

DEPARTMENT OF TRADE AND INDUSTRY
NOTICE 136 OF 2018
INTERNATIONAL TRADE ADMINISTRATION COMMISSION
CUSTOMS TARIFF APPLICATIONS
LIST 02/2018

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following applications concerning the Customs Tariff. Any objection to or comments on these representations should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in these applications is that requested by the applicants and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

CONFIDENTIAL INFORMATION

The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at <http://www.itac.org.za/documents/R.397.pdf>. These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:

- ❑ *Each instance where confidential information has been omitted and the reasons for confidentiality;*
- ❑ *A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- ❑ *In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.

The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons. If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).

Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

1. EXEMPTION OF SAFEGUARD DUTIES APPLICABLE ON HOT-ROLLED STEEL PRODUCTS IMPORTED UNDER REBATE ITEM 470.03 AND DRAWBACK ITEM 521.00, FOR USE IN THE MANUFACTURE, PROCESSING, FINISHING, EQUIPPING, OR PACKING OF GOODS EXCLUSIVELY FOR EXPORT

APPLICANTS:

Robor (Pty) Ltd
233 Barbara Road
Elandsfontein
Ekurhuleni
1429

and

GasCon, a division of Southey Holdings (Pty) Ltd
Consani Business Park
Elsies River
Cape Town
7490

Enquiries: ITAC Ref: **13/2017**, Enquires: Mr. Pfarelo Phaswana and/or Mr. Njabulo Mahlalela,
Tel: 012 394 3628/3684 or email: pphaswana@itac.org.za/nmahlalela@itac.org.za

REASONS FOR THE APPLICATION:

- The safeguard duty that was recently imposed on the subject products is negatively affecting the competitiveness of the downstream steel industry manufacturing products for the export market; and
- The safeguard duty renders business uneconomical for the export-oriented firms and may result in job losses.

PUBLICATION PERIOD:

Written submissions should be made within **four (4) weeks** of the date of this notice.

2. REDUCTION IN THE RATE OF DUTY ON:

Ethylene-alpha-olefin copolymers, having a specific gravity of less than 0.94 [*Commonly known as Linear Low Density Polyethylene (LLDPE)*], classifiable in tariff subheading 3901.40 from 10% *ad valorem* to free of duty with retrospective effect from the date of submission of this application, being 6 December 2017.

APPLICANT:

West African Group
A Division of West African International (Pty) Ltd
P O Box 181083,
Dalbridge
4014

[Ref no: 27/2017, Enquiries: Email: Ms. Elizabeth Kekana, Fax: (012) 394 4668, email: ekekana@itac.org.za, and Mr Nkulana Phenya, Fax: (012) 394-4677; Email: nphenya@itac.org.za.]

REASON FOR THE APPLICATION:

As a reason for the application, the applicant indicated, among others, the following:
"The subject product imported under the tariff heading 3901.40 currently attracts a 10% duty, whereas previously the same product was imported duty free. The local producer of these products only has the capacity to supply 47% of the market, leaving a large portion of the market reliant on imported material. A change in the rate of duty currently payable by the importers to 10% of the subject product will have a severe impact on the country's trade deficit and balance of payments."

PUBLICATION PERIOD:

Representation should be submitted to ITAC within **two (2) weeks** of the date of this notice.

3. INCREASE IN THE RATE OF DUTY ON AND CREATION OF A TEMPORARY REBATE PROVISION FOR:

- Coated paper and paper board classifiable under tariff subheading 4810.92.90, from free of duty to 5 per cent *ad valorem*; and
- Temporary rebate of full duty on-

“Other paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, multi-ply paper and paper board classifiable in tariff subheading 4810.92.90, containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06, in such quantities at such times and subject to such conditions as the International Trade Administration Commission may allow by specific permit provided the Commission is satisfied that the products are not available in the SACU region”.

[Note: On 22 September 2017 the applicant's request for an increase in the rate of duty was published in the Government Gazette No. 41132 for comments. In the course of the preliminary investigation, the Commission decided to also consider the possibility that if an increase in the rate of duty on the abovementioned products were recommended, that a temporary rebate provision, as set out above, be considered subject to an ITAC permit. Draft guidelines are attached for comment.]

