

GNR.746 of 3 July 2020: Policy Directive issued in terms of section 5 and notice in terms of section 6 of the Act on the exportation of ferrous and non-ferrous waste and scrap metal
(Government Gazette No. 43501)

as amended by

Notice
R.952

Government Gazette
43677

Date
2 September 2020

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

I, Ebrahim Patel, Minister of Trade, Industry and Competition (“**the Minister**”), issue the following trade policy directive in terms of section 5 and notice in terms of section 6 of the International Trade Administration Act, 2002 (Act No. 71 of 2002) (“**the Act**”).

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.
- 1.3 The objectives of the Policy Directive are *inter alia* to regulate exports so as to ensure an affordable supply of quality scrap metal, an essential material to the domestic processing industry, to safeguard employment and to maintain and increase industrial capacity to promote infrastructure development.
- 1.4 The Policy Directive has been extended from time to time. On 20 March 2020, the Minister of Trade and Industry, in Notice No. 192, *Government Gazette* No. 43123 extended the Policy Directive for a period of 9 months until 31 December 2020.
- 1.5 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 (which is reproduced in the schedule hereto) 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 (“**the discount**”) and on the further terms as set out in the guidelines (“**the price preference system**”).
- 1.6 The Minister has 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 request that urgent action be taken to remedy the situation.

- 1.7 While the long-term policy objective of government is to implement an export tax on scrap metal, as announced by the Minister of Finance during his Budget speech in 2019, such work has been interrupted by the COVID-19 pandemic. It is expected that National Treasury's work will re-commence shortly. This Policy Directive and Notice are intended, in the short term, to address the shortage of affordable quality scrap metal and to direct ITAC to investigate whether the price preference system is achieving the objectives of the Policy Directive.

2. POLICY DIRECTIVE AND NOTICE

- 2.1 The Minister hereby issues a Trade Policy Directive in terms of section 5 of the Act that ITAC shall—

- 2.1.1 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 (“**the investigation**”);

- 2.1.2 complete the investigation within a period of two months from the date of publication of this Trade Policy Directive and Notice;

- 2.1.3 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 (subject to the terms of the Policy Directive); and

- 2.1.4 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, which 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.

[Para. 2.1.4 substituted by GNR.952 of 2 September 2020.]

- 2.2 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—

- 2.2.1 ferrous and non-ferrous metals for which export permits were issued:

- 2.2.1.1 prior to the date of publication of this Trade Policy Directive and Notice; and

- 2.2.1.2 after the date of publication of this Trade Policy Directive and Notice in respect of applications made before the date of publication of this Trade Policy Directive and Notice,

may be exported;

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.

[Para. 2.2 amended by GNR.952 of 2 September 2020. Para. 2.2.2 substituted by GNR.952 of 2 September 2020.]

(Signed)

EBRAHIM PATEL

MINISTER OF TRADE, INDUSTRY AND COMPETITION

SCHEDULE

PARAGRAPH 3 OF THE AMENDED EXPORT CONTROL GUIDELINES ON THE EXPORTATION OF FERROUS AND NON-FERROUS WASTE AND SCRAP

DESCRIPTION OF GOODS	TARIFF HEADING
Ferrous waste and scrap, re-melting scrap ingots of iron or steel	7204
Copper waste and scrap	7404.00
Nickel waste and scrap	7503.00
Aluminium waste and scrap	7602.00
Lead waste and scrap	7802.00
Zinc waste and scrap	7902.00
Tin waste and scrap	8002.00
Tungsten (Wolfram) waste and scrap	8101.97
Molybdenum waste and scrap	8102.97
Tantalum waste and scrap	8103.30
Magnesium waste and scrap	8104.20
Cadmium waste and scrap	8107.30
Antimony waste and scrap	8110.20
Manganese waste and scrap	8111.00
Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium) rhenium and thallium waste and scrap	81.12
