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Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

**Post-Hearing Statement by the Department of Trade and Industry on Behalf of
the Government of the Republic of South Africa
On the Occasion of the Out-of-Cycle Review for Africa Growth and Opportunity
Act (AGOA)**

1. Introduction

South Africa would like to take this opportunity to respond to some of the issues raised during the public hearing on its eligibility to receive benefits under the African and Growth and Opportunity Act. We first respond to the issues related to the three meats (beef, chicken and pork) and then discuss the issues related to South Africa's trade and investment policies. We submit that South Africa has already made significant progress, and continues to make progress on addressing the market access interests and regulatory concerns of the US on beef, chicken and pork through an agreed framework and existing channels of communication with the United States. It is therefore our view that South Africa is eligible for continued participation in AGOA.

It is widely recognized that as our two countries continue to deepen and expand their trade and investment relations some disagreement and tension may arise from time to time between our respective stakeholders. We strongly believe that the bilateral platforms that we have established with the US either through the private sector Chambers and through interactions at Government to Government level provide excellent platforms for continued engagement and dialogue and offer opportunities to find mutually beneficial outcomes. South Africa has invested a great deal of effort and resources in an attempt to address the market access and regulatory concerns of US stakeholders guided by international rules and procedures.

South Africa is a young democracy that is engaged in a process of socio-economic transformation. The objectives of this agenda are set out in various policy instruments of Government as entailed in the National Development Plan, New Growth Path, National Industrial Policy Framework, among others, which have been developed through a transparent public participation process. Implementation of this ambitious development agenda of the new democratic South Africa often requires the development of new policies and regulations. South Africa is mindful of the need to ensure that it continues to balance its need to accelerate the process of socio-economic development and poverty reduction with the need to remain open to foreign investment and trade. Finding the correct balance is not always easy and we appeal to our strategic partners, such as the United States, to work closely with us in this challenging task.

2. Market access issues relating to Beef, Pork and Poultry

South Africa is making continual progress towards promoting trade and investment between our two countries. In the presentation below the various initiatives that have recently been taken, and a clear path towards the resolution of outstanding issues are briefly highlighted.

2.1 Beef

On 24 June 2015, Cabinet took a decision to lift a trade restriction on cattle and products of bovine origin from countries that previously reported Bovine Spongiform Encephalopathy (BSE), including the US.

The Minister of Agriculture, Forestry and Fisheries (DAFF), Mr. Zokwana has written to his US counterpart, Secretary Tom Vilsack on 06 August 2015, to announce that South Africa has lifted trade restrictions on cattle and products of bovine origin from the US. The letter also sets out the process for the beef certificate to be processed and issued. The Cabinet Statement containing this decision can be found on the following link under Paragraph 2.5: <http://www.gcis.gov.za/newsroom/media-releases/statement-cabinet-meeting-24-june-2015>.

DAFF officials have committed to conducting this work timeously within the agreed processes based on scientific risk assessment.

2.2 Chicken

As stated in our Pre-Hearing Submission, an important milestone has been reached towards opening market access to US bone-in chicken cuts during a meeting held in June 2015 in Paris. The meeting agreed that the industry associations from both sides, the South Africa Poultry Association on the SA side and the USA Poultry and Egg Export Council and the National Chicken Council on the US side will capture the understanding reached by concluding an agreement confirming the discussion in Paris. After the Agreement is concluded, SAPA would then request the South African Government to implement the Agreement in line with South Africa's legal framework in this regard. To this end, SAPA drafted the agreement and forwarded it to USAPEEC. The South Africa Government is ready to implement the agreement once finalised by the respective poultry industries.

The Paris meeting agreed to pass on the debate with regard to the merits or demerits of the anti-dumping duties that South Africa legally imposed on US bone-in chicken pieces. Instead both industries agreed to focus on finding a mutually acceptable solution to the US interest in seeking to secure market access for its bone-in-chicken pieces. A breakthrough was made at the Paris meeting on reaching an agreement on an annual quota of 65 000 tons (the terms of the agreement are set out in South Africa's Submission). The processes that the South African Government has embarked on to implement its side of the deal has been set out in its Submission.

It is unfortunate that the discussion and engagements above on market access for US bone-in chicken cuts took place at the time when the US was experiencing sporadic outbreaks of avian influenza. To assist our two governments to allow for safe trade to take place between our two countries there has been robust and frequent engagements between the veterinary scientists from both South Africa and the United States guided by internationally accepted norms and standards in resolving such matters. On 04 August 2015, South Africa's Chief Veterinary Officer

wrote a letter to his US counterpart, the Deputy Administrator at Animal and Plant Health Inspection Service (APHIS), to confirm the current status on SPS issues on poultry. The understanding is that our two countries agreed to wait for 3 months after the last outbreak of avian influenza (HPAI) freedom from the US. The priority now should be to focus on certification, as the likelihood of the US being disease-free in the next 6 weeks was very high. A great deal of progress was made on the poultry certificate. Our veterinary scientists also agreed to continue discussions on regionalisation or compartmentalisation for the next season.

The USA also requested clarity as to whether SA used the same standard for the USA as with the EU member states for HPAI. The Chief Veterinary Officer replied, in the same letter, that the US is a single country and the various States are understood not to be sovereign. On the other hand, the EU member states are sovereign and South Africa treats all EU member states as single countries for animal health purposes.

2.3 Pork

The two countries made good progress on certificates on pork destined for unrestricted sale and for further processing. South Africa agreed that a significant number of recognizable pork cuts were categorized as low risk and were now accepted for unrestricted sale conditions. Other cuts, such as shoulder cuts, can be imported for further processing for the reasons outlined in a letter to the Deputy Administrator at APHIS dated 24 July 2015. However, South Africa's Vets have agreed to continue to discuss the US interest in further cuts for unrestricted sale, including shoulder cuts.

3. Policy Debates in South Africa

South Africa maintains one of the most transparent and open policy environments in the world. Its policy process allow for full public participation prior to policy documents being presented to Cabinet, as well as after Cabinet has approved certain policy documents through the Parliamentary consultation process. Indeed, US stakeholders have been and continue to fully utilize these channels to convey

their views. South Africa encourages interested and affected parties to continue to participate in these policy debates. In this regard, the South African Government will invite the US Chamber of Commerce (South Africa) to a policy dialogue and engagement on all the policy issues raised by the Chamber and other stakeholders during the Public Hearing. These issues include; the Amended Broad-Black Economic Empowerment (B-BBEE) Codes of Good Practice, the Private Security Bill and discussions on Intellectual Property Rights.

With regard to, concerns related to regulatory delays at the Medicine Control Council (MCC), it has been brought to our attention that while there may have previously been delays, the latest statistics indicate that MCC takes 18 months for registering new products. To deal with shortage of skilled professionals, MCC is planning to establish an Institute of Regulatory Science to train regulators on registration of medicines and to promote transfer of skills. Other interventions include a Bill that will be introduced by the Minister of Health in the National Assembly towards the establishment of the SA Health Products Regulatory Authority (SAHPRA).

4. Conclusion

The South African government is thus of the view that South Africa has adhered to both the letter and spirit of the AGOA eligibility criteria to remain a beneficiary of AGOA for the next 10 years. South Africa has made significant and continual progress in addressing issues of concern to the United States regarding market access for bone-in chicken pieces, beef and pork. Furthermore, South Africa maintains a transparent policy environment and interested and affected parties can participate in the Bills before Parliament. South Africa thanks all the interested parties that have made constructive suggestions to both strengthen and deepen its trade and investment relationship with the United States and hereby commits to working with all the parties concerned to address the concerns raised in a mutually beneficial manner.