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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 532 OF 2020****International Trade Administration Commission of South Africa****Amended Export Control Guidelines on the Exportation of Ferrous and Non-Ferrous Waste and Scrap****1. Definitions**

- 1.1 **“domestic consuming industry”** means the domestic consumers of scrap metal, which are foundries, mills, mini-mills and secondary scrap metal smelters;
- 1.2 **“Guidelines”** means these Export Control Guidelines on the Exportation of Ferrous and Non-Ferrous Waste and Scrap metal establishing a price preference system as described in paragraph 2;
- 1.3 **“the Act”** means the International Trade Administration Act, 2002 (Act No. 71 of 2002);
- 1.4 **“ITAC”** means the International Trade Administration Commission of South Africa established under section 7 of the Act;
- 1.5 **“new entrant applicant”** means a party that is not already registered with ITAC as an exporter of scrap metal;
- 1.6 **“scrap metal”** means ferrous and non-ferrous waste and scrap metal, whether generated within South Africa or imported into South Africa, of a kind listed in paragraph 3;
- 1.7 **“valid offer”** means an official purchase order at the price preference level calculated by ITAC.
- 1.8 **“coastal provinces”** are those provinces along the South African coastline.

2. Price Preference System

On 10 May 2013 the then Minister of Economic Development issued a trade policy directive (the Directive) in terms of Section 5 of the Act, that ITAC exercise its powers under the Act to regulate the exportation of scrap metal. ITAC established a price preference system (PPS) pursuant to which it would not allow the exportation of scrap metal unless it had first been offered for sale for local beneficiation, to the domestic consuming industry, for a period

and at a price discount or other formula determined by ITAC.¹ The particulars of the PPS are set forth in paragraphs 3-8 below and are divided into subject headings for ease of reference.

3. Subject Merchandise

In accordance with the Directive, the scrap metal categories subject to the PPS are listed in the Export Control Regulations, published in Government Gazette Notice No. R 92 of 10 February 2012 in terms of section 6 of the Act:

<u>Description of goods</u>	<u>Tariff heading</u>
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

¹ Notice No. 470 published in Government Gazette No. 36451 of 10 May 2013

Beryllium, chromium, germanium, vanadium, 81.12
gallium, hafnium, indium, niobium
(columbium) rhenium and thallium waste and
scrap

4. Price Preference Calculation

- 4.1 The price preference at which scrap metal must be offered for sale to the domestic scrap consuming industry will be calculated as described below.
- 4.2 Price preference calculations for scrap metal will be done by ITAC for all the different types of scrap metal listed in paragraph 3 (and the various grades thereof as the case may be) using, in general but not exclusively, ScrapIndex.com as an international benchmark price. From the average price achieved during the previous day, week, two weeks, month, or quarter, where applicable, for the different types and grades of scrap metal, an amount of 30% will be deducted to reflect the price at which ferrous scrap metal must be offered for sale to the domestic consuming industry, and an amount of 25% will be deducted to reflect the price at which aluminium scrap metal must be offered for sale to the domestic consuming industry, and an amount of 20% will be deducted to reflect the price at which all other scrap metal must be offered for sale to the domestic consuming industry.
- 4.3 Notwithstanding the above, the price preference price for red metal waste and scrap including copper, brass and bronze waste and scrap as listed here-under, will be calculated by using the London Metal Exchange index price (LME full price) as an international benchmark average price. From the average price achieved and based on the average exchange rate during the previous day, week, two weeks, month or quarter, where applicable, for the different types and grades of red metal waste and scrap, an amount of 10% will be deducted to reflect the price at which the different grades of red metal waste and scrap must be offered for sale to the domestic consuming industry.

