

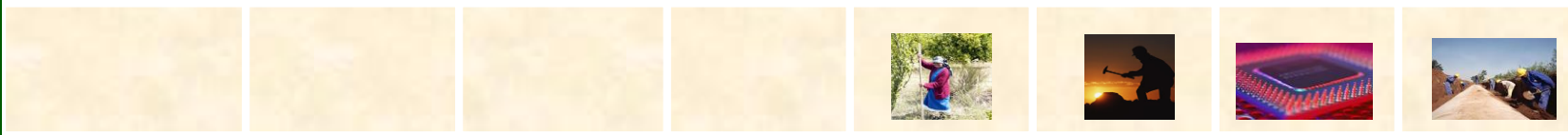


## **BRIEFING BY ITAC TO NEDLAC TRADE AND INDUSTRY CHAMBER**

**Date: 15 March 2016**

**Siyabulela Tsengiwe**

**Chief Commissioner**



1. Establishment of ITAC.
2. Key Strategic Objectives & Performance Areas & Services.
3. Structure of the Core Functions
4. Tariff Investigations
5. Trade Remedies
6. Update on steel investigations
7. Update on poultry investigations
8. Import and Export Control
9. Judicial Reviews





- ITAC was established by an **Act of Parliament, ITA Act of 2002**, which came into effect in June 2003. The predecessors of ITAC are the Board of Tariffs and Trade (BTT) and the Board of Trade and Industry (BTI) which dates back to 1923.
- ITAC was established to streamline, rationalise and modernise an institution with a long history dating back to 1923.
- **Structure:** The Commission is constituted of 2 Full-time Commissioners (Chief Commissioner and Deputy Chief Commissioner) and 10 Part-time. The Commission is a body of experts that meets monthly to evaluate investigations and make recommendations to the Minister of Trade and Industry. The administrative arm of the Commission has a staff complement of 131.
- **Reporting Lines:** The administration of the ITA Act was transferred to the Minister of Economic Development except for decision making powers on individual tariff and trade remedy investigations that have been retained by the Minister of Trade and Industry.
- **Core Functions:** Tariff Investigations; Trade Remedies; Import and Export Control.

Ensure contribution to employment creating growth and development through effective delivery of international trade instruments

## International Trade Instruments

What will be pivotal in improving the provision of customs tariffs, trade remedies, and import and export control will be the quality and turnaround times.

Customs Tariff Investigations  
[Increasing Duties, Reducing Duties, & Creation of Rebates]

Trade Remedies Investigations  
[Antidumping, Countervailing & Safeguards]

Import & Export Control  
[Permits & Enforcement]

Ensure strategic alignment and continued relevance with the Economic Development Department and national agenda

## International Trade Technical Advice

ITAC will become more proactive in the provision of technical inputs and contributions to trade and industrial policy implementation, as well as trade negotiations at bilateral, regional and multilateral levels.

Technical Inputs on Trade and Industrial Policy including Sector Strategies

Technical Inputs on Trade Agreements  
[WTO, SADC & SACU] ;  
Bilateral Agreements  
[EU, EFTA, MERCOSUR, & INDIA]

Ensure organisational efficiency and effectiveness of ITAC

## Business Support Services

The performance of the institution will be driven through appropriate business solutions, efficient and effective utilisation of material, human and information technology resources.

- Human Resources
- Finance
- Information Technology
- Legal Services
- Policy and Research
- Office of the Chief Economist

**Tariff Investigation I**  
*Rika Theart*

- Agriculture & Agro-processing
- Chemicals
- Textiles
- Clothing and Footwear

**Trade Remedies I**  
*Z. Xabendlini*

- Anti-dumping
- Countervailing
- Safeguards

**Tariff Investigation II**  
*N. Somdaka*

- Motors
- Metals and Machinery
- Automotive Production Development Programme (APDP)

