

## **Report No. 204**

# **Exclusion of dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 from the Motor Industry Development Programme**

The International Trade Administration Commission of South Africa herewith presents Report No. 204: *Exclusion of dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 from the Motor Industry Development Programme* with recommendation.



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**Itumeleng Masege**  
**Acting Chief Commissioner**

**Pretoria**

**15/11/.....2006**

**REPUBLIC OF SOUTH AFRICA**

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH  
AFRICA**

**REPORT NO. 204**

**EXCLUSION OF DUMPERS WITH ARTICULATED CHASSIS OF TARIFF  
SUBHEADINGS 8704.22.90 AND 8704.23.90 FROM THE MOTOR INDUSTRY  
DEVELOPMENT PROGRAMME**

**Synopsis**

The Minister of Trade and Industry, through the Director-General: Trade and Industry, requested the International Trade Administration Commission of South Africa (ITAC) to give effect to a policy decision that had been taken in 2003 to exclude dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 from the Motor Industry Development Programme (MIDP) with effect from 1 January 2007.

The reason for the policy decision is that dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 were ruled by the South African Revenue Service (SARS) not to be designed solely for off-highway use. However, these dumpers with articulated chassis are mostly used in construction and mining, and have very few components in common with other medium and heavy motor vehicles that participate in the MIDP.

In terms of Section 16(1)(d)(i) of the International Trade Administration Act, Act 71 of 2002, the Commission must investigate and evaluate matters with regard to the amendment of Customs duties in the Common Customs Area that the Minister directs the Commission to consider.

The Commission evaluated the directive from the Minister of Trade and Industry in line with Section 16(1)(d) of the International Trade Administration Act, Act 71 of 2002.

It was found that dumpers with articulated chassis that are manufactured under the MIDP have very few components in common or interchangeable with other vehicles used for the transport of goods. Manufacture of the components for dumpers with articulated chassis as well as the dumpers with articulated chassis in general do not contribute to lowering the cost of manufacturing other medium and heavy motor vehicles under the MIDP. At the time when the MIDP was implemented, the range of medium and heavy motor vehicles that were manufactured under the MIDP were restricted to "on road" medium and heavy motor vehicles, being road tractors, buses and trucks and chassis fitted with engines for the aforementioned vehicles. In its recommendation, the Commission

also took into consideration maintaining the integrity of the MIDP in line with its obligations.

The Commission concluded that the exclusion of dumpers with articulated chassis that are manufactured under the MIDP will affect the input cost of these vehicles negatively, as the duty on all imported components, except tyres, is currently rebated in full. In the case of tyres the duty is partially rebated.

The Commission recommends that dumpers with articulated chassis be excluded from the MIDP and that a rebate provision be created for components for the manufacture of dumpers with articulated chassis of tariff subheading 8704.22.90 and 8704.23.90.

### Introduction

1. The Minister of Trade and Industry, through the Director-General: Trade and Industry requested the International Trade Administration Commission of South Africa (ITAC) to give effect to a policy decision that had been taken in 2003 to exclude dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 from the Motor Industry Development Programme (MIDP) with effect from 1 January 2007.
2. The reason for the policy decision is that dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 were ruled by the South African Revenue Service (SARS) not to be designed solely for off-highway use. However, these dumpers with articulated chassis are mostly used in construction and mining, and have very few components in common with other medium and heavy motor vehicles that participate in the MIDP. The manufacture of the specific dumpers with articulated chassis under the MIDP does not contribute to reducing the cost of manufacturing other medium and heavy motor vehicles that are manufactured under the MIDP.

### The International Trade Administration Act, Act 71 of 2002

3. In terms of Section 16(1)(d)(i) of the International Trade Administration Act, Act 71 of 2002, the Commission must investigate and evaluate matters with regard to the amendment Customs duties in the Common Customs Area, that the Minister directs the Commission to consider.

### Tariff position of dumpers with articulated chassis

4. Dumpers with articulated chassis solely designed for off-highway use are classifiable as follows:

Tariff Heading	Sub-Heading	Article Description	Rate of Duty		
			General	EU	SADC
87.04		Motor vehicles for the transport of goods:			

8704.10	Dumpers designed for off-highway use:			
8704.10.25	G.V.M. not exceeding 50 t	10%	5%	free
8704.10.90	Other	free	free	free

5. The rebate provisions available to manufacturers of dumpers with articulated chassis designed solely for off-highway use read as follows:

Rebate Item	Tariff Heading	Rebate Code	Description	Extent of rebate
317.02			<b>INDUSTRY: MOTOR VEHICLES (GENERAL)</b>	
	00.00	05.00	Goods of any description (excluding two-wheeled tractors, trailers and chassis fitted with engines), for the manufacture of dumpers of subheading 8704.10	Full duty
	40.11	01.00	Radial ply pneumatic tyres, of a mass exceeding 140 kg, for the manufacture of dumpers (excluding light dumpers)	