COPPER ISRI grades	Percentage of Copper LME full price	BRASS / BRONZE ISRI grades	Percentage of Brass, Bronze LME full price
BARLEY	96.0	DRINK	55.0
BERRY	93.0	EBONY	80.0
BERYLLIUM	70.0	ENERV	60.0
BIRCH	87.0	GRAPE	65.0
CANDY	93.0	HONEY	60.0
CLIFF	84.0	LABLE	70.0
CLOVE	96.0	MALIC	82.0
COBRA	87.0	MIXED BRASS & BRONZE	60.0
COCOA	85.0	NIECE	54.0
COPPER TURNINGS	75.0	NOMAD & NOBLE	45.0
DREAM	75.0	OCEAN	50.0
DRUID	33.0	PARCH (BRONZE)	65.0
SOUDRONIC COPPER	92.0	NIGHT/BRASS SHAVINGS	59.0
		NOBLE 60/40 Solids	61.0

Red metal Table ²

4.4 In order to take into account the cost of inland transportation for scrap metal consumers who are buying ferrous scrap metal from coastal provinces, an additional discount of 10%, over and above the percentage value for ferrous scrap as indicated above, will be deducted for ferrous scrap metal that is available in coastal provinces.

4.5 With regard to the calculation of the price preference at which the following waste and scrap metal of aluminium must be offered for sale to the domestic consuming industry –

Clean Mixed Old Alloy Sheet, also known as Taint/Tabor; Aluminium extrusions also known as Toto/Tutu/Tread; Mixed borings and turnings, also known as Telic/Teens; Mixed low copper aluminium clippings and solids, also known as Taboo/Tough/Tooth; New clean aluminium lithograph sheets scrap, also known as Tabloid/Tablet; Mixed cast aluminium scrap also known as Tense/Trump; clean painted aluminium

² Red metal grades

scrap also known as Tale; Painted aluminium insulated scrap; Coated aluminium scrap also known as Talent; used beverage cans also known as Talap/Tale; shredded used beverage cans also known as Talc red; Bailed used beverage cans also known as Taldon; Briquette used beverage cans, also known as Taldork; New beverage can stock scrap, also known as Take; Remelt aluminium ingot also known as Throb; Remelt aluminium soes also known as Throb; Mixed irony aluminium scrap; Low grade irony aluminium scrap; Scrap auto transmissions; Scrap aluminium auto rods also known as Tally; Insulated aluminium wire scrap; also known as Twang; Supported aluminium cable scrap; Bore aluminium wire scrap; Aluminium Auto wheel scrap, also known as Troma; Aluminium nodules; also known as Tall; Aluminium foil scrap also known as Terse and Testy/Tesla; Paper backed aluminium foil waste; Aluminium auto fragments, also known as Zorba; Copper/aluminium radiators, also known as Talk;

the ScrapIndex.com price of Cast Aluminium Scrap, also known as Tense, will be used as a starting point for calculating the price preference for the aluminium grades referred to above. Where the price of the grades referred to above is higher or lower than the Cast Aluminium Scrap (Tense) price on ScrapIndex.com, the price preference applicable to those grades will correspondingly be adjusted upwards or downwards, respectively, by ITAC.

4.6 With regard to the calculation of the price preference at which the following grades of ferrous waste and scrap metal (excluding stainless steel) must be offered for sale to the domestic consuming industry –

No1 heavy melting steel: ISRI code 200; No 1 heavy melting steel: ISRI code 201; No 1 heavy melting steel: ISRI code 202; No 2 heavy melting steel: ISRI code 303; No 2 heavy melting steel: ISRI code 204; No 2 heavy melting steel; ISRI code 205; No 2 heavy melting steel: ISRI code 206; No 1 Busheling: ISRI code 207; No 1 Bundles: ISRI code 208; No 2 bundles: ISRI code 209; Shredded Scrap: ISRI code 210; Shredded Scrap: ISRI code 211; Steel can bundles: ISRI code 213; No 3 bundles: ISRI code 214; Machine Shop Turnings: ISRI code 219; Machine Shop Turnings including iron borings: ISRI code 220; Electric furnace bundles: ISRI code 235; Cut structural and plate scrap: ISRI code 236; Cut structural and plate scrap: ISRI code 237; Cut structural and plate scrap: ISRI code 238; Foundry

