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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. R. 952

02 SEPTEMBER 2020

**INTERNATIONAL TRADE ADMINISTRATION ACT, 2002 (ACT NO. 71 OF 2002)
AMENDMENT OF POLICY DIRECTIVE ISSUED IN TERMS OF SECTION 5 AND NOTICE IN
TERMS OF SECTION 6 OF THE INTERNATIONAL TRADE ADMINISTRATION ACT, 2002
ON THE EXPORTATION OF FERROUS AND NON-FERROUS WASTE AND SCRAP METAL**

I, Ebrahim Patel, Minister of Trade, Industry and Competition ("**the Minister**"), and acting under the powers vested in me by Section 5 and Section 6 of the International Trade Administration Act, 2002 (Act No. 71 of 2002) ("**the Act**"), hereby amend the trade policy directive and notice issued by me and published in Government Gazette No. 43501, Notice No. R. 746 dated 3 July 2020.

1. BACKGROUND

- 1.1 On 10 February 2012 the Minister of Economic Development, acting in terms of section 6 of the Act, issued Notice No. R.92 in Government Gazette No. 35007, as amended from time to time ("**Export Control Notice**"), which prescribes *inter alia* that certain goods including ferrous and non-ferrous waste and scrap metal shall not be exported from the Republic of South Africa except by virtue of an export permit issued by the International Trade Administration Commission of South Africa ("**ITAC**") in terms of Section 6 of the Act, and in which such goods are specifically described.
- 1.2 On 10 May 2013 the Minister of Economic Development issued a Trade Policy Directive to ITAC in terms of section 5 of the Act under Notice No. 470 in Government Gazette No. 36451 ("**Policy Directive**") requiring ITAC to exercise its powers under the Act to regulate the exportation of ferrous and non-ferrous waste and scrap metal in accordance with the policy contained therein. The Policy Directive has been extended from time to time and is currently in place until 31 December 2020
- 1.3 Pursuant to the Policy Directive, ITAC has established a price preference system. The price preference system is set out in the Amended Export Control Guidelines on the Exportation of Ferrous and Non-Ferrous Waste and Scrap as published in Notice No. R.1012, Government Gazette No. 41940 of 28 September 2018 ("**the guidelines**"). The guidelines provide that ITAC will not permit the exportation of ferrous and non-ferrous waste and scrap of a kind listed in paragraph 3 of the

guidelines unless it has first been offered for sale for domestic beneficiation to the domestic consuming industry at a price discount to an international benchmark price and on the further terms as set out in the guidelines ("**the price preference system**").

- 1.4 During the period of the National State of Disaster, declared pursuant to the Disaster Management Act, 2002 (Act No. 71 of 2002) on 15 March 2020 in Government Notice No. 313 of Government Gazette No. 43096, the Minister received representations from the domestic consuming industry that there is a shortage of affordable scrap metal and the price preference system is not achieving the objectives of the Policy Directive, which is causing severe harm to the industry and affecting its recovery from the destructive effects of the COVID-19 global pandemic. The representations requested that urgent action be taken to remedy the situation.
- 1.5 On 3 July 2020 the Minister of Trade, Industry and Competition issued a trade policy directive to ITAC in terms of section 5 and a notice in terms of Section 6 of the Act under Notice No. R.746 in Government Gazette No. 43501 ("**Trade Policy Directive and Notice**"). The Trade Policy Directive and Notice required ITAC to —
- 1.5.1 as a matter of urgency investigate whether the price preference system is achieving the objectives of the Policy Directive and in particular (but without limitation), whether there is a shortage of scrap metal for the domestic processing industry, whether the discount, delivery and payment terms should be amended and whether another formula should be applied to achieve the objectives;
- 1.5.2 complete the investigation within a period of two months from the date of publication of the Trade Policy Directive and Notice; and
- 1.5.3 if as a result of the investigation ITAC finds that the price preference system requires amendment in order to achieve the objectives of the Policy Directive, amend the price preference system.
- 1.6 The Trade Policy Directive and Notice also required ITAC to suspend the operation of the price preference system and the guidelines for a period of two months from the date of publication of the Trade Policy Directive and Notice. Furthermore, the Minister prescribed in the Trade Policy Directive and Notice that no ferrous and non-ferrous waste and scrap may be exported from the Republic for a period of two months from the date of publication of the Policy Directive and Notice, subject to exceptions where

the grade of scrap metal is not used by the domestic processing industry. The two months period comes to an end on 2 September 2020.

