

**DEPARTMENT OF ECONOMIC DEVELOPMENT
DEPARTEMENT VAN EKONOMIESE ONTWIKKELING**

No. R. 96

15 February 2013

International Trade Administration Commission of South Africa

Automotive Production and Development Programme (APDP) Regulations

I, Ebrahim Patel, in my capacity as Minister of Economic Development, acting under the powers vested in me by Section 59 of the International Trade Administration Act, 2002 (Act 71 of 2002), hereby prescribe and make the following regulations—

**AUTOMOTIVE PRODUCTION AND DEVELOPMENT PROGRAMME (APDP)
REGULATIONS**

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Part A – Definitions

1. Definitions

"Automotive tooling" means -

- (i) dies for drawing or extruding metal, of subheading 8207.20;
- (ii) tools for pressing, stamping or punching, of subheading 8207.30;
- (iii) work holders of subheading 8466.20;
- (iv) assembly jigs and assembly lines, of subheading 8479.89; and
- (v) injection moulds, moulding patterns and moulds of heading 84.80, where the principle use is for the manufacture of specified motor vehicles, heavy vehicles as defined in note 1 to rebate item 317.07 and automotive components for such motor vehicles;

"APDP" means the Automotive Production and Development Programme;

"APDP Info Docs" refers to those documents that provide additional information and set forth additional rules and conditions for the APDP, and may refer to either Info Doc A, Info Doc B and/or Info Doc C, depending on the context;

"component" means a new article manufactured in SACU which can be identified as being suitable for use in the manufacture of:

- (i) Specified motor vehicles manufactured under Rebate Item 317.03 of Schedule No. 3 to the Customs Act;
- (ii) Specified motor vehicles manufactured abroad;
- (iii) Medium and heavy motor vehicles manufactured under rebate item 317.07 of Schedule No. 3 to the Customs Act; and
- (iv) Medium and heavy motor vehicles manufactured abroad;

"consumables" mean those goods which are used in the manufacture of motor vehicles and components thereof, but do not form part of such motor vehicles or components;

"CSP" means the company specific percentage;

"Customs Act" means the Customs and Excise Act, 1964 (Act No. 91 of 1964);

"EDD" means the Economic Development Department of South Africa;

"eligible products" mean those specified motor vehicles and/or components and tooling adhering to the qualifying criteria set out in section 9 hereof;

"EPC" means the eligible production certificate envisaged in terms of Section 9 hereof;

"final manufacturer" means the following entities based in South Africa:

- (i) Registered light motor vehicle manufacturers, manufacturing specified motor vehicles in South Africa adhering to the qualifying criteria as set out under section 9, according to the extent of assembly provided for in Note 5 to Chapter 98 of Part 1 of Schedule No.1 to the Customs Act;
- (ii) Component manufacturers manufacturing components adhering to the qualifying criteria as set out under section 9;
- (iii) Automotive tooling manufacturers; and
- (iv) Registered light motor vehicle manufacturers recovering the cost of:

- platinum group metals which were free-issued to a final manufacturer of a catalytic converter and other costs relating to the manufacture thereof; and
- value adding activities applicable to products bought from a component manufacturer, noted in (ii), and exported;

“Form C1” means a certificate declaring the imported component values in respect of components received from any person in the SACU for use in the manufacture of specified motor vehicles;

“imported component value” means the value for customs duty purposes of any imported original equipment components imported by the registrant or imported by or received from any person in SACU and used in the manufacture or assembly of original equipment components or specified motor vehicles;

“ITAC” means the International Trade Administration Commission of South Africa established in terms of section 7 of the International Trade Administration Act, 2002, (Act No. 71 of 2002);

“Minister” means the member of the Cabinet responsible for trade and industry;

“OEM” means a registered light motor vehicle manufacturer in terms of Note 1 to Chapter 98 of Part 1 of Schedule No. 1 to the Customs Act;

“PI” means production incentive;

“PRCC” means a production rebate credit certificate as described in Section 6 hereof;

“registered light motor vehicle manufacturer” means a manufacturer of specified motor vehicles;

