REPORT NO.419

CREATION OF REBATE ITEM 317.03 GOVERNING THE AUTOMOTIVE PRODUCTION AND DEVELOPMENT PROGRAMME (APDP)

The International Trade Administration Commission of South Africa herewith presents its Report No.419: <u>Creation of rebate item 317.03 governing the Automotive Production and Development Programme (APDP)</u>.

SIYABULELA TSENGIWE CHIEF COMMISSIONER

PRETORIA

12/12/2012

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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CREATION OF REBATE ITEM 317.03 GOVERNING THE AUTOMOTIVE PRODUCTION AND DEVELOPMENT PROGRAMME (APDP)

Synopsis

The Commission decided to recommend to the Minister of Trade and Industry that rebate item 317.03 of Schedule No.3 to the Customs and Excise Act, governing the APDP, be created. The description and further specifics of the recommendation are set out in the attached **Annexure A**.

INTRODUCTION

- Thedti initiated a comprehensive review of the Motor Industry Development Programme (MIDP) in 2005 in order to assess its impact and recommend options to deal with identified gaps in terms of competitiveness, while also ensuring that support to the industry is consistent with South Africa's multilateral obligations, as well as domestic priorities.
- 2. A Task Team involving thedti, the National Treasury, industry associations and independent experts worked on designing a new architecture for industry support in line with the new targets set for the industry. Substantial research was undertaken, followed by intensive and comprehensive industry consultations, including the United Nations Industrial Development Organisation (UNIDO) and the Industrial Development Corporation (IDC) that provided information and assistance in respect of global industrial policy trends and economic modelling.
- 3. The revised framework, named the Automotive Production and Development Programme (APDP) was submitted on 3 September 2008 by the Minister of Trade and Industry to Cabinet for approval.

4. Subsequently, the Minister of Economic Development requested ITAC to develop, in consultation with the South African Revenue Service (SARS), the relevant APDP administrative framework including its implementation, legislation, and administrative procedures.

OBJECTIVES AND KEY ELEMENTS OF THE APDP

- 5. The APDP is a customs-based programme consisting of rebates and refunds of the relevant customs duties classifiable in Chapters 87 and 98 of Part 1 of Schedule No. 1 to the Customs and Excise Act and rebate items 317.03 and 460.17 of Schedules No. 3 and 4 to the Customs and Excise Act. The relevant refund provisions can be found in items 536.00, 537.00 and 538.00 in Schedule No. 5 to the Customs and Excise Act.
- 6. The objective of the APDP is to create an enabling environment for the domestic industry to significantly grow production volumes and local value addition, leading to the creation of additional employment opportunities across the value chain.
- 7. Whereas the MIDP tended towards being export-oriented, the APDP is based on value addition within the automotive value chain. The APDP comprises the following four key elements:

I. Tariffs

From 2012, tariffs will remain stable at 25% for light motor vehicles and 20% for components. The relevant customs duties are classified in Chapters 87 and 98 of Part 1 of Schedule No.1 to the Customs and Excise Act.

II. Production Incentive (PI)

The PI is an incentive available to final manufacturers and will be calculated at the point of sale based on value added on qualifying motor vehicles and components. The PI is calculated on the sales invoice of the final manufacturer less the value of imports and non-specified materials used by that manufacturer or by other manufacturers in the manufacturing value chain. The PI factor for the 2013 calendar year for non-vulnerable industries will be 55% per annum from 1 January 2013 and will be reduced by 1% per annum to

50% from 1 January 2018 onwards. The PI factor for the identified vulnerable products or industries for the 2013 and 2014 calendar years will be 80% and will be reduced by 5% per annum from 1 January 2015 to 50% from 1 January 2020 onwards. The PI will encourage local value addition along the automotive value chain, with positive spin-off effects for employment creation.