**Trade Remedies II**  
*C. Van Vuuren*

- Anti-dumping
- Countervailing
- Safeguards

**Import and Export Control**  
*M. Collins*

- Import Permits
- Export Permits
- Enforcement



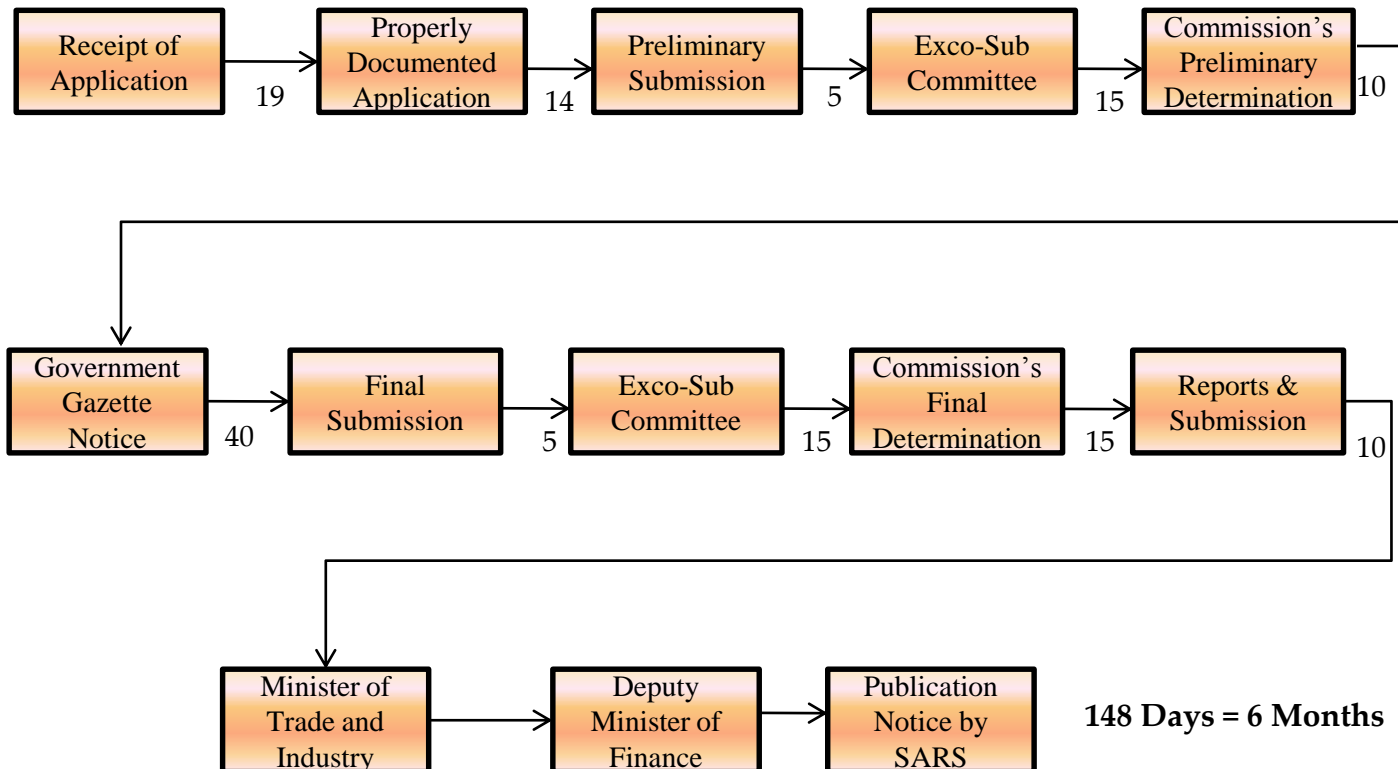
- The NDP provides the long-term vision.
- The NGP, IPAP and the South African Trade Policy and Strategy Framework provide clear policy parameters within which to execute our mandate.
- All the said frameworks are consistent in their call for developmental trade policies and how trade policy should contribute to structural changes in the economy.
- The NGP places employment creation at the centre of economic policy, which has meant that tariff policy has to be sensitive to employment outcomes.
- The Commission follows a developmental approach to tariff setting for both agricultural and industrial goods.



