BACKGROUND NOTE: SCRAP METAL MEASURES.

1 DECEMBER 2022

POLICY MEASURES TO RESTRICT AND REGULATE TRADE IN WASTE, SCRAP AND SEMI-FINISHED FERROUS AND NON-FERROUS METAL PRODUCTS TO ARREST THE DAMAGE TO INFRASTRUCTURE AND THE ECONOMY

On Wednesday, 16 November 2022, Cabinet considered and approved a comprehensive package of measures to address the damage caused by metal theft to public infrastructure and the economy by restricting and regulating trade of waste, scrap and semi-finished metals. Implementation of the policy measures will proceed along what may broadly be described as a three-phased approach.

This follows the publication in the Government Gazette, on 05 August 2022, of Draft Policy Proposals on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metal Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metals Products to Limit Damage to infrastructure and the Economy (“the draft policy”) for public comment.

The Department of Trade, Industry and Competition (the dtic) received over two thousand eight hundred (2,800) comments on the draft policy from across society, including business, industrial associations, organised labour, State Owned Enterprises (SOEs), Government departments, and individuals. Extensive comments were received from stakeholders within the metal sector, the mining sector, downstream manufacturing, and other parts of the economy.

All comments were carefully analysed and considered.

While the measures will impact on the commercial performance of parts of the scrap-metal industry, this is justified by the need for the Government to act decisively against the scourge of metal theft that plagues the Republic of South Africa. Accordingly, it is envisaged that the bulk of the proposed mechanisms outlined in the draft policy will be implemented.

In some areas however, comments from the public and affected parties have persuaded Government that the proposed interventions should be adjusted to minimise unintended consequences where possible, including disruption to legitimate exporters and potentially undermining waste-pickers' livelihoods.

Below is a brief overview of the final policy position.

Phases 1 and 2
Copper and copper alloys
Exports of copper waste and scrap will be temporarily prohibited for a 6-month period. This restrictive approach to copper (and copper alloys) waste and scrap metal exports is necessary because of the substantial damage done to South

Africa's public infrastructure. Theft of this metal type imposes the highest costs on the country in terms of damage to infrastructure, and accordingly, stringent measures aimed at combatting copper theft are to be adopted.

Starting in phase 1 and continuing beyond the phase, a permit system which will be administered by the International Trade and Administration Commission ("ITAC') will apply to semi-finished copper exports.

In phase 2, a licensing system will be put in place for all copper trading in South Africa. It is intended that sellers of copper waste and scrap metal will need to register under the Second Hand Goods Act (SHGA). In order to register to trade in copper waste and scrap metal, applicants will need to show, among other things, tax clearance, and dealers will be required to submit detailed purchase and sales information to a centralised database. Registered buyers will only be allowed to purchase from registered sellers, which means that incidental sales of copper waste, scrap and semi-finished product (i.e. sales by persons who do not deal in scrap metal as a business) and sales by unregistered waste pickers will not be allowed.

In phase 2, dealers in certain semi-finished metal products will also need to be registered under the SHGA, and tax clearance and reporting obligations will apply. Amendments to the SHGA regulations necessary to affect the above measures will first be put out for public comment.

Ferrous and other metals

The theft of ferrous metals also imposes significant costs on society, albeit at a lower rate compared to copper. In the case of other metals like aluminium and other "exotic metals", the problem of theft is lower but is still of grave concern to Government. In addition, general metal trading and related exports provides a cover for the export of metals like copper and steel.

Exports of ferrous waste and scrap metal will be temporarily prohibited but exceptions will be allowed. Ferrous scrap metal will be subject to the 6-month export prohibition but, unlike in the case of copper, exceptions will be made for stainless steel and ferrous waste and scrap that is produced in the ordinary course of business as a by-product of a manufacturing process.

Exports of other metals will not be prohibited but will instead be subject to a permit system administered by ITAC.

Lesser restrictions for metals other than copper waste and scrap metal. It is envisaged that waste pickers will be exempt from the requirement to register under the SHGA which will allow them to sell all non-copper metals. Moreover, registered dealers will be able to purchase non-copper metals from incidental sellers even if the latter are not registered.

It is envisaged that the other aspects of the trading regime will be identical for both copper and non-copper metals. Both buyers and sellers of scrap, and all traders of semi-finished metal products, will need to be registered. Exports of semi-finished product will be subject to the registration regime. Tax clearance and reporting obligations will apply to all registered dealers.

Import control for furnaces and waste and scrap transformation machines will apply equally to copper and non-copper metals. Similarly, the restriction on port and land borders will apply equally to copper and non-copper waste and scrap and semi-finished metals.

Phase 3
In phase 3, Government will consider making amendments to pertinent existing legislation, or pass new legislation, to create a dedicated metal trading licensing regime. Prohibiting the use of cash in transactions involving waste and scrap and semi-finished metal products may also be introduced. In this case, no buyer will be allowed to be in possession of waste and scrap or semi-finished metal products unless it is backed up by an EFT or similar electronic record. Finally, phase 3 may see the introduction of blacklisting whereby persons become ineligible for Government contracts if they have contravened metal trading regulations or committed an offence in terms of metal theft.

It is expected that the phase 1 interventions will have a materially positive impact on metal theft reduction. The overall impact of export restrictions is, however, likely to be significantly bolstered by the domestic regulations contemplated in phase 2.

The new regime attempts to strike a balance between the needs of the overall economy and society in general; with those of specific affected firms and persons. Significantly stricter regulations have not been selected at this stage, including the potential prohibition of semi-finished exports, the blanket (without exception) prohibition of ferrous scrap and waste metal exports, and a complete ban of all copper trading, as it is hoped that the less intrusive measures identified will have the intended effect.

The measures will come into effect as soon as they are gazetted within the next 48 hours.

The impact of the new regulations on both theft of and damage to public infrastructure as well as effects on the overall society will be actively monitored by the newly created Metal Trade Task Force.

Government extends its gratitude to the thousands of companies, workers, industry representatives, community organisations and members of the public who provided constructive comments and helpful suggestions. For South Africa to prevail against stolen metal syndicates, the proactive participation of industry, communities and the public will be crucial.

Enquiries:
Mr. Bongani Lukhele – Director: Media Relations
Tel: (012) 394 1643
Mobile: 079 5083 457
WhatsApp: 074 2998 512
E-mail: BLukhele@thedtic.gov.za

Issued by: The Department of Trade, Industry and Competition (the dtic)
Follow us on Twitter: @the_dtic