III. Volume Assembly Allowance (VAA)

This support will be in the form of duty credits issued to vehicle assemblers based on 20% of the value of light motor vehicles produced domestically from 2013 onwards with an annual 1% reduction until it reaches 18% in 2015. The registered light motor vehicle manufacturers are required to achieve a minimum production level of 50 000 units per annum.

IV. Automotive Investment Scheme (AIS)

This is a cash grant that replaced the Productive Asset Allowance in June 2009. This investment incentive is administered by **thedti**.

THE DEVELOPED LEGISLATION AND PUBLICATION FOR COMMENTS

- 8. The description of rebate item 317.03 and the Regulations governing the APDP were the outcome of a rigorous and extensive consultative process with relevant stakeholders that included **thedti**, SARS, the National Association of Automobile Manufacturers of South Africa (NAAMSA) and the National Association of Automotive Component Manufacturers of South Africa (NAACAM).
- While ITAC developed the APDP Regulations, the process involving the description and administration of rebate item 317.03 was undertaken by SARS as this aspect of the legislation falls fully within the jurisdiction of SARS.
- 10. The APDP regulations were published in the Government Gazette for comments. Similarly, SARS published rebate item 317.03 on their website for comments by interested parties. As part of this consultative process, comments were consolidated and discussions held with the industry associations and role players by both ITAC and SARS.

- 11. The key provisions in terms of rebate item 317.03 comprise the definitions and acronyms, registration requirements, payment of duty and VAT, the extent of the rebate, transitional notes, specified motor vehicles, and the various elements of the APDP. The complete rebate item 317.03 is attached as **Annexure A**. The APDP Regulations are attached in full as **Annexure B**.
- 12. Both rebate item 317.03 and the APDP Regulations will be applicable in the SACU and must be read together. Participation in the APDP is voluntary. The participants who register under the programme will bind themselves to the relevant rules and conditions as determined by ITAC.
- 13. The current MIDP will run until 31 December 2012. However, the APDP Regulations provide that claims may still be submitted within 12 months (up to 31 December 2013). This means that both the MIDP and APDP will be administered concurrently during the transition period. Part F of the APDP Regulations thus provides conditions to ease the transition from the MIDP to APDP until the MIDP is completely phased out.
- 14. Subsequent to the comments received after publication in the Gazette, ITAC had several engagements with the industry, thedti, the Independent Regulatory Board for Auditors (IRBA) and SARS to finalize the APDP Regulations. Finally, the Commission offered key industry stakeholders an opportunity for oral presentations on aspects relating to the implementation of the APDP.
- 15. The Commission considered all the comments received during this process.
- 16. Specifically, the Commission favourably considered the following:
 - An amendment of Note 5 (a) to Chapter 98 of the Customs and Excise Act, 1964, to make provision for the trimming of cabs locally effectively from 1 January 2017. A recommendation to this effect will be made at a later stage;
 - The inclusion of the automotive tooling and the Medium and Heavy Commercial Vehicles (M&HCVs) components to participate under the production incentive benefit;
 - That OEMs be allowed to claim 5% of the invoice value received from component manufacturer and;

 The extension of the existing provision for SKD operations for monobuilt motor vehicles for the transport of 14 or more but not exceeding 35 persons including the driver and with a vehicle mass exceeding 2000kg from 1 January 2013 until 30 April 2015.

RECOMMENDATION

17. In light of the foregoing, the Commission recommends that rebate item 317.03 of Schedule No.3 to the Customs and Excise Act, governing the APDP, be created, the description and further specifics of which are set out in the attached **Annexure A**.

ANNEXURE A

CUSTOMS AND EXCISE ACT, 1964. AMENDMENT OF SCHEDULE NO. 3 (NO.3/

In terms of section 75 of the Customs and Excise Act, 1964, Schedule No. 3 to the said Act is hereby amended, with effect from 1 January 2013, to the extent set out in the Schedule hereto.

