

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. R. 4989

21 June 2024

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF
SOUTH AFRICANOTICE IN TERMS OF SECTION 59 OF THE INTERNATIONAL TRADE
ADMINISTRATION ACT, 2002 (ACT NO. 71 OF 2002)

ADMINISTRATIVE FEES REGULATIONS

Attached hereto as Schedule A are draft Administrative Fees Regulations (Regulations) which are being published for public comment. The purpose of the Regulations is to allow for the recovery of administrative costs incurred by the International Trade Administration Commission of South Africa (Commission) in issuing permits or certificates or performing other functions. In thereby carrying out its mandate, the Commission incurs substantial costs, which heretofore have not been recovered. Accumulated financial pressures require the Commission to recoup at least a portion of these costs by levying fees.

Prior to the promulgation of the Regulations, the Commission will publish for public comment guidelines detailing categories and levels of fees, as well as other administrative aspects of the levying of fees by the Commission. It is the intention of the Commission to set fees at levels that are in line with the actual administrative costs incurred by the Commission in performing its functions.

Comments on the Regulations should be submitted within fourteen (14) days of the date of publication of this notice to the following Commission official:

- ☐ Mr Alexander Amrein; email address: aamrein@itac.org.za.

SCHEDULE A

REPUBLIC OF SOUTH AFRICA

**THE INTERNATIONAL TRADE
ADMINISTRATION COMMISSION
OF SOUTH AFRICA**

ADMINISTRATIVE FEES REGULATIONS

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REGULATIONS

Part A - Definitions

1. Definitions

In these Regulations, unless the context indicates otherwise –

“Act” means the International Trade Administration Act, 2002 (Act No. 71 of 2002).

“administrative fee” means a fee contemplated in section 24(1)(b) of the Act and as set forth in guidelines and/or the Commission’s official website.

“APDP” means the Automotive Production and Development Programme Phase 2, legislated in Rebate Item 317.03 of Schedule No. 3 to the Customs and Excise Act, 1964 (Act No. 91 of 1964).

“applicant” means a person applying to the Commission for a permit or certificate.

“Commission” means the International Trade Administration Commission of South Africa, established in terms of section 7 of the Act.

“duly completed” means an application that contains all required information, which information has been found not to be deficient by the Commission, such that the application can be evaluated by the Commission.

“function” means any task performed, or service provided, by the Commission.

“guidelines” means a set of rules or instructions in terms of section 60(1) of the Act.

“Headline Consumer Price Index” means the official measure of inflation in the Republic for all urban areas, as determined by Statistics South Africa.

“Minister” means the Executive Member of Cabinet who may make these Regulations in terms of section 59 of the Act.

“non-profit companies” means a person regulated in terms of the Companies Act, 2008 (Act No. 71 of 2008) and incorporated for public benefit objective or an objective relating to one or more cultural or social activities, or communal or group interests.

“person” means a natural person or a juristic person.

“PFMA” means the Public Finance Management Act, 1999 (Act No. 1 of 1999).

“Republic” means the Republic of South Africa.

Part B – General Provisions

2. Purpose

The purpose of these Regulations is to provide a basis for the levying of administrative fees for functions performed by the Commission.

3. Permits and certificates

The Commission may levy an administrative fee for the processing of a duly completed application for –

- (a) an import or export permit;
- (b) a tariff amendment in the form of a rebate or drawback permit or certificate;
- (c) a production rebate certificate or equivalent certificate under the APDP;
- (d) an eligible production certificate or equivalent certificate under the APDP; and
- (e) any other permit or certificate that the Commission may issue from time to time.

4. Other functions

The Commission may also levy an administrative fee for any function assigned to it by, or in terms of –

- (a) the ITA Act, including tariff amendment and trade remedy investigations and import and export investigations and verifications;
- (b) any other legislation;
- (c) any trade agreement;
- (d) any agreement with any regulatory authority or organ of state; or
- (e) the Minister.

5. Exemptions

- (1) The Commission may exempt an applicant or specified categories of applicants from the payment of an administrative fee for a permit or certificate or for other functions if the applicant(s) demonstrate(s) good cause, or in instances where the Commission determines an exemption to be in the public interest.
- (2) In terms of subsection 1, ascertaining good cause entails a review of –

- a. the identity of an applicant, such as non-profit companies and persons acting in a non-commercial capacity; and
 - b. the nature of the good in question, such as goods to be imported or exported in furtherance of a public purpose, goods having little or no commercial value and personal property.
- (3) In terms of subsection 1, ascertaining the public interest entails a review of the effect that the payment of an administrative fee for a permit or certificate or other function may have on a particular industrial sector or region, or the ability of designated groups or categories of firms to enter, participate in or expand within product markets.
- (4) Notwithstanding subsection 1, the Commission may review and revoke an exemption applicable to an applicant, a category of applicants or a class or kind of good.

6. Refunds

In the case of an application for permit or certificate, an administrative fee is non-refundable at any time after the Commission's acceptance of a duly completed application.

PART C – FEES

7. Categories of administrative fees

- (1) The Commission may create categories of administrative fees with different fee levels and may, from time to time, amend the number of categories and the administrative fees payable under each category.
- (2) If the Commission creates categories of administrative fees in terms of subsection 1, it shall specify in guidelines and/or the Commission's official website the applications and functions that fall into each category.

8. Adjustment of administrative fees

- (1) The Commission may adjust administrative fees in any given year by a maximum of the Headline Consumer Price Index for the year prior to the adjustment. Such an increase shall be undertaken in a transparent manner whereby the Commission publishes the reasons for the increase on its official website.

- (2) Notwithstanding subsection 1, the Minister may increase administrative fees in excess of the Headline Consumer Price Index. Such an increase shall be undertaken in a transparent manner whereby the Commission publishes the Minister's reasons for the increase on its official website.
- (3) An adjustment of administrative fees under subsections 1 or 2 will be effective on 1 April of any year, unless a different effective date is indicated in guidelines or on the Commission's official website.

PART D – FINAL PROVISIONS

9. Short title and commencement

- (1) These Regulations may be cited as the *ITAC Administrative Fees Regulations*.
- (2) These Regulations shall come into effect on the date of publication in the Government Gazette.