APPLICANT:

Mpact Operations (Pty) Ltd t/a Mpact Paper – Springs Mill
82-84 Steel Road
New Era
Springs
1559

Enquiries: ITAC Ref: 03/2017, Enquiries: Ms. M Masithela, Mr. O Madito and Mr. J Mtinkulu, Tel: (012) 394 3682/3692/3691 or Email: mmasithela@itac.org.za/
omadito@itac.org.za/ jmtinkulu@itac.org.za

REASONS AS STATED BY THE APPLICANT FOR AN INCREASE IN THE RATE OF DUTY ON COATED PAPER AND PAPER BOARD:

The applicant submitted that the requested increase in the customs duty is needed to:

- a) Stimulate further development of the SACU paper manufacturing sector and the associated industry/sector pipeline;
- b) Compensate industry for certain competitive disadvantages it experiences;
- c) Level the playing field vis-à-vis duties protection in the exporter countries by aligning the SACU import tariffs on subject product/s to levels that are justifiable and comparable to those in competing/similar economies;
- d) Provide a small but critically important “buffer” against increasingly rapid fluctuations of market conditions in the global economy; and foreign exchange fluctuations influencing the local economy; and
- e) Protect SACU producers’ capacity and market share in the domestic market to provide an effective and stable base market to support local manufacturing and substantial on-going investment to ensure industry sustainability.

PUBLICATION PERIOD:

Representation should be submitted within **four (4) weeks** from the date of this notice.

DRAFT GUIDELINES, RULES AND CONDITIONS PERTAINING TO:

Other paper and paperboard, coated on one or both sides with kaolin (china clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, multi-ply paper and paper board classifiable in tariff subheading 4810.92.90, containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06.

Interested parties are hereby notified that all applications submitted for permits in terms of rebate item will be dealt with according to the guidelines as described in this notice and must be submitted in the format as set out in the application forms where applicable. For the convenience of all interested parties, the following guidelines in respect of the above mentioned rebate item subject to publication are attached to this notice. The application forms related to the rebate item mentioned above are obtainable from ITAC's website at www.itac.org.za and from ITAC, Block E: thedti Campus, 77 Meintjies Street, Sunnyside, Pretoria.

Note: In terms of section 26 (4) of the International Trade Administration Act, 71 of 2002, the Commission may, *inter alia*, require an applicant to provide additional information in respect of the application. The conditions attached to and the information requested below reflects the minimum requirements, which ITAC would apply to evaluate an application under this rebate provision.

1. Applicants must register with South African Revenue Service (SARS) as users of this rebate provision, and they must acquaint themselves with the requirements of SARS.
2. Applications for permits must be addressed to the International Trade Administration Commission (ITAC), Private Bag X 753, Pretoria 0002 or delivered by hand to the DTI Campus, (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.
3. Applications for permits must be submitted according to the requirements as set out in the attached application form. If the space provided in the application form is insufficient, please complete additional pages using the format of the application form to submit the requested information.
4. Qualifying products under rebate item are as follows:
 - **Other paper and paperboard, coated on one or both sides with kaolin (china clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-coloured, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, multi-ply paper and paper board classifiable in tariff subheading 4810.92.90, containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06**
5. If all the information requested in the application form is not submitted, the application will be deemed deficient. The application will not be considered, and it will be returned to the applicant.

6. At least fourteen (14) days should be allowed for the processing of applications and the issue of permits, provided that all necessary information which renders the application duly completed has been submitted to ITAC.
7. Each rebate permit issued defines the period during which the goods concerned can be cleared under the rebate item. The rebate permit will only be valid for a period of twelve (12) months, commencing from the date on which the permit is issued. The permit may be issued for a shorter period as requested by the applicant, or as decided upon by ITAC.
8. If an applicant intends to apply for a subsequent permit for which the period of validity should commence on the day after the expiry date of the permit issued in terms of paragraph 7, this must be clearly indicated in a new application. The application must be submitted to ITAC two weeks prior to the expiry date of the previous permit as permits cannot be issued with retrospective effect.
9. Rebate permits issued will be subject to the following conditions:
 - 9.1. Permits will only be issued after it has been established that the SACU paper and paperboard production cannot meet the demand for paper and paper board, classifiable in tariff subheading 4810.92.90 and containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06, by downstream users of paper and paper board based products.
 - 9.2. The applicant(s) must first consult with industry associations (PAMSA etc.) and known local manufacturers of paper and paper board (Mpact Operations (Pty) Ltd t/a Mpact Paper). Additionally, a sample of the product to be imported should also be provided to these parties. The relevant stakeholders should then provide confirmation with regard to the extent of local availability of the paper and paperboard to be imported under rebate.
 - 9.3. The application must be accompanied by a the letter referred to in paragraph 9.2, with a date not older than 30 days from the date of the application, as proof that the SACU manufacturer(s) cannot supply the product in question.
 - 9.4. Should, after receipt of the SACU paper and paperboard manufacture(s) response, or in absence of such, information be available that the downstream users of paper and paperboard based products are unable to source the required quantity of paper and paper board classifiable in tariff subheading 4810.92.90, containing less than 50 per cent by mass of pulps of fibres derived from recovered (waste and scrap) paper or paperboard or of other fibrous cellulosic material classifiable in tariff heading 47.06, the quantity of the product in question required should be submitted by the applicant for ease of verification purposes by ITAC. ITAC may issue a permit with or despite the required agreement within the SACU paper and paperboard manufacture(s).
 - 9.5. The applicant must provide a formal letter on the applicant's business letter head confirming that the applicant complies with labour laws, regulations and agreements gazetted by the Minister of Labour.

