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## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

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### DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. R. 1012

28 SEPTEMBER 2018

#### International Trade Administration Commission of South Africa

#### Export Control

#### 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 smelters;
- 1.2 “**Guidelines**” means these Export Control Guidelines on the Exportation of Ferrous and Non-Ferrous Waste and Scrap 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, 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.

## 2. Price Preference System

The 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 pursuant to which it would not allow the exportation of scrap metal unless it had first been offered for sale for domestic beneficiation, to the domestic consuming industry, for a period and at a price discount or other formula determined by ITAC. The particulars of this price preference system 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 price preference system 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
Beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium (columbium) rhenium and thallium waste and scrap	81.12

#### 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) using, in general but not exclusively, Scrap Index.com as an international benchmark price. From the average price achieved during the previous 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.

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 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.

ITAC reserves the right to extend the list to include red metal waste and scrap ISRI grades which are not listed below.

<b>COPPER</b> ISRI grades	<b>Percentage of Copper LME full price</b>	<b>BRASS / BRONZE</b> ISRI grades	<b>Percentage of Copper LME full price</b>
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

4.3 With regard to the calculation of the price preference at which the following waste and scrap 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 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 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 by ITAC.

4.4 With regard to the calculation of the price preference at which the following grades of ferrous waste and scrap (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 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 by ITAC.

- 4.5 For the calculation of the price preference at which stainless steel waste and scrap 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 molybdic oxide free market \$ per lb. Mo in warehouse will be used.
- 4.6 The rate of exchange used will be the average monthly rate as provided by the SA Reserve Bank.
- 4.7 Price preference calculations will be published monthly 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 month following the month in which the price preferences were published.
- 4.8 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 (three) herein-above which are not referred to or listed in these Guidelines, and to publish ITAC Price Preference System prices for such ISRI codes or grades in accordance with the approved method of calculation of prices for that particular type or class of waste or scrap metal.

## 5. Administration

- 5.1 A technical Working Group consisting of 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 price preference system.
- 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 will be included in the immediately following Wednesday circulation and by 12h00 on Thursday prior to the 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 a domestic consuming industry wishes to purchase scrap metal listed in a circular, it must, before the end of a circulation period of 15 working days submit a valid offer and all the communication pertaining thereto between it and an applicant to ITAC.
- 6.2 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.
- 6.3 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. An export permit for the remaining volume, if any, will be issued within 3 working days after the end of the applicable circulation period.

- 6.4. 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.
- 6.5. 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 export permit application/s taking all relevant issues into consideration.

## 7. The Application

- 7.1. ITAC must ensure that the type and quality 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 referred to in paragraph 1 of the Guidelines).
- 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 by the applicant and be stored on the scrap yard, owned and operated or leased by the applicant, and the address of the premises where the scrap may be inspected by ITAC or a prospective buyer must be provided when submitting the form.

- 7.5. New entrant applicants must complete the application form as well as forms IE230 (registration as an exporter).
- 7.6. Proof of registration in terms of the Second-Hand Goods Act 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. To assist ITAC in the sound administration and proper adjudication of export permit applications under the price preference system, ITAC may from time to time and when circumstances prescribe, require additional documentation in order to 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 2 days of having made the offer).
- 8.2. All new entrant applicants will be subject to a verification inspection by ITAC before the 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 information in an application, ITAC may reject such application. If the incorrect information is provided on more than two (2) occasions, ITAC may take any actions available to it under the law.
- 8.4. Scrap metal listed in an application must be available for inspection by members of the domestic consuming industry and ITAC during the period that such application is circulated. To allow for inspection, the scrap metal must not be placed in any container 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 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. The 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.
- 8.7. ITAC will exempt affected exports from these requirements to the extent that application of these requirements would be in conflict with South Africa's obligations under an existing trade agreement. Where such an allegation is raised with ITAC, it must be raised at the time an application form is submitted to ITAC and must be in sufficient detail for ITAC to understand the nature and basis of the allegation. ITAC will consider the merits of an allegation and make a decision that will be determinative thereof for purposes of the export permit application.
- 8.8. The foreign purchaser/user's details must be reflected on each export permit. 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, after which an export permit will be issued in which the foreign purchaser/user (consignee) details will be reflected.
- 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 scrap metals. This may include documentation such as 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, etc.
- 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.

- 8.12. Scrap metal must be containerised and sealed on the exporter's registered and licenced premises as declared to ITAC, Export Control, 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 must be submitted to ITAC to ensure that correct quantities are declared.
  - 8.14. 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.
  - 8.15. 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.
  - 8.16. Payment for scrap metals 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 37992, Notice number R. 714 on 12 September 2014 and all subsequent amendments thereto are substituted with these guidelines.
  10. These Guidelines will come into effect on the day of publication thereof in the Government Gazette.