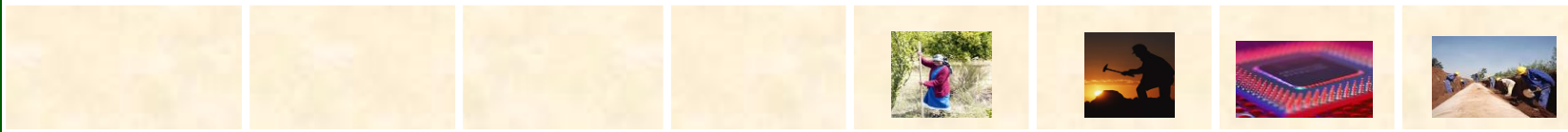


- It is neither a rigid blanket increase nor blanket reduction in tariffs. Tariffs are instruments of industrial policy. The Commission's recommendations are evidence-based and conducted on a case-by-case basis. In some cases tariffs are increased, in others reduced and also rebates are created. The focus is on the outcomes: increased domestic production, investment, job retention and creation, as well as international competitiveness.
- The ITAC strategy also highlights the approach ITAC has taken and will take on the relevant "jobs drivers" (Infrastructure; Agriculture; Mining; Green Goods; Manufacturing)
- ITAC is placing more focus on measuring the outcomes of its interventions through impact assessments. Putting more emphasis on trade monitoring, conditionalities, proactive initiatives and coordination with relevant government agencies.

# Procedure for conducting Tariff Investigations







- Domestic productive capacity and potential.
- Employment.
- Investment.
- Trade flows (Imports and Exports).
- Cost Structure.
- Price differentials (Disadvantage or Advantage).
- Market share of domestic producers.
- Demand and supply.
- Financial state of the industry.