SCHEDULE

DEPUTY MINISTER OF FINANCE

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Item Heading Code CD Description	INDUSTRY: SPECIFIED MOTOR VEHICLES	NOTES: This item and the Notes thereto provide for the implementation of the Automotive Production and Development Programme (APDP) introduced by the International Trade Administration Commission of South Africa (ITAC).	1. Acronyms and definitions	For the purpose of this rebate item, the following acronyms and definitions will have the meaning assigned to them in this note:	1.1. Acronyms	APDP - Automotive Production and Development Programme CSP - Company Specific Percentage IRCC - Import Rebate Credit Certificate ITAC - The International Trade Administration Commission of South Africa MIDP - Motor Industry Development Programme PRCC - Production Rebate Credit Certificate SACU - Southern African Customs Union SARS - South African Revenue Service VAA - Volume Assembly Allowance VAT - Value Added Tax
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exceeding 2 000 kg, (excluding those of subheading 8702.10.10); (c) motor cars (including station wagons) of heading 8703; (d) 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	"specified motor vehicles" means- (a) road tractors or semi-trailers of subheading 8701.20 of a vehicle mass not exceeding 1 600 kg; (b) motor vehicles for the transport of ten or more persons, including the driver, of heading 8702 of a vehicle mass por	"regulation" means Regulations made in terms of section 59 of the International Trade Administration Act, No.71 of 2002.	"registrant" means a person registered under this item	"original equipment components" means components classifiable in Chapter 98 of Schedule No. 1	"guidelines" means the Guidelines issued by ITAC.	"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.	"Form C1" means a Form C1 as defined in the ITAC Regulations.	 "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. 	1.2 Definition	Description
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When the registrant becomes aware of an error in the account submitted, the registrant must amend the account as soon as reasonably possible by	 3.1 Registrants under this rebate item shall submit accounts in the following manner: (a) A quarterly account (DA 199) to the SARS customs office in which area of control the premises is registered and bring any customs duty and additional VAT to account at that office within 30 days from the closing date of the accounting period, but not later than the penultimate official working day following the period of three months during which the closing date of the account occurs. (b) For the purposes of this rebate item the accounting periods shall be for four periods of three months each commencing on 1 January each year. (c) The registrant shall not be entitled to the deferment of additional VAT, other than the 30 days provided for in (a) above 	Submission of accounts	2.1 Applicants under this rebate item shall submit a letter of approval from ITAC confirming qualification for participation together with the application.	2. Registration	"value for VAA purposes" means the value, determined on the basis prescribed in Note 7.1, of all specified motor vehicles produced in terms of this item during a quarter and ready for sale.	"VAA" means the following percentages of "the value for VAA purposes" 20 per cent from 1 January 2013; 19 per cent from 1 January 2014; and 18 per cent from 1 January 2015.	"the Act" means "this Act" as defined in section 1 of the Customs and Excise Act, No. 91 of 1964	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 (e) chassis fitted with engines of heading 87.06, of a mass not exceeding 1 600 kg or of 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).	Description
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Rebate Tariff Code Item Heading	CD CD	(a) completing a form (DA 199A) for the quarter affected by the amendment; (b) adjusting all forms affected by the amendment; (c) submitting form (DA 199A), adjusted forms and payment of any customs duty and additional VAT together with an explanation of the reasons for the amendment to the SARS customs office referred to in Note 3.1(a).
		4. Original equipment components imported by the registrant 4.1 The registrant shall clear all original equipment components for the manufacture of specified motor vehicles under Chapter 90 of Sabatata No. 1.
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		 4.2 All such original equipment components shall— (a) on importation be cleared under procedure code "Placement of goods under the 'Processing for Home Use' procedure"; or (b) if cleared on importation for storage and stored in a licensed customs and excise storage warehouse, be cleared before removal for use under procedure code "Processing for Home Use" of goods, previously placed under "Warehousing" Procedure, and (c) when cleared as contemplated in paragraphs (a) or (b), pay VAT on the value for customs duty purposes as if a "full duty" extent of rebate applies.
		4.3 The value for customs duty purposes of all original equipment components shall be included in the quarter during which such components were cleared under the procedure code 'Processing for Home Use'.
		5. Original equipment components supplied to the registrant
		5.1 A registrant must ensure and produce proof if required that the Form C1 completed by the supplier of original equipment components correctly declares the imported component value.
		 5.2 (a) The imported component value on the Form C1 completed by a SACU supplier and received by the registrant during a quarter shall be recorded in the ensuing quarter irrespective of whether it has been used in production as yet or paid for; and (b) The imported component value on the Form C1 shall be deducted by the registrant in the quarter when the original equipment components are- (i) incorporated into original equipment components and exported; (ii) used in the manufacture of specified motor vehicles and exported:

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6.1 Determination of the value for the calculation of customs duty and additional VAT on original equipment components imported by the registrant: (a) The value for customs duty purposes of original equipment components cleared under Chapter 98 during a quarter, less the value for customs duty purposes of the original equipment components. (i) In unopened containers or unit load devices, provided that the value for customs duty purposes of such components in containers or unit load devices not opened shall be carried forward as an opening balance to the ensuing quarter; registrants in terms of this rebate item; (ii) used in the manufacture of original equipment components and supplied to other registrants in terms of this rebate item; (iii) used in the manufacture of original equipment components and exported; (iv) used in the manufacture of original equipment components and exported; (iv) returned to the overseas suppliers; (vi) transferred to the parts and accessories division; (vii) destroyed under customs supervision. (b) If the deductions specified in subparagraphs (i) to (vii) exceed the value for customs duty purposes of Notes 6.1(a)(iii) and (iv) registrants may carry forward any excess value for customs duty purposes of original equipment components imported and used in exports during a quarter to- (ii) such further quarters as the Commissioner may allow in executions in exporting the customs of the Commissioner may allow in executions.	6. Determination of value for duty and additional VAT	(iii) transferred to parts and accessories; or	
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Description Heading 6.2 Determination of the value for the calculation of the customs duty and additional VAT on original equipment components recovered by the registrant: (a) The imported component value of original equipment components recovered by the registrant: (a) The imported components value of original equipment components and exported during the previous quarter less the imported component value of original equipment components and exported during the current quarter; (ii) used in the manufacture of original equipment components and exported during the current quarter; (iii) used in the manufacture of specified motor vehicles and exported during the current quarter; (iv) destroyed under coastons supervision during the current quarter; (iii) transferred to the parts and accessories division during the current quarter; (iv) destroyed under coastons supervision during the current quarter; (iv) destroyed under coastons supervision during the current quarter; (iv) destroyed under coastons supervision during the current quarter; and during the current quarter; (iv) destroyed under coastons supervision during the current quarter; (iv) destroyed under coastons supervision during the current quarter; and during the current quarter; (iv) destroyed under coastons supervision during the current quarter; and during the current quarter or during the current quarter; and during the current quarter or during the current quarter; and during the current quarter or during the current quarter or during the current quarter or during the current quarter for which the case of specified motor vehicles exported outside the SACU, the 'price free on board' as commits submitted, unless a CSP has been determined by ITAC. 7.3 The VAA of specified motor vehicles shall be declared. (a) when design			ltem
6.2 Determination of the value for the call original equipment components receive (a) The imported component value or person in SACU during the previous original equipment components. (i) used in the manufacture of outring the current quarter; (ii) used in the manufacture of outring the current quarter; (iii) transferred to the parts and a (iv) destroyed under customs sup (b) If the deductions specified in sub components received the value in the case of specified motor vehicles section D in Part 3 of Schedule Note that the case of specified motor vehicles in the case of specified motor vehicles section the recommended received in section bear of specified motor vehicles section that the case of specified motor vehicles section the received in section that the submitted, unless a CSP hereof and received in section the received received in section the received received in section the received received in section that the received received in section the received recei			Heading
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	(a) (b) 1	The VAA or any excess VAA is not tradable or transferable.	Ang pur pur pur (a)	G O G B M	The VAA in any quarter shall firstly be utilized, calculated in terms of Notes 6.1 and 6.2.	7.4 ITAC will inform the Commissioner of any amendments to a CSP as a result of which the quarterly accounts must be amended.	Description