- 1.7 The Minister has now received the outcomes of ITAC's investigation undertaken pursuant to paragraph 2.1.1 of the Trade Policy Directive and Notice. The findings of the investigation may require further action by ITAC, including, inter alia, changes to the current PPS. Accordingly, ITAC have published a set of proposed amendments to the PPS Policy Guidelines for public comment in Government Notice No. 464 of Government Gazette No. 43670 on 1 September 2020. ITAC have allowed for a two-week period of public comment from the date of publication of the aforementioned notice. To enable this process, which will provide opportunity for interested stakeholders to provide input, the Minister has determined that it is appropriate to largely maintain the current status quo on the export of ferrous and non-ferrous waste and scrap metal contained in the Trade Policy Directive and Notice in place for a short period beyond 2 September 2020. The department may also consult with stakeholders on any proposals for complementary measures which may be implemented to achieve the objectives of the Policy Directive.
- 1.8 During this short period where the status quo on the export of ferrous and non-ferrous waste and scrap metal contained in the Trade Policy Directive and Notice is maintained, certain amendments will be made to enable ITAC to consider export permit applications for the exportation of certain grades of scrap metals listed in the schedule to the Trade Policy Directive and Notice for which it determines through confirmation received from the domestic processing industry or the **dtic** sector desk, that the industry is not consuming this grade of scrap at the time of application.

2. **AMENDMENT OF THE TRADE POLICY DIRECTIVE AND NOTICE**

The Minister amends the Trade Policy Directive and Notice as published in Government Gazette No. 43501, Notice No. R. 746 dated 3 July 2020, as follows:

2.1 **Amendment of Paragraph 2.1.4 of the Trade Policy Directive and Notice:**

Paragraph 2.1.4 of the Trade Policy Directive and Notice is hereby amended by the substitution of the following:

"keep the suspension of the operation of the price preference system and the guidelines in place until 2 October 2020 or until the publication of amendments to the price preference system, whichever ever occurs first, and not accept or process any applications for an export

permit for scrap metal made after 3 July 2020, provided that the price preference system and guidelines shall continue to apply to applications made before 3 July 2020, and export permits may be issued in respect of those applications.”.

2.2 Amendment of Paragraph 2.2 of the Trade Policy Directive and Notice:

Paragraph 2.2 of the Trade Policy Directive and Notice is hereby amended by the substitution of the following:

“Notwithstanding the Export Control Notice, the Minister prescribes, in terms of section 6 of the Act, that no ferrous and non-ferrous waste and scrap of a kind listed in the schedule hereto may be exported from the Republic from 3 July 2020 until 2 October 2020 or until the publication of amendments to the price preference system, which ever occurs first, provided that-“

2.3 Amendment of Paragraph 2.2.2 of the Trade Policy Directive and Notice:


Paragraph 2.2.2 of the Trade Policy Directive and Notice is hereby amended by the substitution of the following:

“2.2.2 ITAC may consider export permit applications for the exportation of certain grades of ferrous and non-ferrous metals listed in the Schedule hereto for which it determines—

2.2.2.1 are not used by the domestic processing industry; or

2.2.2.2 through confirmation received from the domestic processing industry or the **dtic** sector desk, that the industry is not consuming this grade of scrap at the time of application.

Ferrous and non-ferrous metals for which export permits are issued in terms of this paragraph may be exported notwithstanding paragraph 2.2 above.”



EBRAHIM PATEL

MINISTER OF TRADE, INDUSTRY AND COMPETITION

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