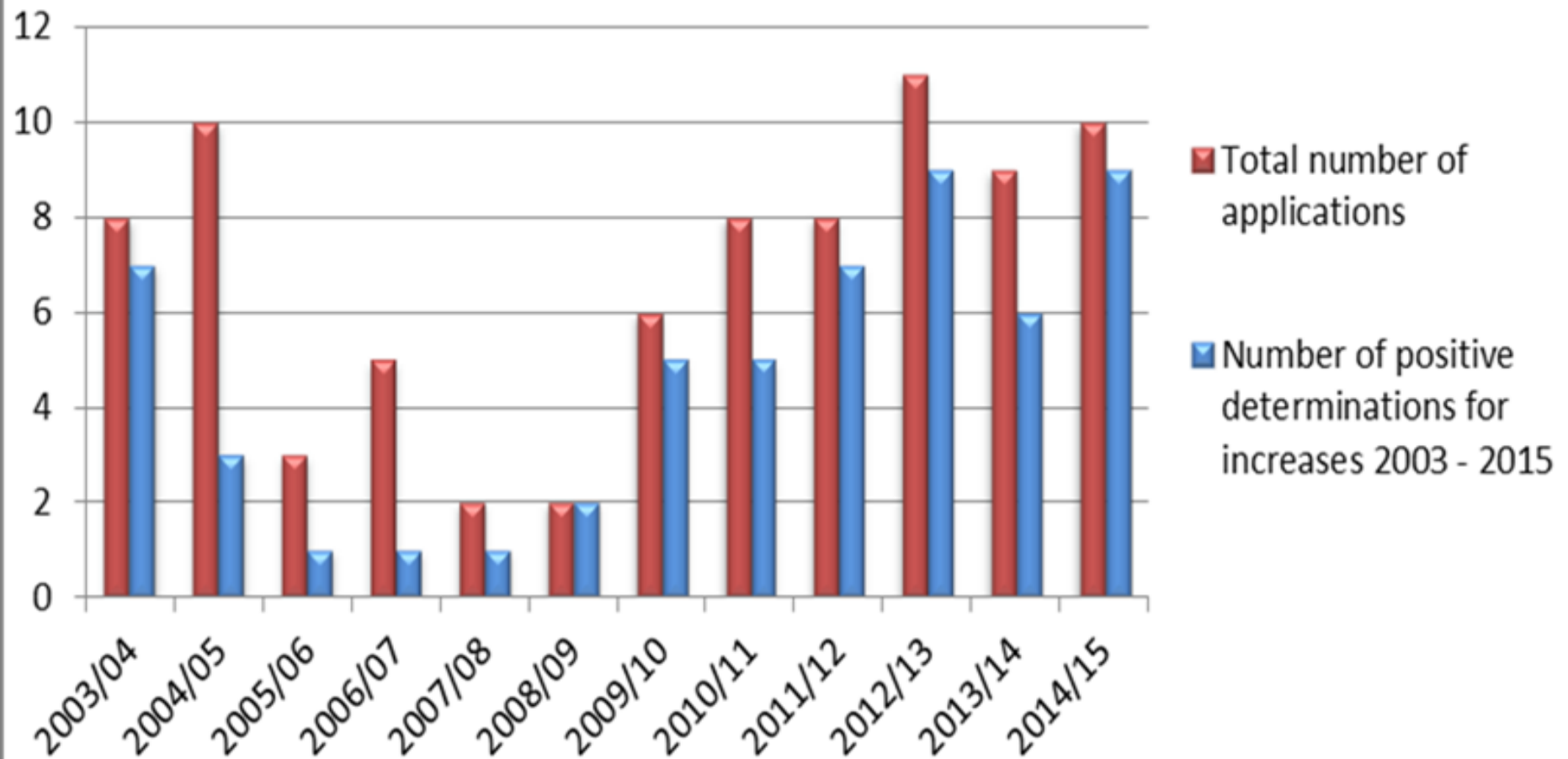
# Tariff Increases

## Completed During 2015/2016

APPLICANT	PRODUCT	APPROVED AMENDMENT	TYPE OF AMENDMENT
Powertech Batteries (Pty) Ltd & First National Batteries (Pty) Ltd	Automotive lead-acid batteries	5% – 15%	Increase
National Urethane Industries (Pty) Ltd	Polyurethane Prepolymers	Free – 10%	Increase
ITAC	Withdrawal of rebate provision on Plates, Sheets, Film, Foil and Strips of Polymers of Propylene, Biaxially Oriented for the manufacture of Self-Adhesive Tape	Free – 10%	Increase
Hulamin Rolled Products (Pty) Ltd	Aluminium Rolled Products	Declined	Increase
AMSA	Wire rod	Free – 10%	Increase
AMSA	Re-enforcing bar (Rebar)	Free – 10%	Increase
Evrast Highveld Steel and Vanadium Corporation (Pty) Ltd	Structural Steel	Free – 10%	Increase
AMSA	Tinplate	Rejected	Increase
AMSA	Semi finished steel	Free – 10%	Increase
AMSA	Cold-rolled steel	Free – 10%	Increase
AMSA	Steel sections	Free – 10%	Increase
AMSA	Other bars, rods & forges	Free – 10%	Increase
AMSA	Steel Plates	Free – 10%	Increase
AMSA & Safal (Pty) Ltd	Galvanised/ Coated & Painted Steel	Free – 10%	Increase
Hall Longmore (Pty) Ltd	Large bore steel pipes	Free – 15%	Increase

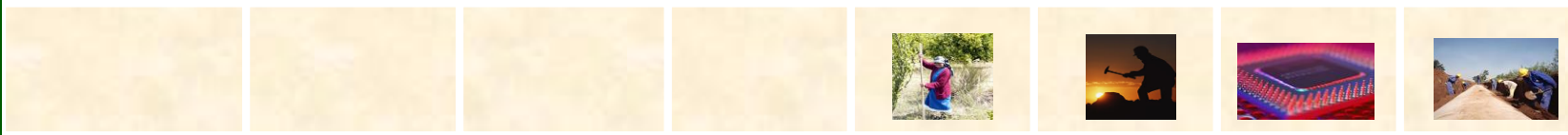
# Trends in Tariff Increases (2003 – 2015)