- 9.6. The applicant must submit a SARS PIN to enable ITAC to verify the Applicant's tax clearance status on the SARS Tax Clearance System. Should challenges exist in providing this information, give detailed reason/s for the absence thereof. Thereafter, applicants will be requested to submit a valid tax clearance certificate.
- 9.7. The applicant must submit a letter of consent agreeing to transparency in that the following information may be shared with industry and government stakeholders [PAMSA, Mpact Operations (Pty) Ltd and the Department of Trade and Industry (thedti) (Agro-processing directorate) etc.]. The stakeholders should treat the following data supplied, as confidential and should not release it to a third party:
- Name of applicant;
 - Contact details of applicant;
 - Technical description of paper and paperboard; and
 - Volume applied for.
- 9.8. In the event that the applicant's request to import the required paper and paperboard is not supported, the applicant should consult with the relevant dti sector desk (Agro-processing directorate). Thedti directorate will thereafter provide proposals in this regard.
- 9.9. Firm commitments in the form of signed contracts and/or proof of purchasing (i.e. purchase orders) of locally manufactured fabrics must be included in the application to ITAC.
- 9.10. As a rebate provision is considered for the purpose of providing relief to domestic users that may experience injurious import pressures against similar imported end products, the benefit of the rebate provision will be tied to conditions related to economic performance over time and may be reviewed after a specified period. Reciprocity commitments as set out in the application form must be addressed in each application submitted.
- 9.11. The applicant must commit, *inter alia*, to the creation of employment and provide in each permit the number of jobs it expects to create annually as a result of the rebate permit granted. The applicant must submit to ITAC an annual report on its job creation performance.
- 9.12. Rebate permits 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 permits.
- 9.13. Permits in relation to this rebate provision should be applied for and received before the goods concerned are shipped.
- 9.14. Any request for an amendment to a rebate permit must be forwarded to ITAC for consideration. Amendments will only be considered in the following instances:
- a) Error by ITAC on permit;

- b) Error by applicant regarding the product description or tariff subheading. This will only be processed if the request is accompanied by a confirmation from SARS in this regard.
- 9.15. Should any party misplace a permit, the applicant should submit an affidavit on a company letterhead endorsed by a Commissioner of Oath, stating that the permit was lost and the circumstances surrounding loss of such permit. ITAC may, on the facts furnished, exercise its discretion to issue a new permit that replaces the lost permit. Should the lost permit be found the applicant must return such permit to ITAC.
- 9.16. Extension of the period for which the permit is valid may be granted. Extensions will only be granted where the relevant permit has not expired, and in the view of ITAC, good cause warrants extension of such permit. Such discretion shall lie solely with ITAC. Extensions will only be permitted for a period up to 3 months and the party applying for the extension must submit a letter and supporting documents to ITAC, furnishing reasons and good cause for the extension.
- 9.17. The permits are issued at the discretion of ITAC. Should the application be rejected; the applicant will be informed in writing of the decision and the reasons therefore.

Non-compliance to the conditions of permits:

10. If a *prima facie* case is established that any condition of a permit issued, in terms of this rebate provision, has not been complied with, the consignment in terms of which the rebate was used can be seized by ITAC and the rebate permit temporarily suspended while ITAC conducts an investigation. If it is established that non-compliance occurred, appropriate steps will be taken. These steps will be taken in terms of the International Trade Administration Act, Act 71 of 2002 and the Customs and Excise Act of 1964 that can include, criminal charges, withdrawal of the permit or permits concerned and/or the rejection of future applications for permits.