quota years, the applicant pool increased exponentially. As a result, DAFF awarded allocations to an increasing number of applicants, but in smaller volumes. Consequently, HDIs began receiving fewer allocations that were not commercially viable, and therefore, most began to collaborate with traditional importers. The number of HDIs increased about sevenfold since the first quarter of 2016/2017 quota year from 9 to 66 in the third quarter of the current 2018/2019 quota year. This sharp rise is diluting the utility of the quota allocations for HDIs because importing chicken meat in such small volumes is not commercially viable.

Many HDIs lack the financial resources and technical expertise required to import poultry meat from the United States, making it difficult for the U.S. poultry meat exporters to trade with HDIs. This was another concern why many HDIs formed partnerships with traditional importers. Some of these

partnerships are currently under investigation by the South African Revenue Service (SARS) for allegations of illegal collusion and avoidance of anti-dumping duties.

According to ITAC, there were improper transfers of permits from the HDIs to ‘parties not named in such permits’. ITAC maintains that this is in contravention of the administrative guidelines and the spirit of the quota.

Post has met with ITAC, DAFF and DTI to discuss the challenges U.S. exporters reported. Officials representing these entities acknowledged these challenges and informed Post of their intentions to review and propose revisions to the guidelines.

Amendment of the Original Guidelines

On November 23, 2018, ITAC notified Post of the proposed draft amended guidelines and solicited the submission of comments from interested parties (see attached guidelines). The main challenges acknowledged by the Commission include the proliferation in the number of applicants, and non-compliance with the guidelines or regulations of the administration of the quota (i.e. misuse and transfer of quota allocations). On December 11, 2018, ITAC held a workshop meant to engage with various stakeholders on the proposed changes in the administration of the quota. During the workshop, ITAC emphasized that the proposed changes would improve the efficacy of the administration of the quota. However, there were some concerns from the importers that these changes could affect the full utilization of the quota by the United States. Post submitted interagency-cleared comments to the Commission, and encouraged all stakeholders to do so, no later than December 21, 2018, deadline, which many did.

Final Amended Guidelines

On February 1, 2019, ITAC notified Post of the final amended guidelines for the utilization of the tariff rate quota for U.S. bone-in chicken imports. The amended guidelines become effective on April 1, 2019, the beginning of 2019/2020 quota year.

Overall, many importers are of the view that their submissions to ITAC were not incorporated into the amended guidelines. Some of the importers, especially HDIs, are concerned that the amended guidelines do not address the main challenges they have been facing since the inception of the TRQ; financially, partnerships and operational challenges. For instance, the amended guidelines still require an importer to have separate import permits from both DAFF and ITAC before ordering the product. This creates operational challenges given that imports must arrive in the same quarter in which the corresponding import permits are allocated. DAFF may only grant extensions for the first and third quarters.

Some importers noted that the amended guidelines do not explicitly state the nature of partnerships permissible. Importers seem to blame this lack of clarity on the on-going investigations by SARS into allegations of illegal collusion and avoidance of anti-dumping duties. As a result, some traditional importers informed Post that they are shying away from forming partnerships with HDIs. This could potentially affect the full utilization of the quota given that most HDIs have been relying on partnerships with traditional importers to use their allocations. Post will continue engaging with South African government and industry contacts to monitor the changes and resulting impact on the administration of the quota.

Attachments:

Guidelines Pertaining to a Temporary Rebate Provision which Provides for Rebate of Full Anti-dumping Duty on Bone-in Cuts (**Original Guidelines**)



Adobe Acrobat
Document

Guidelines for the Application for a DAFF Quota Allocation Import Permit and the Application for a Rebate Permit in Terms of Rebate Item 460.03/0207.14.9/01.07 (**Draft Guidelines**)



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Gazetted Guidelines Pertaining to Rebate Item 460.03/0207.14.9/01.07 (**Amended Guidelines**)



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