## TREND ANALYSIS OF TARIFF INCREASES FOR THE PERIOD 2003 -2015



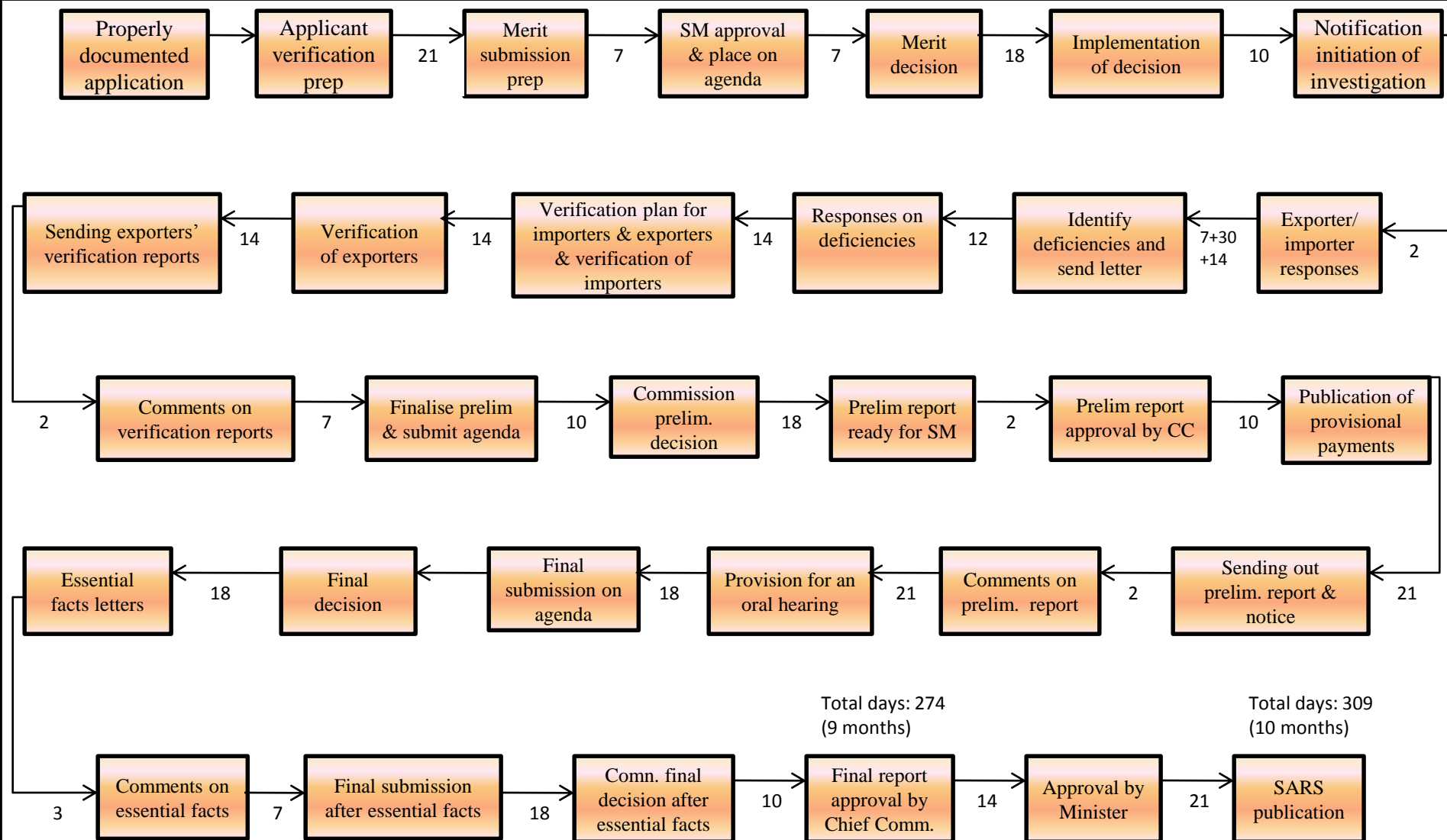


- There are three trade remedy instruments, namely:
  - anti-dumping duties,
  - countervailing duties, and
  - safeguard measures.
- Of these three, anti-dumping is the most frequently invoked, both globally and in South Africa.
- In the years 1995 to 2011, the Commission initiated 13 countervailing investigations, in comparison to the 216 anti-dumping investigations initiated and in the years 2007 to 2011, the Commission initiated two countervailing investigations.



- Since 2012, more interest has been shown in the countervailing instrument and four new applications were received from industry.
- Although only one safeguard investigation, on lysine, has been conducted since 2003, more interest has been shown in this instrument since 2012. One investigation on frozen potato chips was initiated in 2013. Two, on chicory and graphite electrodes, were declined and one, on olive oil also failed to meet the standard.
- With regard to anti-dumping, in contrast to the decreasing trend up to 2011, an increased number of applications have been received since 2012. Seven new trade remedy investigations were initiated in 2012/2013 whereas in 2013/14 it was four. Although the anti-dumping instrument is still prominent, applications for all three instruments have shown an increase since 2012.