“quarter” means a calendar quarter, unless otherwise specified in these Regulations, and refers to the period 1 January to 31 March, the period 1 April to 30 June, the period 1 July to 30 September and the period 1 October to 31 December;

“SACU” means the Southern African Customs Union;

“selling price” means the price as indicated in the invoice of the final manufacturer exclusive of VAT, *ad valorem* excise duty, environmental levy and any other cost which has no bearing on manufacturing, as specified in note 4.2 to APDP Info Doc A;

“SARS” means the South African Revenue Service;

"specified motor vehicles" means:

- (i) road tractors or semi-trailers of subheading 8701.20 of a vehicle mass not exceeding 1 600 kg;
- (ii) motor vehicles for the transport of ten or more persons, including the driver, of heading 87.02, of a vehicle mass not exceeding 2 000 kg, (excluding those of subheading 8702.10.10);
- (iii) motor cars (including station wagons) of heading 87.03;
- (vi) motor vehicles for the transport of goods of heading 87.04 of a vehicle mass not exceeding 2 000 kg or a G.V.M. not exceeding 3 500 kg or of a mass not exceeding 1 600 kg or a G.V.M. not exceeding 3 500 kg per chassis fitted with a cab (excluding motor vehicles of subheading 8704.10, shuttle cars and low construction flame-proof vehicles for use in underground mines and off-the-road logging trucks); and
- (v) chassis fitted with engines of heading 87.06, of a mass not exceeding 1600 kg or a G.V.M. not exceeding 3 500 kg (excluding those for motor vehicles of subheading 8704.10, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks);

"standard materials" mean locally beneficiated raw materials originating in the SACU which have been processed to suit automotive specifications;

"SVA" means standard value added, which is the portion or percentage of standard material, deemed to be local value added;

"thedti" means the Department of Trade and Industry;

"value added" means the selling price less the value of non-qualifying material and components;

"VAA" means volume assembly allowance;

"vulnerable industry" means those industries determined by the Minister which will be eligible for an improved level of support under the APDP and as specified in note 4.4.2 to APDP Info Doc A; and

"vulnerable products" mean those products determined by the Minister which will be eligible for an improved level of support under the APDP and as specified in note 4.4.2 to APDP Info Doc A.

Part B – General Provisions

2. Objectives of the APDP

The APDP is a programme which is aimed at creating an environment that will enable registered light motor vehicle manufacturers to significantly grow production volumes and component manufacturers to significantly grow value addition, leading to the creation of additional employment opportunities across the automotive value chain.

3. Applicability of the Regulations

The Regulations will be applicable in SACU and must be read together with Rebate Item 317.03 of Schedule No. 3 to the Customs Act.

4. Participation in the APDP

4.1 Participation in the APDP is voluntary; and

4.2 by registering under and participating in the APDP, a participant unconditionally binds itself to the rules and conditions of the APDP as determined by ITAC in these Regulations and the APDP Info Docs.

5. Structure of the APDP

5.1 The APDP consists of rebates and refunds of the relevant customs duties as legislated in the Customs Act.

5.2 The relevant customs duties can be found in Chapters 87 and 98 of Part 1 of Schedule No. 1 to the Customs Act.

5.3 The relevant rebate provisions can be found in Rebate Items 317.03 and 460.17 of Schedules Nos. 3 and 4 respectively to the Customs Act.

5.4 The relevant refund provisions can be found in Items 536.00, 537.00 and 538.00 in Schedule No. 5 to the Customs Act.

Part C – Production Rebate Credit Certificates (PRCCs)

6. PRCC

A PRCC is a document issued by ITAC indicating the PI, which is an incentive available to final manufacturers of eligible products.

7. Calculation of Production Incentives (PI)

The value of the PI is determined by the value added. The result is adjusted by the PI factor provided for in section 11 hereof to arrive at the value of the PI.

8. Who may apply for a PRCC

Final manufacturers based in South Africa, which are registered with SARS as taxpayers may apply for a PRCC.

