

REPORT NO. 592

**CREATION OF REBATE PROVISIONS FOR SODIUM HYDROXIDE USED
IN THE EXTRACTION PROCESS OF COPPER AND NICKEL**

The International Trade Administration Commission of South Africa herewith presents its Report No. 592: Creation of rebate provisions for Sodium Hydroxide used in the extraction process of copper and nickel.


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Meluleki Nzimande
CHIEF COMMISSIONER

PRETORIA
21/08.....2018

REPUBLIC OF SOUTH AFRICA

INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA

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CREATION OF REBATE PROVISIONS FOR SODIUM HYDROXIDE USED IN THE EXTRACTION PROCESS OF COPPER AND NICKEL

Synopsels

Rustenburg Base Metal Refiners ("RBMR"), herein referred to as the applicant, applied for the creation of a rebate provision on caustic soda classifiable under tariff subheading 2815.12 used in the extraction process of copper and nickel classifiable under tariff subheadings 2603.00 and 2604.00, respectively.

The Commission found that:

- There are currently two domestic manufacturers of caustic soda in the SACU, namely Sasol South Africa (Pty) Ltd ("Sasol") and NCP Chlorchem ("NCP").
- High barriers of entry exist for new entrants into the market manufacturing caustic soda and chlorine given the interrelatedness and hazardous nature of these products. Particularly, this includes the prohibitive Government regulatory requirements for new entrants in the chlor-alkali market, which must adhere to specific processes inclusive of successful applications to the Department of Environmental Affairs, the Department of Mineral Resources and the National Ports Authority.
- There is a structural shortage of caustic soda in the SACU owing to the constraints on the demand side of the market. Given that caustic soda is one of the Chlor-Alkali chemicals, co-produced with chlorine and hydrochloric acid, the production of caustic soda and chlorine is always limited by the demand for these products.

On balance, the recommended creation of rebate provisions for the importation of caustic soda would enable producers of copper and nickel to source their primary inputs at a lower price to increase the production of copper and nickel and to encourage beneficiation of minerals within the SACU. The rebate provisions will be made subject to an ITAC permit issued in terms of specific Guidelines, rules and conditions.

In light of the foregoing, it is recommended that the Minister approve the Commission's recommendation for the creation of rebate provisions for: *“caustic soda classifiable under tariff subheading 2815.12, in such quantities, at such times and subject to conditions as the International Trade Administration Commission of South Africa may allow by specific permit for the extraction of copper and nickel classifiable under tariff headings 2603.00 and 2604.00”*, owing to the structural shortages in the caustic soda market whereby the duty has a cost raising effect on producers of copper and nickel.

THE APPLICATION AND TARIFF POSITION

Rustenburg Base Metal Refiners (“RBMR”), hereon referred to as the applicant, applied for the creation of a rebate provision on caustic soda classifiable under tariff subheading 2815.12 used in the extraction process of copper and nickel classifiable under tariff subheadings 2603.00 and 2604.00, respectively.

RBMR is a division of Rustenburg Platinum Mines (RPM), part of the Anglo American Group, which is a primary producer of Platinum Group Metals (PGMs). While mining these metals, the applicant also extracts, amongst other commodities, copper and nickel, which are further refined at RBMR. According to the applicant, copper and nickel became a significant source of revenue generation despite having a lower value than the precious metals, which it is derived from.

Information at the Commission’s disposal indicated that Sodium Hydroxide (commonly referred to as “caustic soda”), forms an integral part of the extraction process of copper, nickel, cobalt sulphate and sodium sulphate. In addition, caustic soda is one of the Chlor-Alkali chemicals, co-produced with chlorine and hydrochloric acid.

The subject product already forms part of existing rebate facilities for various other industries including the soap, paper and pulp industries as well as the mining industry. However, caustic soda used for the extraction of copper and nickel does not qualify under the existing rebate facilities due to the different industrial end usages.

As reasons for the application, the applicant, amongst others, stated that:

- *“RBMR has historically sourced caustic soda locally from Sasol South Africa (Pty) Ltd (“Sasol”). However, key changes, which have impacted Sasol’s volumes, have led to a shortfall on RBMR’s caustic soda requirements, which have consequently resulted in its decision to import the subject product.*
- *The subject product attracts a 20% custom duty component, which is not recoverable and translates into an increase in price as volumes increase.*
- *RBMR’s current export volumes are high. Nevertheless, based on the producer’s potential to supply more end products locally, RBMR seeks to create a specific industrial rebate to enable RBMR to increase local sales as well as preserve exports. The industrial rebate facility will afford RBMR more flexibility in terms of its sales’ strategies.*
- *Copper and nickel products are a critical part of RBMR’s sustainable growth strategy for the RPM Group. Subsequent to the rationalization of the Group’s portfolio of mines, RPM is left with two running operations, namely, Amandebult and Mogalakwena. Mogalakwena is the largest open pit Platinum mine in the world and the ore mined at this operation is rich in copper and nickel. Thus, it is imperative that RBMR develops this mine to be more profitable and sustainable.*
- *Caustic soda is the largest single input cost that goes into running RBMR and the applicable duty has a significant impact on both current and future costs. It is essential that RBMR minimize cost increases at the refinery in order to justify the growth potential at Mogalakwena.”*

The application was published in the Government Gazette on 20 April 2018, for interested parties to comment, as follows:

Creation of a rebate provision for:

“Caustic Soda classifiable under tariff subheading 2815.12 for the extraction of Copper and Nickel classifiable under tariff headings 2603.00 and 2604.00.”