Steel: ISRI code 242; Foundry Steel: ISRI code 243; Chargeable slab crabs: ISRI code 249; Pulled bead wire: ISRI code 273; Processed tyre wire: ISRI code 278; Processed tyre wire: ISRI code 282; Mixed cast scrap: ISRI code 257; Rail Steel No 2. : Cropped Rail Ends: ISRI code 28C; No 1 heavy melting steel to No 2 heavy melting steel: ISRI code 201-206;

the monthly average Metal Bulletin, fob Rotterdam price of heavy melting steel, HMS1&2 (80:20), will be used as a starting point for calculating the price preference for the ferrous grades referred to above. Where the price of the grades referred to above is higher or lower than the HMS1&2 (80:20) grade price, the price preference applicable to those grades will correspondingly be adjusted upwards or downwards, respectively, by ITAC.

- 4.7 For the calculation of the price preference at which stainless steel waste and scrap metal must be offered to the domestic consuming industry, ScrapIndex.com will not be used as the price index. Instead, a combination of the prices as quoted on the London Metal Exchange, Nickel trading prices; the Ferro-chrome lumpy Cr charge, basis 52% Cr quarterly major European destinations USD per lb. Cr; the Metal Bulletin Ferrous Scrap Index HMS 1&2 (80:20 mix) USD per tonne FOB Rotterdam; and Platt's publication or Metal Bulletin Molybdenum Drummed molybdcic oxide free market \$ per lb. Mo in warehouse will be used.
- 4.8 The rate of exchange used will be the average daily, weekly, monthly or quarterly rate as provided by the SA Reserve Bank.
- 4.9 Price preference calculations will be published daily, weekly, bi-weekly, monthly or quarterly on ITAC's website. The published price preferences will indicate the price at which the specific type and grade of scrap metal is to be offered to the domestic consuming industry for the period as indicated above following the period in which the price preference prices were published.
- 4.10 As indicated above in paragraph 4.4, an additional discount of 10%, over and above the percentage value of 30% for ferrous scrap metal as indicated above, will be deducted for ferrous scrap metal that is available in coastal provinces.
- 4.11 ITAC reserves the right to determine from time to time the appropriate ISRI codes or grades for the scrap metal categories listed under paragraph 3 herein-above which are not referred to or listed in these

Guidelines, and to publish ITAC PPS prices for such ISRI codes or grades in accordance with the approved method of calculation of prices for that particular type or class of scrap metal.

5. Administration

5.1 A technical Working Group consisting of, where available, one representative of the Metal Recyclers Association, the South African Iron and Steel Institute, the Institute of Foundrymen, the Aluminium Federation of SA, The Copper Development Association Africa, the Non-ferrous Metal Association, the International Zinc Association of Southern Africa, the Recyclers Association of SA, any other applicable industry representative organization, and ITAC, may meet as and when requested by ITAC to discuss issues specific to the administration of the PPS.

5.2 Duly completed applications for export permits as provided for in paragraph 7 must be submitted to ITAC twice weekly to enable ITAC to compile the provided information into a circular for circulation on Wednesdays and Fridays to the industry representative organisations referred to in subparagraph 1 above, who in turn, will forward the information to their respective members (other industry representative organisations with a direct interest in scrap metal exports may request ITAC to include them in the circular).

5.3 Applications referred to in subparagraph 2 above that reach ITAC by 12h00 on a Tuesday may be included in the immediately following Wednesday circulation and applications that reach ITAC by 12h00 on Thursday may be included in the immediately following Friday circulation. Applications received after the cut off-date and time will be held over until the next circulation date.

6. Agreement

6.1 If a member of the domestic consuming industry wishes to purchase scrap metal listed in a circular, it must, before the end of a circulation period of fifteen (15) working days, submit a valid offer to purchase and all the communication pertaining thereto between it and an applicant to ITAC. Interested buyers must be allowed access to available scrap metal as applied for and circulated by ITAC, for inspection purposes before an offer is made.

6.2 Upon receipt of the scrap metal at the buyer/consumer's premises, the

buyer/consumer is allowed to weigh and inspect the materials to ascertain that the delivered material is the same as agreed when the offer was made and the transaction concluded. Should the scrap material not meet the agreed criteria it may be returned to the seller at the seller's expense.