6. Dumpers not designed solely for off-highway use, that are included in the MIDP are classifiable as follows:

Tariff Heading	Sub-Heading	Article Description	Rate of Duty		
			General	EU	SADC
<b>87.04</b>		<b>Motor vehicles for the transport of goods:</b>			
	8704.2	Other, with compression-ignition internal combustion piston engine (diesel or semi-diesel):			
	8704.22	G.V.M exceeding 5 t but not exceeding 20 t:			
	8704.22.90	Other	20%	15%	free
	8704.23	G.V.M. exceeding 20 t:			
	8704.23.90	Other	20%	15%	free

7. Dumpers with articulated chassis not solely designed for off-highway use, that are manufactured under the Motor Industry Development Programme (MIDP) are subject to the duty on original equipment components (that is components that are used to assemble the dumpers with articulated chassis) as set out in tariff subheadings 9801.45.00 and 9801.55.00. The tariff structure of the subheadings concerned reads as follows:

Tariff Heading	Sub-Heading	Article Description	Rate of Duty		
			General	EU	SADC
98.01	9801.00	<b>Original equipment components:</b>			
	9801.00.45	For motor vehicles for the transport of goods of heading 87.04, of a vehicle mass exceeding 2 000 kg and of a G.V.M. exceeding 3 500 kg per chassis fitted with a cab (excluding dumpers designed for off-highway use, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)	26%	26%	26%
	9801.00.55	For chassis fitted with engines of heading 87.06, of a mass Exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg	26%	26%	26%

(excluding those for dumpers designed for off-highway use, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)

8. Manufacturers of dumpers with articulated chassis manufactured under the MIDP may rebate the duty on the original equipment components in terms of rebate item 317.07. The rebate provision reads as follows:

Rebate Item	Tariff Heading	Rebate Code	Description	Extent of rebate
317.07			<b>INDUSTRY: MOTOR VEHICLES</b>	
			<b>NOTES:</b>	
			1. "Heavy motor vehicles" means –	
			(a) road tractors for semi-trailers of subheading 8701.20 of a vehicle mass exceeding 1 600 kg;	
			(b) motor vehicles for the transport of ten or more persons, including the driver, of heading 87.02;	
			(c) motor vehicles for the transport of goods of heading 87.04, of a vehicle mass exceeding 2 000 kg and of a G.V.M. exceeding 3 500 kg or of a mass exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg per chassis fitted with a cab (excluding dumpers designed for off-highway use, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks);	
			(d) chassis fitted with engines of heading 87.06, of a mass exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg (excluding those for dumpers designed for off-highway use, shuttle cars and low construction flame proof vehicles, for use in underground mines and off-the-road logging trucks.	
			2. To qualify for any rebate in terms of this rebate item all components imported for the manufacture of the motor vehicles in Note 1 to this rebate item shall be entered under Chapter 98 of Schedule No. 1.	
	98.01	05.04	Pneumatic tyres, whether or not fitted to wheel rims	Full duty less 15%
		06.04	Other original equipment components	Full duty

9. The following additional rebate and drawback provisions are available to manufacturers of articulated dumpers that manufacture under the MIDP:

Rebate Item	Tariff Heading	Rebate Code	Description	Extent of rebate
460.17	87.04	01.04	Motor vehicles for the transport of goods (excluding motor vehicles of subheading 8704.10)	Not exceeding the duty as calculated in terms of the notes to this rebate item
	87.06	01.06	Chassis fitted with engines, for motor vehicles of headings Nos. 87.01 to 87.05 (excluding motor vehicles of sub-	Not exceeding the duty as calculated

Heading No. 8704.10)

in terms of the notes to this rebate Item

**NOTES:**

1. For the purposes of this rebate item the extent of rebate "not exceeding the duty as calculated in terms of this rebate item" means the customs duty payable must be calculated on a value determined as follows:
  - (i) The value for customs duty purposes of motor vehicles imported less the value of any excess duty free allowance as calculated in the quarterly account of a manufacturer of specified motor vehicles (as defined in Note 7 to rebate item 317.04) and less the value of an import rebate credit certificate in respect of motor vehicles, provided for in this rebate item, automotive components and automotive tooling exported.
  - (ii) For the purposes of paragraph (i) above the value of the excess duty free allowance and the value of an import rebate credit certificate shall be reduced by 40% if the rebate credit certificate is used to import specified motor vehicles. No adjustment shall, however, be made if the import rebate credit certificate is in respect of specified motor vehicles exported fitted with engines and gearboxes.
2. These notes are only applicable to the ordinary duty specified in Part 1 of Schedule No.1