9. Eligible Products under the APDP

9.1 The following products qualify as eligible products under the APDP:

9.1.1 specified motor vehicles fitted with an engine and gear-box manufactured in a licensed, special vehicle manufacturing warehouse in South Africa;

9.1.2 specified motor vehicles not fitted with an engine or gear-box manufactured in a licensed, special vehicle manufacturing warehouse in South Africa;

9.1.3 automotive components applicable to the vehicles noted in 9.1.1 and 9.1.2;

9.1.4 automotive tooling; and

9.1.5 automotive components applicable to heavy motor vehicles as defined in Note 1 to rebate item 317.07 of Schedule No. 3 to the Customs and Excise Act, 1964.

9.2 Notwithstanding section 9.1.3 and 9.1.5, for their products to qualify as eligible products, component manufacturers must –

9.2.1 apply for an EPC in the manner and form as required by ITAC;

9.2.2 achieve local/international OEM supply chain turnover, excluding tooling, of at least 25 per cent of total automotive turnover; or R10m in OEM supply chain invoicing per annum; and

9.2.3 manufacture components for which a PI is claimed that are:

(i) part of a local or international OEM supply chain; or

(ii) replacement parts manufactured by a manufacturer adhering to the requirements set out in sections 9.2.1 and 9.2.2.

9.3 Notwithstanding sections 9.1 and 9.2, for components to qualify as eligible products, the following conditions must be met:

9.3.1 In the event of the final process of manufacture not taking place in South Africa, a determination as to the eligibility of the relevant product must be made by ITAC, provided that operations that consist only of packing or painting will not qualify as manufacturing; and

9.3.2 not less than 25 per cent of the ex-factory selling price (exclusive of VAT, *ad valorem* excise duty and environmental levy) of the components, at the time of sale, is represented by the sum of –

(i) the cost of labour incurred in SACU;

(ii) the value of material originating in the SACU; and

(iii) the factory overhead expenses incurred in SACU (excluding profit).

10. Standard materials

10.1 Material qualifying as standard materials, and thereby qualifying as value added, are those identified by the Minister and set forth in note 4.3.1 to APDP Info Doc A. The list of standard materials as set out in the APDP Info Doc may be amended on approval by the Minister.

10.2 The SVA for standard materials used in the manufacture of an eligible product will be 25 per cent of the value of the standard material.

11. Yearly PI factor percentage

The PI factor for PRCC claims for the period 1 January 2013 to 31 December 2013 will be 55 per cent and will be reduced by one per cent per annum to 50 per cent, which percentage will be applicable from 1 January 2018 onwards.

12. Vulnerable industries and products

12.1 Vulnerable industries and products are those identified by the Minister and set forth in note 4.4.2 to APDP Info Doc A.

12.2 Notwithstanding section 10.2, for vulnerable industries and products, the SVA for the standard materials used in the manufacture of an eligible product will be 40 per cent of the value of the standard materials for the period 1 January 2013 to 31 December 2014 and will be reduced by 5 per cent per annum

from 1 January 2015 to 25 per cent, which percentage will be applicable from 1 January 2017 onwards.

12.3 The PI factor for vulnerable industries and products will be 80 per cent and will be reduced by 5 per cent per annum from 1 January 2015 to 50%, which percentage will be applicable from 1 January 2020 onwards.

12.4 The SVA indicated in section 12.2 and the PI factor indicated in section 12.3 may be amended on approval by the Minister.

13. Application for PRCC

13.1 To claim a PRCC, an application must be lodged with ITAC in the manner and form as required in note 5 to APDP Info Doc A.

13.2 An application for a PRCC may be lodged only once full payment for the eligible products sold have been received by the manufacturer or, in the case of vehicle capitalised by an OEM, the date of capitalisation.

13.3 The right to claim PRCCs lies with the applicant who is the registered manufacturer of an eligible product, except for a component manufacturer that supplies components for fitment on line by a registered local light motor vehicle manufacturer for assembly of specified light motor vehicles, in which case the value added on the applicable components will roll up to the standard material declaration of the registered light motor vehicle manufacturer, who may claim the PRCC for the manufactured vehicle that incorporates the applicable components.

13.4 Completed applications claiming PRCCs must be submitted to ITAC no later than 12 calendar months from the date of the invoice for the eligible products.