# Procedure for conducting AD Investigations







- In the year 2015 ITAC conducted ten investigations to increase MFN tariffs rates from zero to 10% based on applications by AMSA and one additional investigation by Evraz Highveld Steel and Vanadium.
- The ten tariff investigations in respect of AMSA covered:
  - galvanised/coated and painted steel; tin plate; wire rod; rebar; semi-finished products of iron or non-alloy steel; steel plate; cold rolled; sections; other bars and rods; and hot rolled.
- The one tariff investigation with regards to Evraz was on structural steel.
- Two safeguard investigations were initiated on Hot Rolled & Cold Rolled steel.
- On 22 August 2016 an investigation was self-initiated by ITAC to look at a possible increase in tariffs on a number of downstream products.
- These investigations take place in the context of tough global and domestic economic conditions that have seen ITAC having to exercise flexibility and pragmatism in response to real economic needs.
- The guiding principle in these investigations has been to ensure economic viability, sustainability of production, investment and jobs in the whole steel industry value chain. In other words SA needs both the upstream and the downstream.

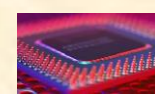


# Duties Imposed on Primary Steel

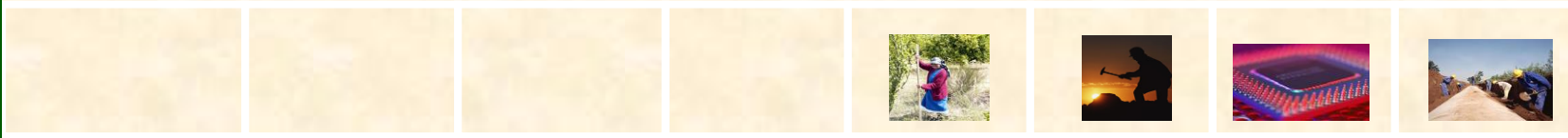


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APPLICANT	PRODUCT	TARIFF SUBHEADINGS	STATUS
South African Iron and Steel Institute (SAISI) - representing ArcelorMittal South Africa Limited (AMSA)& Safal (Pty) Ltd	Galvanised/ Coated & Painted Steel	7210.70,7212.40, 7210.41,7210.49,7210.61,7210.90, 7212.30 and 7225.99 (8 THS)	Implemented on 25 September 2015.
South African Iron and Steel Institute (SAISI): representing AMSA	Wire Rod	7210.11 ,7210.12 and 7212.10 (3 THS)	Implemented on 18 December 2015.
South African Iron and Steel Institute (SAISI): representing AMSA	Re-enforcing bar (Rebar)	7213.91 and 7227.90 (2 THS)	Implemented 18 December 2015.
Evrast Highveld Steel and Vanadium Corporation (Pty) Ltd	Structural Steel	7214.20,7228.30, and 7228.60 (3 THS)	The implementation of the proposed 10% customs duty on structural steel was deferred until the industry resumes manufacturing the subject products in SACU.
AMSA	Semi-finished Steel	7216.31,7216.32, and 7216.33, and 7216.50 (4 THS)	Implemented on 12 February 2016.
AMSA	Steel Plates	7207.11, 7207.12, 7207.19, and 7207.20 (4 THS)	Implemented on 12 February 2016.
AMSA	Cold Rolled Steel	7208.40,7208.51,7208.52 and 7225.40 (4 THS)	Implemented on 12 February 2016
AMSA	Steel Sections	7209.16,7209.17,7209.18,7209.25,7209.26,7209.27,7209.90,7211.23,7211.29,7211.90,7225.50,7226.92 & 7226.99 (13 TSH)	Implemented on 12 February 2016.
AMSA	Tinplate	7216.10,7216.21,7216.22,7216.31,7216.32,7216.40,7216.50,7216.99, and 7228.70 (9 TSH)	This application was withdrawn as the local industry doesn't manufacture the double reduced tinplate (latest technology).
AMSA	Hot Rolled Steel	7208.10,7208.25,7208.26,7208.27,7208.36,7208.37,7208.38,7208.39,7208.53,7208.54,7208.90,7211.13, 7211.14,7211.19,7225.30,7225.99, 7226.91(17 THS)	Implemented on 10 June 2016.
AMSA	Other Bars, Rods and Forges	7213.20,7213.99,7214.10,7214.30, 7214.91,7214.99,7215.90,7228.30,7228.40,7228.60 and 7228.80 (11 THS)	Implemented on 24 June 2016.