Refund Item	Tariff Heading	Code	Description	Extent of refund
537.00			<b>MOTOR VEHICLES</b>  <b>NOTES:</b>  The value of import rebate credit certificates in respect of specified motor vehicles exported not fitted with an engine or gear-box exported by the registered manufacturer from the licensed premises, eligible automotive components, automotive tooling and motor vehicles manufactured under rebate item 317.07 and exported shall be reduced by 40%	
	87.04	01.04	Motor vehicles for the transport of goods (excluding motor vehicles of subheading No. 8704.10	Not exceeding the duty in Part 1 of Schedule No. 1 calculated on the value reflected on the import rebate credit certificates issued in the name of the importer and subject to the Note to this item
	87.06	01.04	Chassis fitted with engines, for motor vehicles of headings Nos. 87.01 to 87.05 (excluding those for motor vehicles of	Not exceeding the duty in Part 1 of subheading No. 8704.10) Schedule No. 1 calculated on the value reflected on the import rebate credit certificates issued in the name of the importer and

### **The MIDP for medium and heavy motor vehicles**

10. At the time when the MIDP was implemented, the range of medium and heavy motor vehicles that were manufactured under the MIDP were restricted to road tractors, buses and trucks and chassis fitted with engines for the aforementioned vehicles. In respect of qualifying vehicles, the MIDP is a programme that was originally designed solely for “on road” vehicles. Certain dumpers with articulated chassis, although they are mostly used in construction and mining applications, have since been classified to fall under tariff subheadings 8704.22.90 and 8704.23.90. This classification has led to these vehicles being manufactured under the MIDP, although there is very little commonality and interchangeability between the components used in the manufacture of medium and heavy motor vehicles originally included in the MIDP and the dumpers with articulated chassis concerned. In terms of the MIDP, all components, with the exception of tyres, may be imported under rebate of the full duty. This rebate provision is aimed at reducing the input cost of manufacturing medium and heavy motor vehicles, whilst the duty on the built-up medium and heavy motor vehicles seeks to retain the assembly of these vehicles in the Southern African Customs Union (SACU).
11. The dumpers with articulated chassis manufactured under the MIDP compete with those designed solely for off-highway use. According to the information at the Commission’s disposal, there is one domestic manufacturer of dumpers with articulated chassis that manufactures dumpers classifiable under tariff subheading 8704.10.25. There are various importers of dumpers designed solely for off-highway use that compete with those dumpers classifiable under tariff subheadings 8704.22.90 and 8704.23.90.
12. From the information at the disposal of the Commission, manufacturers of dumpers with articulated chassis that manufacture under the MIDP are competitive against imports of substitute vehicles. The rebate provision, item 317.07, assists the competitiveness of manufacturers of dumpers with articulated chassis that are manufactured under the MIDP. Production of dumpers with articulated chassis that are manufactured under the MIDP have increased over the past three years.

### **Publication of the Minister’s directive received through the Director-General: Trade and Industry**

13. The Commission decided, for purposes of transparency and procedural fairness to publish the directive for public comments. The publication is set out in Annexure A to this report.



## **Comments on the publication**

14. The National Association of Automobile Manufacturers of South Africa (NAAMSA) as well as one manufacturer of dumpers with articulated chassis commented on the publication. NAAMSA's comment stressed the importance of protecting the integrity and sustainability of the MIDP. The manufacturer of the dumpers with articulated chassis objected against the application. The domestic manufacturer is of the opinion that it had met the objectives of the MIDP, having a higher domestic content than most vehicle manufacturers, using domestic skills and expertise. It is a price taker and not a price maker. Its vehicles have become more affordable to domestic users through discounts. In addition, it has a positive trade balance and has pursued an active programme to manufacture a number of components in house as well as to develop its own domestic suppliers of components. Some organizations supported the continued participation of the domestic manufacturer under the MIDP.

## **Consideration**

15. The Commission evaluated the directive from the Minister of Trade and Industry in line with Section 16(1)(d) the International Trade Administration Act, Act 71 of 2002. The directive seeks to give effect to a policy decision that was already taken in 2003 to exclude dumpers with articulated chassis from participating in the MIDP.
16. It was found that dumpers with articulated chassis that are manufactured under the MIDP have very few components in common with other vehicles used for the transport of goods. Manufacture of components for dumpers with articulated chassis in general does not contribute to lowering the cost of manufacturing other medium and heavy motor vehicles under the MIDP. In addition, the dumpers with articulated chassis that are manufactured under the MIDP in most instances compete with dumpers designed solely for off-highway use as dumpers, whether articulated or of a rigid construction, are mainly used in construction and mining applications. In respect of qualifying vehicles, the MIDP was originally designed solely for "on road" vehicles.
17. The Commission considered various alternatives in dealing with the exclusion of dumpers with articulated chassis from the MIDP, but concluded that its recommendation should contribute to preserving the integrity and sustainability of the MIDP in line with its international trade obligations and clarify the range of medium and heavy motor vehicles that may be manufactured under the MIDP.
18. The Commission also concluded that the exclusion of dumpers with articulated chassis that are manufactured under the MIDP, will affect the