- 6.3 Where an agreement has been reached between a buyer and a seller, the details thereof such as the circulation number and any other relevant information must be communicated to ITAC, thus enabling ITAC to link the agreement to the originally circulated application.
- 6.4 The volume in the original permit application will be reduced by ITAC in line with the volume (kg) purchased by a member of the domestic consuming industry pursuant to an Agreement. Provided all other requirements are met, an export permit for the remaining volume, if any, will be issued within five (5) working days after the end of the applicable circulation period.
- 6.5 As indicated in paragraph 2 above, only members of the domestic consuming industry (as defined) are eligible to buy the scrap metal reflected in the circulars and the scrap metal bought must be for local consumption only by the purchaser.
- 6.6 If at the end of a circulation period, and after reasonable engagement between the applicant and a prospective buyer, no agreement for the purchase of scrap metal is reached; ITAC will adjudicate the export permit application/s taking all relevant information into consideration.

7. **The Application**

- 7.1. ITAC must satisfy itself that the type, quality and quantity of scrap metal intended for export is accurately reflected on applications for export permits and that all permit applications are accompanied by a sworn affidavit deposed to by a metallurgical engineer or an otherwise suitably qualified person confirming that the material has been physically inspected by him/her and confirming the type, grade and quantity of scrap metal available for export, as well as information where such scrap metal may be inspected by prospective buyers (who are members of the domestic consuming industry, as defined herein).

- 7.2. Form IE363 (application for an export permit to export scrap metal) (“the application form”) must be duly completed by any party wishing to export scrap metal.
- 7.3. The application form must contain the full description and customs tariff heading of the scrap metal to be exported, including the Institute of Scrap Recycling Industries (ISRI) number applicable to the scrap metal to be exported.
- 7.4. The volume of scrap metal to be exported and indicated in the application form must, at the time the application is submitted to ITAC, be stored on the scrap yard, owned and operated or leased and operated by the applicant, and the address of the premises where the scrap metal may be inspected by ITAC or a prospective buyer must be provided when submitting the application form.
- 7.5. New entrant applicants must complete the application form as well as form IE230 (registration as an exporter).
- 7.6. Proof of registration in terms of the Second-Hand Goods Act, 2009 (Act No. 6 of 2009) as well as a valid Tax Clearance Certificate must accompany all applications by new entrant applicants or any application where such registration has expired.
- 7.7. In order to assist ITAC with the sound administration and proper adjudication of export permit applications under the PPS, and in line with the Act, ITAC may from time to time and when circumstances warrant, require additional documentation in order to, *inter alia*, make an informed decision.

8. Miscellaneous

- 8.1. Any member of the domestic consuming industry making an offer to purchase scrap metal must notify ITAC thereof in writing (within two (2) days of having made the offer).
- 8.2. All new entrant applicants will be subject to a verification inspection by ITAC before an application for an export permit is circulated to the various industry representative organizations. The inspection may delay the circulation of the application.

- 8.3. If an applicant for an export permit provides incorrect or false information in an application, ITAC may reject such application. 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.
- 8.4. Scrap metal listed in an application must be available for inspection during normal office hours as specified in paragraph 8.17 below by ITAC and by members of the domestic consuming industry during the period that such application is circulated to allow consumers to make offers. To allow for inspection, the scrap metal must not be placed in any container or otherwise, that would prevent the inspection of any portion of the scrap metal.
- 8.5. To illustrate the above, the storage of scrap metal in an ocean freight container will not be permissible during the circulation period because only the portion of scrap metal at the very front of the container (i.e. near the door) can be readily inspected. In instances where scrap metal is containerised during the 15-day circulation period, making it impossible for ITAC or prospective buyers to inspect, an export permit will not be issued.
- 8.6. ITAC may decline an export permit application on sufficient evidence if a particular quantity of scrap metal as applied for and circulated by ITAC does not meet the declared quantity, grade or specification. Photographic and other documentary evidence may be considered by ITAC.
- 8.7. An applicant will not be permitted to make offers and purchase a particular grade of scrap metal at a price preference level, while its subsidiary/holding company receives export permits for the same grade of scrap metal. This would be against the objectives as outlined in paragraph 2 above.
- 8.8. The foreign purchaser/user's details must be provided to ITAC. If it is not possible for the applicant to provide full details of the foreign purchaser/user on the export permit application form, this must be done once an export permit is approved. Specifically, in the event of a permit application being approved, the exporter will be advised of the decision, the ITAC reference number, grade of the material, quantity and value. On receipt of confirmation as indicated here-in above, the exporter must submit full details of the foreign purchaser/user, including the name, physical address and country of destination to ITAC, only after which an export permit will be issued for