- There has been an increase in imports of primary steel and in particular from China. These low-priced imports have resulted in price disadvantages for the domestic firms. This takes place at the back of a global oversupply of steel that has depressed global steel prices.
- The domestic firms market share declined, reduction in sales volumes and production and its capacity utilisation had to fall.
- We witnessed domestic firms making losses and Evraz closing down.
- Employment has been on a decline in the various plants across the country.
- The distress has not been encouraging on investments.
- A very strategic sector in terms of both backward and forward linkages.

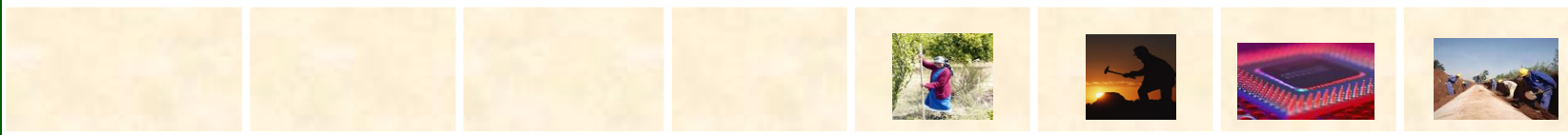


- AMSA and SAFAL made reciprocal commitments on prices so that the downstream users accesses the products at affordable prices.
- AMSA will continue with its value added exports rebate schemes for the re-rollers.
- Pricing model offered by AMSA to the domestic re-rollers must be adhered to.
- AMSA must cooperate with government on developing a pricing model.
- AMSA must retain jobs in the next three years.
- AMSA will invest R4.6 billion in plant and machinery in the next three years.
- ITAC will establish a Committee comprising the primary steel industry, downstream users, government and other relevant experts to monitor the impact of the change in tariffs and steel prices on downstream users as well as the performance of AMSA against the commitments that it has made.
- ITAC will initiate an immediate review of the tariff dispensation in case of a default by the primary steel industry on the above conditions.





- There has been a concern that there are some types and grades of materials not manufactured by AMSA, which are part of the tariff lines where duties have been imposed. For these the Commission is considering applications for rebates.
- Price commitments were made by AMSA to mitigate the price effect of tariffs for the downstream. There are contesting views as to what has been the cause of the price increases that have been seen in 2016.
- For those downstream producers including re-rollers that are export oriented they will benefit from an existing rebate and duty drawback scheme (470.03 and 521.00) for their imported input materials.
- The Commission has self-initiated an investigation to look at increasing tariffs for the downstream that faces stiff competition from imports of their finished goods.



- The Minister of Economic Development established the Committee of the Commission on Steel in terms of section 14 of the ITA Act, 2002, on 10 June 2016. The purpose is to monitor: the impact of changes in import tariffs; reciprocal commitments made by the applicants; jobs in the whole value chain; and import and export trends. The Committee makes recommendations to the Commission.
- The Committee's membership constitutes the commissioners and industry representatives. **thedti** and EDD officials attend and participate in the Committee. It is only the component of Commissioners that has decision-making powers. The Committee has been established for a period of five years.
- The Committee shall report to the Commission at least bi-annually and its first report to the Commission was made in December 2016.
- Its first meeting was held on 20<sup>th</sup> June 2016 in which among others presentations were made by the primary industry(SEIFSA and SACCA) and downstream (SAISC and NEASA) and the 2<sup>nd</sup> meeting was held on 28<sup>th</sup> July in which presentations were made by NUMSA and Solidarity and continues to meet and engage all the relevant stakeholders.





