
GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 3980 OF 2026****INTERNATIONAL TRADE ADMINISTRATION COMMISSION****OUTCOME OF WHEAT TARIFF AMENDMENT INVESTIGATION****RE: APPLICATION FOR AN INCREASE IN THE DOLLAR-BASED REFERENCE PRICE (“DBRP”) OF WHEAT AND CONSIDERATION OF THE IMPLEMENTATION OF AN AUTOMATIC TRIGGER MECHANISM FOR THE WHEAT IMPORT TARIFF**

The International Trade Administration Commission of South Africa (“ITAC” or the “Commission”) received and considered an application by Grain South Africa (“Grain SA”) and the South African Cereals and Oilseeds Trade Association (“SACOTA”) (collectively referred to as the Applicants). The application was for an increase in the Dollar-Based Reference Price (“DBRP”) on wheat from US\$279/ton to US\$289/ton. In addition, the Applicants requested, because of delays between the occurrence of a trigger event and the publication and implementation of the amendment, that the Commission considers an alternative mechanism for the implementation of changes to the wheat import tariff in the form of an automatic trigger system. It was requested that the implementation and announcement of the tariff be changed so that it is akin to the monthly announcement of fuel prices by the Central Energy Fund (“CEF”).

During its deliberations and in arriving at its recommendations, the Commission considered all relevant information at its disposal, including comments received from interested parties during the investigation and found *inter alia* that:

- Total wheat supply has increased steadily, averaging approximately 4.09 million tons and increased by 11.15% between the 2014/15 and 2023/24 seasons. Demand also increased over the period, from 3.44 million tons to a peak of 3.81 million tons, before decreasing to 3.74 million tons in 2023/24 season. Overall, demand increased by 8.64%, averaging around 3.51 million tons.
- Domestic wheat production averaged 1.83 million tons and increased by 17.35% over the period, largely due to improved yields. While production has shown growth, it has remained variable due to weather and market factors, rather than changes in tariff policy alone.
- Since the DBRP was reduced in 2016, production fluctuations have been driven primarily by yield conditions. The current DBRP of US\$279/ton continues to provide effective support, covering production costs and enabling reasonable profitability. It offers an estimated 18% margin over average production costs, supporting sustainability in the sector.

- Net farm gate prices have outpaced increases in production costs (9% vs. 7%), resulting in improved profitability. On average, profit per ton rose by approximately 27%, with positive gross margin trends across major producing regions.
- The domestic industry maintained a price advantage of approximately 16% over imported wheat. The current tariff regime has also contributed to stabilising planted areas at between 500,000 and 550,000 hectares, supporting local production while providing protection against import competition.
- South Africa's wheat imports have increased, with Australia remaining a key supplier. However, there is a growing shift toward Eastern European sources, including Lithuania and Poland.
- The Commission concluded that US Hard Red Winter ("HRW") No. 2 wheat remains the most appropriate benchmark for setting the DBRP due to its quality alignment, transparency, and consistency.

Considering the foregoing and based on the following additional factors the Commission recommended that the DBRP for wheat remain unchanged at US\$279/ton:

- Wheat is a staple food product and a critical component of South Africa's food security. The DBRP must therefore strike an appropriate balance between supporting domestic wheat producers and ensuring the affordability of basic food products, particularly given that the Southern African Customs Union ("SACU") is a net importer of wheat.
- Information at the Commission's disposal confirms that the current DBRP of US\$279/ton will provide adequate and proportionate tariff protection that will continue to support the domestic wheat industry, which remains profitable and held an average price advantage, over the period of investigation. Whilst simultaneously being sensitive to food affordability as well as the downstream price impacts on millers, bakers and consumers.
- Maintaining the current DBRP and current trigger calculation method, would also continue to place South African wheat producers and their foreign counterparts on an equal competitive footing while recovering the wheat producers' production costs.