supply/exportation to that particular consignee. Scrap metal to be exported shall not be supplied or exported to any buyer or country/place of destination other than as declared to ITAC.

- 8.9. The allocated volume of scrap metal per grade and quantity of scrap specified on each export permit issued, 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.
- 8.10. Export documentation may be requested by ITAC after exportation of the scrap metal. This may include documentation such as the Second-hand Goods Act register entries for disposal, buyer's purchase invoice, Bill of Lading, Bill of Entry for Export, SA Reserve Bank confirmation of payment received, and any other related export documentation.
- 8.11. The ISRI specification or grade of the scrap metal as declared to ITAC and reflected on the export permit must be declared on all export documentation including the sales invoice, container packing list, Bill of Lading and the Bill of Entry for Export, etc. Export container numbers must be declared on the original SARS Customs Bill of Entry for export before exportation of scrap metal as authorised in the permit. ITAC export permits for the exportation of scrap metal is valid for a period of two months only, as indicated on the permit.
- 8.12. Scrap metal 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 scrap metal is clearly described, and scrap metal 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.
- 8.13. A valid calibration certificate for each weighbridge and each scale used in the procurement and disposal of waste or scrap metal in terms of the PPS must be submitted to ITAC to ensure that correct quantities are declared.
- 8.14. It is accepted that applicants who apply for export permits to supply foreign buyers are fully equipped to supply local consumers. Applicants applying for export permits must therefore be in possession of adequate supply facilities including access to scrap

metal for suitable trucks and heavy vehicles such as Tri-axle or super-link trucks to yards where scrap metal is located and must have adequate loading and weighing facilities. Shipping containers are not regarded as suitable for loading and transportation of scrap supplied to domestic consumers. Failure to provide adequate access, loading and weighing facilities shall be deemed a material impediment to the objectives of the PPS which may constitute grounds of refusal of an export permit. Parties are free to negotiate and agree on terms of sale which are mutually suitable.

- 8.15. Where a scrap metal consumer is able to produce a bank guarantee or letter, a longer payment settlement period of up to thirty (30) calendar days, in line with the bank guarantee or letter, will be regarded as sufficient for purposes of purchasing scrap metal in terms of the PPS. Parties are also free to negotiate and agree on payment terms which are mutually suitable.
 - 8.16. If a consumer makes arrangements to inspect and/or physically inspect scrap metal on offer, and after such arrangements or inspection the application is withdrawn by the applicant, the applicant must compensate the consumer for reasonable costs incurred.
 - 8.17. All PPS-related transactions must be concluded during normal office hours, being 8.00 am to 5.00 pm weekly and 8.00 am to 1.00 pm on Saturdays or public holidays (excluding religious holidays), unless otherwise agreed upon by all parties involved in that particular transaction.
 - 8.18. All export permit applicants must be in possession of an approved radiation detector to detect radio-active sources and material prior to off-loading of scrap metal which may contain such radio-active sources or material. A sworn affidavit from the applicant must be submitted to ITAC to confirm possession of such a detector in full working condition.
 - 8.19. Payment for scrap metal purchased in terms of the PPS must be by means of bank transfer, electronic transfer or other payment methods but may not include payment in cash.
9. The Guidelines published in Government Gazette number 41940, Notice No. R. 1012 on 28 September 2018 and all subsequent amendments thereto are substituted with these guidelines.

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

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