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## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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### DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 1262

2 September 2022

#### INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

#### REQUEST FOR COMMENTS FROM INTERESTED PARTIES ON EXPORT CONTROL GUIDELINES ON THE EXPORTATION OF SEMI-FINISHED METAL PRODUCTS

##### INTRODUCTION

In Government Notice No. 1212 published in Government Gazette No. 47202 dated 5 August 2022, the Minister of Trade, Industry and Competition (the "**Minister**") published a draft notice for public comment in terms of which the Minister proposed amending the export regulations contained in Government Notice No. R. 92 published in Government Gazette No. 35007, dated 10 February 2012, as amended, to prohibit the export of certain semi-finished metal products, except under the authority of and in accordance with the conditions stated in a permit issued by the International Trade Administration Commission of South Africa (the "**Commission**") (the "**Draft Amendment Notice**").

The Commission requests interested parties to make submissions and/or comments on the below guidelines on the exportation of semi-finished metal products.

These guidelines follow the Draft Policy Proposals on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metals Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metal Products to Limit Damage to Infrastructure and the Economy published on 05 August 2022. Public comments on the draft policy proposals are currently being considered and the Minister has not taken a decision on these policy proposals. The Commission is hereby issuing draft guidelines preparatory to the Draft Amendment Notice being finalised and subject to the condition that the said amendments proposed by the Minister in the Draft Amendment Notice come into force.

##### PROCEDURES AND TIME LIMITS

All comments and submissions should be received by the Senior Manager: Import and Export Control by no later than 14 calendar days from the date hereof.

Submissions and or enquiries are to be sent to [MCollins@itac.org.za](mailto:MCollins@itac.org.za).

## DRAFT EXPORT CONTROL GUIDELINES ON THE EXPORTATION OF SEMI-FINISHED METAL PRODUCTS

### 1. Definitions

- 1.1 "**Amendment Notice**" means the amendments to the Export Control Regulations by the Minister of Trade, Industry and Competition in terms of Section 6(1)(d) of the International Trade Administration Act, 2002 (Act No. 71 of 2002) published in Notice No.[ \_\_\_\_ ] in Government Gazette No. [ \_\_ ] of [Day\_\_ ] [Month\_\_\_\_ ] 2022.
- 1.2 "**Applicant**" means any person wishing to export the Subject Products.
- 1.3 "**Application Form**" means the Form IE361 (application for export permit: general goods) duly completed by an Applicant.
- 1.4 "**Export Control Regulations**" means the regulations published in Government Notice No. R. 92, Government Gazette No. 35007, dated 10 February 2012, as amended.
- 1.5 "**Guidelines**" means these Export Control Guidelines on the Exportation of Semi-Finished Metal Products.
- 1.6 "**ITAC**" means the International Trade Administration Commission of South Africa established under section 7 of the International Trade Administration Act, 2002 (Act No. 71 of 2002).
- 1.7 "**person**" means a natural or juristic person.
- 1.8 "**Subject Products**" means those products listed in the table under paragraph 2 of the Amendment Notice.

### 2. Amended Export Control Regulations

In terms of the Amendment Notice, the Semi-Finished Metal Products shall not be exported from the Republic of South Africa except under the authority of and in accordance with the conditions stated in a permit issued by ITAC.

### 3. Permit administration

3.1 Duly completed applications for export permits, as provided for in paragraph 4, must be submitted

by e-mail to:

- **[For Name/e-mail address];**

or by hand delivery to:

- 77 Meintjies Street, Block D, 2<sup>nd</sup> Floor, Sunnyside, Pretoria.

3.2 Enquiries should be directed to the following ITAC officials:

- **[Contact details person 1]**
- **[Contact details person 2]**

3.3 Applications referred to in subparagraph 1 that are submitted to ITAC on a working day, will normally be processed and issued within 7 to 10 working days after receipt of a duly complete application.

### 4. Application form

4.1 A Form IE230 for registration of first time applicants and form IE361 (application for export permit: general goods) must be duly completed by an Applicant.

