

## **Overview of Issues raised by the Association of Meat Importers and Exporters regarding the International Trade and Administrative Commission's investigations**

### **1. Background**

The Association of Meat Importers and Exporters (AMIE) had requested a meeting with the Portfolio Committee on Trade and Industry regarding their experience with the International Trade and Administrative Commission (ITAC) during the recent investigation on allegations of dumping of Brazilian poultry products in South Africa. This meeting had been held on Wednesday, 28 November 2012. The Committee had resolved to have a follow-up meeting with ITAC, the Economic Development Department and the Department of Trade and Industry in this regard. This meeting has been scheduled for Friday, 22 February 2013.

### **2. Terms of Reference**

The following terms of reference were sent to ITAC to respond to at the scheduled meeting on Friday, 22 February 2013:

- Explain what their investigation procedure is and what this entails, including the initiation process.
- Respond to the allegations made by AMIE regarding this procedure in terms of their interaction with interested parties, reporting throughout the process, lack of communication with stakeholders and incorporation of concerns raised.
- Highlight challenges experienced in ensuring a consistent application of internal procedures and mechanisms that may have been implemented to address these challenges.

### **3. Concerns raised by AMIE**

The following key concerns were raised by AMIE:

- The manner in which ITAC has been initiating anti-dumping investigations.
- The manner in which ITAC conducts anti-dumping investigations and engages with interested parties during the investigation.
- The inconsistency by ITAC in implementing its internal procedures in compliance with the Constitution, domestic legislation and South Africa's international trade obligations. This has been evident in the decline in the quality of reports over time.
- The tendency to limit access by the public in terms of clarification of matters; restricted access to public files; slow response to shortcomings in applications submitted and the initiation of investigations where there are applications with merit.

- Investigations have tended to take slightly more than 16 months on average since 2003.

In terms of ITAC's conduct during the poultry case, ITAC had:

- Initiated the investigation without being satisfied that the South African Poultry Association's (SAPA) application sufficiently met the requirements set out in Article 5.2 of the Anti-Dumping Agreement and regulations 21 to 28 of the Anti-Dumping Regulations.
- Despite warnings regarding the defects in SAPA's data, ITAC failed to verify the data and ignored additional information submitted by individual AMIE members in its essential facts letters and its final determination.
- Failed to assist in providing sufficient information to interested parties to constructively interrogate the facts of the investigation and to timeously meet the seven day deadline to comment on the essential facts letter, which is the basis on which ITAC makes its determination.
- Produced reports and essential facts letters that cannot be defended as they are forensically incomprehensible and incomplete.
- Allegedly ignore comments made by the Minister of Trade and Industry regarding concerns about the poultry investigation.

It was alleged that there was an increasing tendency for ITAC to ignore valid criticisms and then refuse to meaningfully engage with interested parties around these issues and to properly and effectively communicate with industry and other role players. This tendency had also been evident in the following investigations:

- Tyres from China
- Hexagonal fully threaded screws from China
- Threaded rods from China
- Frit from Brazil
- Bolts and nuts from China

#### **4. Committee considerations**

The Committee should take cognisance of the following during its deliberations:

- ITAC currently is directly overseen by the Minister of Economic Development and the Economic Development Department. However, the Minister of Trade and Industry and the Department of Trade and Industry are responsible for international trade relations, negotiating and implementing trade agreements and thus setting the bound rates of tariffs and implementing trade remedies.
- The quality of ITAC's work plays a critical role in maintaining South Africa's integrity as a trading partner in implementing allowable trade remedies.
- Where trade remedies are not implemented in a timeous, fair and equitable manner, the cost to industry players and importers escalates and

impacts on their competitiveness in the domestic and potentially global market. This approach to investigating the appropriateness of implementing trade remedies impacts on the cost of submitting applications, litigation costs and in manufacturing the cost of inputs.

- Non-compliance in terms of domestic legislation and international obligation could also lead to an increased number of disputes against South Africa.