Adjustments to the level of protection will therefore continue to be based on quantum movements in the world reference price as follows:

The difference between the 3-week moving average of the US No. 2 HRW (ord) Gulf

settlement price (world reference price) and the domestic Dollar-based reference price for wheat is calculated on a weekly basis. If the 3-week moving average of the US No. 2 HRW (ord) Gulf settlement price shows a variance of more than US\$10/ton from the previous trigger level for 3 consecutive weeks, an adjustment to the tariff is triggered and a new duty calculated. The resulting Dollar specific duty is converted to Rand according to the Rand/Dollar exchange rate prevailing on the day that the adjustment is triggered and subsequently adjusted with the latest available Real Effective Exchange Rate index as published by the South African Reserve Bank.

The levels of duty should not exceed the bound rates of 72 per cent *ad valorem* for wheat and 99 per cent *ad valorem* for wheat flour.

The Commission recognised that the current administration of the variable tariff formula is subject to delays between the occurrence of a trigger event and the publication and implementation of the amendment, which may undermine the effectiveness of the tariff, resulting at times in under- or over-protection of domestic producers and unintended price distortions in the market. It was found that an automatic trigger system is incompatible with the existing legislative framework, in particular Section 48(1)(b) of the Customs and Excise Act, read together with the International Trade Administration Act ("ITA Act") and the Board on Tariffs and Trade Act ("BTT Act"), as it would effectively bypass the required ministerial approval and request process and thereby remove executive oversight.

As such, the Commission took a purposive reading of Section 48 of the Customs and Excise Act and recommended that wheat import duties triggered under the variable tariff formula be applied retrospectively. Specifically, it was recommended that triggered duties take effect from the fourth day after the trigger event occurs, with retrospective implementation. ITAC Report No. 761 suggested that the principle underlying section 48(2) may be extended to support retrospective increases, particularly when read together with sections 48(1)(e) ("public interest") and 48(5) ("correction of unintended effects"). This approach was viewed as one that would preserve ministerial oversight while improving the timeliness and effectiveness of the tariff.

Upon approval of the Commission's recommendations contained in ITAC Report No. 761 by the Minister of Trade, Industry and Competition (the "Minister"), the Minister of Finance duly considered the matter and indicated that he is unable to support a standing arrangement for retrospective implementation under the current legislative framework, particularly to the extent that such an arrangement may result in retrospective increases in ordinary customs duties.

The Minister of Finance raised concerns regarding the absence of explicit legislative authority within the current Customs and Excise framework to support retrospective tariff increases, as well as the potential inconsistency with principles of legal certainty, transparency, and South Africa's obligations under Article X:2 of the GATT, which requires prior publication of measures increasing duties.

In this regard, Government Stakeholders intend to explore potential alternative solutions to address implementation delays. This process will entail coordinated engagement between the Commission, the Department of Trade, Industry and Competition (the "dtic"), SARS and the National Treasury. The engagements may also consider, *inter alia*, whether targeted legislative amendments together with appropriate Governance and transparency safeguards are warranted to address these implementation delays, while preserving legal certainty and defensibility.

In line with prevailing legislation, the investigation culminated in the Minister of Trade, Industry and Competition and the Minister of Finance deciding the following:

- a) The DBRP of wheat will be retained at US\$279/ton;
- b) As a result of the unchanged DBRP of wheat, no amendments to the Schedule 1 of the Customs and Excise Act nor a Government Gazette Notice related thereto will be required; and
- c) Coordinated engagements will be facilitated between the Commission, the dtic, SARS and the National Treasury with the aim of considering potential alternative solutions in an effort to address implementation delays and may also consider, *inter alia*, whether targeted legislative amendments together with appropriate Governance and transparency safeguards are warranted to address these implementation delays, while preserving legal certainty and defensibility.

Enquiries may be directed to the investigating officers, Mrs Manini Masithela at mmasithela@itac.org.za or Mr Scelo Mshengu at smshengu@itac.org.za.