input cost of these vehicles negatively, as the duty on all imported components, with the exception of tyres, is currently rebated in full. In the case of tyres the duty is partially rebated. A rebate provision for all imported components for the manufacture of dumpers with articulated chassis of tariff subheadings 8704.22.90 and 8704.23.90 will counter such increase in the input cost of the domestic manufacturer and improve the manufacturer's competitiveness.

## **Recommendation**

19. The Commission recommends that the following amendments to the tariff be implemented with effect from 1 January 2007:

(a) Schedule 1:

Amendment of the descriptions of tariff subheadings 9801.00.45 and 9801.00.55 to read as follows:

9801.00.45: For motor vehicles for the transport of goods of heading 87.04, of a vehicle mass exceeding 2 000 kg and a G.V.M. exceeding 3 500 kg, or of a mass exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg per chassis fitted with a cab (excluding dumpers designed for off highway use, dumpers with articulated chassis with a GVM exceeding 5 tonnes, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)

9801.00.55 For chassis fitted with engines of heading 87.06, of a mass exceeding 1 600 kg and a G.V.M. exceeding 3 500 kg (excluding those for dumpers designed for off highway use, dumpers with articulated chassis with a GVM exceeding 5 tonnes, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks)

(b) Schedule 3, item 317.02:

(i) Amendment of 317.02/00.00/05.00:

Goods of any description (excluding two-wheeled tractors and trailers whether or not presented together and excluding chassis fitted with engines) for the manufacture of dumpers of subheading 8704.10.

(ii) By the creation of a rebate provision for:

Goods of any description (excluding two wheeled tractors and trailers whether or not presented together and excluding chassis fitted with engines) for the manufacture of dumpers with articulated chassis of a GVM exceeding 5 tons of tariff subheadings 8704.22.90 and 8704.23.90.

(c) Schedule 3, Item 317.07:

(i) Amendment of Note 1 to rebate item 317.07 to read as follows

1. "Heavy vehicles: means –

- (a) road tractors for semi-trailers of subheading 8701.20 of a vehicle mass exceeding 1 600 kg;
- (b) motor vehicles for the transport of ten or more persons, including the driver, of heading 87.02, of a vehicle mass exceeding 2 000 kg (excluding those of subheading 8702.10.10);
- (c) motor vehicles for the transport of goods of heading 87.04, of a vehicle mass exceeding 2 000 kg and a G.V.M. exceeding 3 500 kg, or of a mass exceeding 1 600 kg and of a G.V.M. exceeding 3 500 kg per chassis fitted with a cab (excluding dumpers designed for off highway use, dumpers with articulated chassis of a GVM exceeding 5 tonnes, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks); and
- (d) chassis fitted with engines of heading 87.06, of a mass exceeding 1 600 kg and a G.V.M. exceeding 3 500 kg (excluding those for dumpers designed for off highway use, dumpers with articulated chassis of a GVM exceeding 5 tonnes, shuttle cars and low construction flame-proof vehicles, for use in underground mines and off-the-road logging trucks).

(d) Schedule 4, items 460.17/87.04/01.04 and 460.17/87.06/01.04:

Amendment of the description of item 460.17/87.04/01.04 to read as follows:

- |                    |  |
|--------------------|--|
| 460.17/87.04/01.04 | Motor vehicles for the transport of goods (excluding motor vehicles of subheading 8704.10 and dumpers with articulated chassis of a GVM exceeding 5 tons)  |
| 460.17/87.06/01.04 | Chassis fitted with engines for motor vehicles of headings 87.01 to 87.05 (excluding those for vehicles of heading 8704.10 and those for dumpers with articulated chassis of a GVM exceeding 5 tons) |

(e) Schedule 5, items 537.00/87.04/01.04 and 537.00/87.06/01.06:

Amendment of the description of item 537.00/87.04/01.04 to read as follows:

- |                    |  |
|--------------------|--|
| 537.00/87.04/01.04 | Motor vehicles for the transport of goods (excluding motor vehicles of subheading 8704.10 and dumpers with articulated chassis of a GVM exceeding 5 tons)  |
| 537.00/87.06/01.06 | Chassis fitted with engines for motor vehicles of headings 87.01 to 87.05 (excluding those for vehicles of heading 8704.10 and those for dumpers with articulated chassis of a GVM exceeding 5 tons) |