- Import Tariffs on poultry meat were increased towards the end of 2013.
- The increases were based on an application brought by SAPA on behalf of: Rainbow Farms Ltd; Astral Operations Ltd; Sovereign Food Investments Ltd; AFGRI Poultry Ltd; and Supreme Poultry Ltd (Country Bird Holdings).
- The justification to increase tariffs included the rising levels of imports and loss of market share by domestic producers; Decreasing profitability in the face of low priced imports; price disadvantages; and input cost pressures.

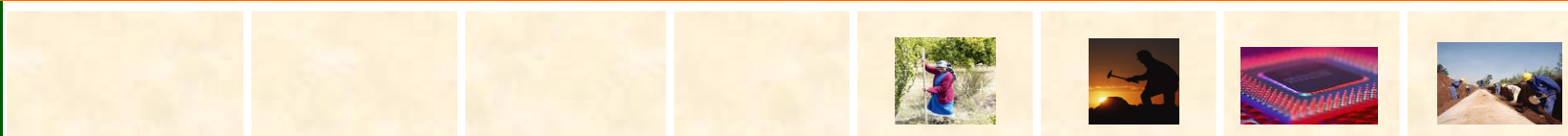
Table 3: Requested rates of duty

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 portion)

# Approved Tariff Regime for Poultry Meat



Tariff Subheading	Product	Approved Tariff Regime
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%



- There are anti-dumping duties on bone-in chicken meat portions originating from the USA that were imposed in 2000.
- These anti-dumping duties have been maintained through sunset reviews in 2006 and 2012.
- In December 2015 a temporary rebate was created to allow for a free anti-dumping duty importation of 65 000 tons of US bone-in chicken portions annually. This was done in the context of SA's continued participation under AGOA.
- There are also anti-dumping duties on bone-in chicken portions against imports from Germany, Netherlands and the UK that were imposed in February 2015.
- ITAC is currently in the final stages of an investigation for a safeguard measure in terms of Article 16 of the TDCA on frozen bone-in portions of chicken originating from the EU.





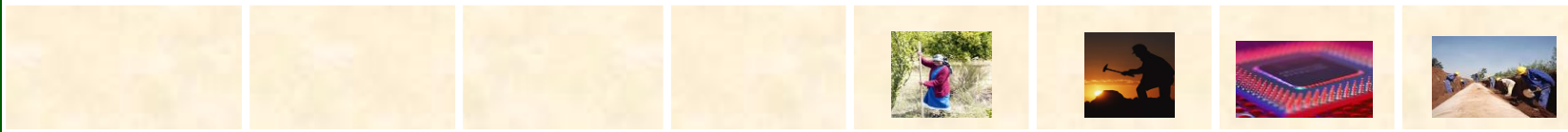
- Import control measures or restrictions in a more globally integrated economy are limited to those allowed under the relevant World Trade Organization (WTO) Agreements.
- Import control measures are essentially for health, safety and environmental reasons. In this regard, ITAC makes a contribution to the green economy. In the enforcement of standards and the curbing of illegal and fraudulent trade, ITAC has positioned itself to play a more strategic role with regard to import control measures and enforcement.
- Minerals beneficiation has been identified as one of the areas where jobs will be created and this has meant an alignment of ITAC's export control measures to give support to beneficiation.





- ITAC has strengthened its export control measures on scrap metal through the introduction of a price preference system to promote investment and employment opportunities in the domestic metals beneficiation and fabrication industries and supply to governments infrastructure programme.
- This followed a policy directive by the Minister of Economic Development aimed at enabling affordable access to quality scrap metal by the consuming industry.
- Since this is the first time that ITAC administers such a system, focus was placed in ensuring its effective administration and managing litigation.





- Different and conflicting interests in the value chain of each investigation may lead to court challenges by parties that stand to lose.
- In respect of court cases, ITAC appeared in domestic courts 28 times (High, Supreme and Constitutional courts) since its establishment in 2003.
- Out of the 28 cases, 20 were ruled in favour and 8 against ITAC (the eight were mostly in the early days of ITAC).
- Other jurisdictions face similar challenges, although in differing degrees.
- There is also the WTO Dispute Settlement Mechanism within which government to government disputes are addressed.



# Thank You

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