14. Issuing of a PRCC

14.1 A PRCC will be issued for the qualifying amount, in terms of the PI, applicable to the eligible product and will indicate whether it is based on production of:

14.1.1 specified motor vehicles;

14.1.2 specified motor vehicles without an engine and/or gearbox;

14.1.3 automotive components for medium and heavy motor vehicles; or

14.1.4 automotive components and tooling.

14.2 Where a PRCC that has been issued for the production of components, tooling or specified motor vehicles without an engine and/or gearbox, is used to reduce the duty on imports of specified motor vehicles, SARS will reduce the value as shown on the PRCC by 20 per cent.

14.3 Where a holder of a PRCC or an applicant for a PRCC or a related party to the applicant is the subject of a fraud investigation, ITAC will have the right to withdraw and/or refuse to issue a PRCC.

15. Usage of a PRCC

15.1 A PRCC, excluding a PRCC issued for the manufacture of medium and heavy motor vehicle components, can be used to reduce the value for customs duty purposes of imports into SACU of the following automotive products:

15.1.1 new right-hand drive specified motor vehicles as defined in note 1 to rebate item 317.03 to the Customs Act;

15.1.2 components as defined in note 8 to Chapter 98 of Part 1 of Schedule No. 1 to the Customs Act for the vehicles identified in 15.1.1 above and components for which the tariff headings are listed in Rebate Item 460.17/00.00/03.00 of Schedule No. 4 to the Customs Act for all of specified motor vehicles.

15.2 A PRCC issued for the manufacture of medium and heavy motor vehicles components can only be used in terms of rebate item 317.07.

15.3 A PRCC can be used only by the original holder thereof. However, the original holder of the PRCC may apply to ITAC, in the manner and form prescribed by ITAC, for the PRCC to be transferred to another qualifying South African entity, upon the sole discretion of ITAC. A PRCC may only be transferred once.

15.4 A PRCC is valid for a period of twelve months, which period commences on the first day of the quarter in which the PRCC claim was submitted to ITAC.

16. Verification and modification of a PRCC

16.1 ITAC shall have the right to verify all information relating to a PRCC application and may under such conditions as it may determine, restrict the value of a PRCC.

16.2 ITAC has the right to amend, suspend, adjust or withdraw any PRCCs issued or to be issued upon the discretion of ITAC and take such other action as provided for in the APDP Info Doc or as deemed fit by ITAC.

Part D – Calculation of the CSP for VAA purposes

17. CSP and calculation thereof

17.1 In terms of Note 7.1(c) to Rebate Item 317.03 of Schedule 3 to the Customs Act, the CSP is a percentage that is calculated by ITAC and is used by SARS in the calculation of the VAA.

17.2 The CSP is:

17.2.1 In the case of vehicles built for the local market, the difference between the recommended retail list price ("RRLP") and the dealer's invoice price (*selling or invoice price by the OEM exclusive of VAT, ad valorem excise duty and environmental levy*), plus market related expenditure, expressed as a percentage of the RRLP; or

17.2.2 In the case of vehicles exported, the market related expenditure expressed as a percentage of the dealer's invoice price (selling or invoice price by the OEM).

17.3 In terms of Note 7.1(c) to Rebate Item 317.03 of Schedule No. 3 to the Customs Act, the CSP will be calculated by ITAC as provided for in APDP Info Doc B. ITAC will provide the calculated percentage to SARS, which will apply the percentage to determine the VAA for each registered light motor vehicle manufacturer.

18. Entities qualifying for CSP

18.1 Motor vehicle manufacturers with a plant capacity of 50 000 units per annum may submit applications to ITAC for registration as a specified motor vehicle manufacturer.

18.2 ITAC will calculate a CSP and provide the calculated percentage to SARS only where a registered light motor vehicle manufacturer achieves a minimum production level of 50 000 units measured over the most recent four quarter total in the manner and form as determined by ITAC in Info Doc B.