4.2 An Application Form must be accompanied by the following documents:

4.2.1 Any required environmental operating permit;

4.2.2 A sworn affidavit deposed to by the managing director or similar official of a business that the information provided in the Application Form is correct to the best of his or her knowledge;

4.2.3 Details of the materials from which the Subject Products were produced;

4.2.4 If scrap metal was used in the manufacture of the Subject Products, proof of registration of the Applicant as a scrap metal dealer in terms of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009); and

4.2.5 A valid SARS Tax Clearance Certificate must accompany all applications.

4.2.6 If scrap metal was used in the manufacture of the Subject Products for which application is made and such scrap metal was:

4.2.6.1 purchased by the Applicant, the Applicant must provide:

4.2.6.1.1 the date of purchase;

4.2.6.1.2 the type of metal purchased;

4.2.6.1.3 the grade of metal purchased;

4.2.6.1.4 the tonnage purchased;

4.2.6.1.5 total cost of the purchase;

4.2.6.1.6 the sellers' company or close corporation registration number, or in the case of an individual, identity number;

4.2.6.1.7 proof of registration of the seller as a scrap metal dealer (if applicable) in terms of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009); or

4.2.6.2 sourced from the Applicant's own production, the Applicant must provide proof thereof.

4.2.6.3 If the Applicant is the appointed wholesaler or retailer for a manufacturer of the Subject Products, such appointed wholesaler or retailer must provide a written and signed appointment/agreement from the manufacturer and the above information as reflected in paragraph 4.2 must be submitted in support of an export application by a wholesaler or retailer for a manufacturer.

- 4.3 In order to assist ITAC with the sound administration and proper adjudication of the export permit system, ITAC may from time to time and when circumstances warrant, require additional documentation in order to, *inter alia*, make an informed decision on an application for an export permit.
- 4.4 The foreign acquirer's details must be provided to ITAC. If the Applicant is unable to provide full details of the foreign acquirer at the time that the application is made, this must be done once an export permit is approved. If a permit application is approved, the exporter will be advised of the approval, the ITAC reference number, grade of the material, quantity and value. On receipt of such approval, the exporter must submit full details of the foreign acquirer, including the name, physical address and country of destination to ITAC. An export permit will only be issued after such details are provided. The Subject Products to be exported shall not be supplied or exported to any acquirer or country/place of destination other than those declared to ITAC.
- 4.5 Subject Products authorised for export by way of an ITAC export permit must be containerised and sealed on the exporter's registered and licenced premises as declared to ITAC, after receipt of a valid ITAC export permit in which the Subject Products are clearly described. Subject Products destined for export may not be containerised on any other premises not declared to ITAC in the application. Loaded and sealed containers for export must be conveyed from the exporter's registered and licenced premises as declared to ITAC, directly to the port of export mentioned on the export permit.

## 5. **Miscellaneous**

- 5.1 An Applicant may be subject to a verification inspection by ITAC before an application for an export permit is evaluated. The inspection may delay the issuing of an export permit.
- 5.2 If an Applicant provides incorrect or false information in an application, ITAC may reject such application.

- 5.3 If incorrect or false information is provided to ITAC, ITAC may also take any action available to it under the prevailing legislation, including but not limited to criminal prosecution.
- 5.4 ITAC export permits are not transferrable. The permit and/or volume of Subject Products specified on each export permit may not be transferred in any manner by the holder thereof to any other person, or be used to the benefit of any person not named in the permit.
- 5.5 Export documentation may be requested by ITAC after exportation of the Subject Products. This may include documentation such as the Bill of Lading, Bill of Entry for Export, South African Reserve Bank confirmation of payment received and any other export-related documentation.
- 5.6 Export permits will be valid for Customs clearance and exportation purposes for a period not exceeding 60 days from the date of issue.

6. **Effective date**

These Guidelines will come into effect on the date of publication in the Government Gazette.