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10.2 Any excess duty free allowance carried over from the last quarter of the 2012 MIDP account may be used to reduce the value for customs duty guarter of the 2012 MIDP	10.1 The value for customs duty purposes of any imported original equipment components in unopened containers and unit load devices carried over from the MIDP shall be declared in the first quarter of the 2013 APDP account as an opening balance on form DA 199.10.	10. Transitional Notes	 9.1 The registrant or component supplier must, as applicable, comply with- (a) this rebate item, rebate items 317.06 and 317.07 of Schedule No. 3, rebate item 460.17 of Schedule No. 4 and refund items 536.00, 537.00 and 538 of Schedule No. 5 and the Notes thereto; (b) section 75 and any other provisions of the Act; (c) the regulations; (d) the guidelines; and (e) any directives issued by the Commissioner and ITAC. 	9. Compliance	8.3 If any liability remains after the calculation in terms of Note 8.1, the customs duty and additional VAT must be brought to account.	8.2 The extent of rebate provided for in this rebate item shall not exceed the customs duty payable on the entry of imported goods under Chapter 98 of Schedule No. 1.	 (a) the value for customs duty purposes of imported original equipment components calculated in terms of Note 6.1; (b) plus the Imported component value of original equipment components received from any person in SACU calculated in terms of Note 6.2; (c) plus the VAA calculated in terms of Note 7.3(b) (Form DA 199.02); (d) less the VAA utilised in terms of Note 7.1 for this quarter; and if any liability remains (e) less the value of PRCCs to the point that the value is reduced to nil. 	8. Extent of rebate	allowed.	Description
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Original equipment components, for the manufacture of 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)	Original equipment components, for the manufacture of road tractors for semi-trailers of subheading 8701.20, of a vehicle mass not exceeding 1 600 kg	10.8 The foreign currency usage mentioned in Note 10.7 may only be deducted for the period up to and including 31 December 2013.	10.7 In instances where components cannot be linked to a certificate DA 190 by means of a unique identification number or mark, the principle of "first-in-first-out" will apply in determining the foreign currency usage in terms of MIDP per quarter.	10.6 The registrant's calculation of the foreign currency usage of original equipment components and foreign currency usage in terms of the MIDP of vehicles and certificate DA 190 shall be available for inspection by the Commissioner.	10.5 IRCCs may be used on form DA 199.06B to reduce the value for customs duty purposes of original equipment components imported and imported component value of original equipment components received from any person in SACU calculated in terms of Notes 6.1 and 6.2 respectively, after any excess duty free allowance and VAA have been used.	10.4 The duty free allowance originally allocated to motor vehicles at the time of production under rebate item 317.04 that are exported after 1 January 2013 must be added back on form DA 199.02A of the APDP account for the quarter exported.	10.3 Any excess duty free allowance carried forward from the last quarter of the MIDP accounts used for the importation of vehicles in terms of rebate item 460.17 shall be deducted on form DA 199.03 in the first quarter of the 2013 APDP account.	equipment components imported and imported component value of original equipment components received from any person in SACU as an opening balance in the first quarter of the 2013 APDP account on form DA199.03.	Description
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Original equipment components, for the manufacture of chassis fitted with engines of heading 87.06 of a mass not exceeding 1 600 kg or of 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)	Original equipment components, for the manufacture of 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 of 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)	Original equipment components, for the manufacture of motor cars (including station wagons) of heading 87.03	Description
Full duty less the duty payable on the value calculated in terms of Note	Full duty less the duty payable on the value calculated in terms of Note 8.1	Full duty less the duty payable on the value calculated in terms of Note 8.1	Extent of Rebate