18.3 A registered light motor vehicle manufacturer that introduces a new model to replace an existing model in its manufacturing plant may apply to ITAC, in the manner and form as determined by ITAC in APDP Info Doc B, for two "dead quarters" to lessen the effect of a possible drop in production volumes. In the event that the overall production of the registered light motor vehicle manufacturer will not be significantly affected, ITAC may decide not to allow the "dead quarters".

18.4 Motor vehicle manufacturers that are new entrants must submit an application to ITAC in the manner and form as required in APDP Info Doc B and will only qualify for a VAA if they have a production capacity of 50 000 units per annum.

19. VAA Usage

In terms of Note 7 to Rebate Item 317.03 of Schedule No. 3 to the Customs Act:

19.1 The VAA shall be used by a registered light motor vehicle manufacturer to reduce the value for customs duty purposes of original equipment components imported and the imported component values of original equipment components received from any person in the SACU region.

19.2 Any surplus VAA of a registered light motor vehicle manufacturer in a specific quarter will be rolled over to the next quarter and/or may be used to rebate duties on specified light motor vehicles imported by the registered light motor vehicle manufacturer upon obtaining prior written approval from the Commissioner of SARS.

19.3 Should a registered light motor vehicle manufacturer use the excess VAA in a quarter to rebate duties on vehicles imported, SARS will reduce the value of the VAA by 20 per cent.

Part E – Imported Component Value

20. Form C1

20.1 Form C1 is the form that must be used by specified motor vehicle manufacturers and component manufacturers supplying goods to specified motor vehicle manufacturers to declare their imported component values.

20.2 All participants in the APDP must use Form C1 to declare their imported component values in respect of original equipment components for use in the manufacture of specified motor vehicles received from any person in the SACU.

20.3 Any incorrect information supplied on Form C1 can render the whole document null and void and may result in the purchase price of all items in such document being regarded as imported component values.

20.4 If Form C1 is not obtained and completed, the imported component values in respect of such goods may be deemed to be the price at which such goods were purchased.

21. Declaration of imported component values

Specified motor vehicle manufacturers, component manufacturers and component suppliers to the motor vehicle industry must declare the imported component values in respect of each type of component received during a quarter.

22. Calculation for imported component values

22.1 The imported component values for specified motor vehicles manufactured must be determined using the method and basis of calculation as set out by ITAC in APDP Info Doc C titled "Declaration of imported component values".

22.2 ITAC has the right to verify the correctness of the imported component values declared by manufacturers of eligible products by, amongst others, verifying Form C1s and related documents. Discrepancies detected by ITAC will be dealt with as provided for in APDP Info Doc C.

22.3 Values must be entered in Rand (ZAR) and may not be expressed as a percentage or as a foreign currency.

Part F – Transitional Notes

23. Quarterly Customs account and other matters

23.1 Note 10 to rebate item 317.03 of Schedule No. 3 to the Customs Act has reference regarding matters applicable to the quarterly Customs account of light motor vehicle manufacturers.

23.2 The motor industry development plan (MIDP) will end on 31 December 2012. Accordingly, although claims for exports on or before 31 December 2012 may still be submitted up to 31 December 2013, no application for an import rebate credit certificate (IRCC) based on exports after the termination of the MIDP will be entertained.

23.3 Specified light motor vehicles and automotive components manufactured before 31 December 2012, but only sold after 31 December 2012, will qualify for APDP benefits provided that no benefits were claimed on these sales under the MIDP.

23.4 To ease the transition from the MIDP to the APDP, the following conditions will apply to existing light motor vehicle manufacturers to qualify for a CSP during 2013:

23.4.1 Only light motor vehicle manufacturers that have a production capacity of 50 000 units per annum will qualify for a CSP;

- 23.4.2 The CSP for the first quarter of 2013 will be calculated using financial and statistical information applicable to the last quarter of 2012;
- 23.4.3 No minimum production level will apply during the first two quarters of 2013; and
- 23.4.4 A minimum production level of 12 500 units must be achieved in the third quarter of 2013; and
- 23.4.5 A most recent four quarter total of 50 000 units must be achieved during the 4th quarter of 2013.



Ebrahim Patel, MP
Minister of Economic Development
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