The existing tariff structure for the subject product reads as follows:

Table 1: Tariff structure of subject product – raw material

Tariff heading	Tariff subheading	Description	Stats unit	Rate of duty				
				General	EU	EFTA	SADC	MERCOSUR
28.15		Sodium hydroxide (caustic soda); potassium hydroxide (caustic potash); peroxides of sodium or potassium:						
	2815.1	Sodium hydroxide (caustic soda):						
	2815.12	In aqueous solution (soda lye or liquid soap)	kg	20%	20%	20%	Free	20%

(Source: SARS)

The WTO bound rate in respect of the subheading in question is 20% *ad valorem*.

The co-produced Chlor-alkali chemicals, namely, chlorine and hydrochloric acid, are classifiable under tariff subheadings 2801.10 and 2806.10, respectively. Both chemicals currently attract an MFN duty of 10 per cent *ad valorem* under the General and MERCOSUR columns and are imported duty free from the EU, EFTA and SADC.

The existing tariff structure for copper and nickel is as follows:

Table 2: Tariff structure of Copper and Nickel

Tariff heading	Tariff subheading	Description	State unit	Rate of duty				
				General	EU	EFTA	SADC	MERCOSUR
26.01		Iron Ores and concentrates (excluding roasted iron pyrites)						
2603.00		Copper ores and concentrates	Kg	Free	Free	Free	Free	Free
2604.00		Nickel ores and concentrates	Kg	Free	Free	Free	Free	Free

(Source: SARS)

The requested rebate provisions are described as follows:

Table 3: Requested and proposed rebate items

Rebate Item	Tariff sub heading	Description	Extent of Rebate
xxx.xx	2815.12	Sodium hydroxide (caustic soda), in aqueous solution (soda lye or liquid soda), classifiable in tariff subheading 2815.12, for use in the extraction of copper classifiable in tariff heading 2603.00, in such quantities, at such times and subject to conditions as the International Trade Administration Commission may allow by specific permit	Full duty
xxx.xx	2815.12	Sodium hydroxide (caustic soda), in aqueous solution (soda lye or liquid soda), classifiable in tariff subheading 2815.12, for use in the extraction of nickel classifiable in tariff heading 2604.00, in such quantities, at such times and subject to conditions as the International Trade Administration Commission may allow by specific permit	Full duty

(Source: SARS)

The applicant's request for the new rebate provisions will result in the creation of two distinct rebate items under Schedule 3 of the Customs and Excise Act No.91 of 1964, applicable to the mining industry for the refining of copper and nickel products.

The applicant stated that should the rebate provision be created, RBMR will purchase the subject product from the importer's bonded warehouse and transfer it into its rebate store in accordance with custom legislation. This is due to the fact that the existing Southern African Customs Union ("SACU") caustic soda market consists of a few agents and/or manufacturers who have established relationships with overseas markets and are better equipped to deal with all the logistical and storage issues relating to storing and transporting hazardous products.

INDUSTRY AND MARKET

According to information at the Commission's disposal there are two manufacturers of caustic soda in the SACU, namely: Sasol and NCP Chlorchem (Pty) Ltd ("NCP"). NCP is the only commercial producer of chlorine, a Chlor-Alkali chemical co-produced with caustic soda, which it sells in bulk or packed form in the SACU. Chlorine is used in various downstream manufacturing industries including the Poly vinyl chloride ("PVC"), water treatment, disinfectants and paper bleaching industries.

Information at the Commission's disposal indicated that the supply of caustic soda is dependant on the demand for chlorine in the SACU. This is driven by the fact that chlorine, unlike caustic soda, cannot be stored for long periods or transported over long distances.

The Commission found that high barriers of entry exist for new entrants into the market manufacturing caustic soda and chlorine given the interrelatedness and hazardous nature of these products. Particularly, this includes the prohibitive Government regulatory requirements for new entrants in the chlor-alkali market, which must adhere to specific processes inclusive of successful applications to the Department of Environmental Affairs, the Department of Mineral Resources and the National Ports Authority.

Copper and nickel are primarily used in the manufacture of the following downstream products:

- Engine blocks;
- Copper extrusions;
- Stainless steel flat products;
- Nickel and magnesium master alloys,
- Carbon steel products;
- Electroplating; and
- Coinage.

COMPETITIVE POSITION

According to information at the Commission's disposal, the applicant's imported input costs have contributed to rising average production costs from 2014 to 2016.

COMMENTS RECEIVED

No objections to the application were received. The application was supported by Columbus Stainless and NCP. While, Sasol expressed a neutral position on the application and Elegant Line Chemicals submitted that they are in the process of setting up a caustic soda plant in Richards Bay thus the rebate provision should be subject to a timeline.

With regard to the potential caustic soda manufacturer, Elegant Line Chemicals, the Commission will consider a request from the company concerned, once a plant is fully operational.

FINDINGS

The Commission found that:

- There are currently two domestic manufacturers of caustic soda in the SACU, namely Sasol and NCP Chlorchem.
- High barriers of entry exist for new entrants into the market manufacturing caustic soda and chlorine given the interrelatedness and hazardous nature of these products. Particularly, this includes the prohibitive Government regulatory requirements for new entrants in the chlor-alkali market, which must adhere to specific processes inclusive of successful applications to the Department of Environmental Affairs, the Department of Mineral Resources and the National Ports Authority.
- There is a structural shortage of caustic soda in the SACU owing to the constraints on the demand side of the market. Given that caustic soda is one of the Chlor-Alkali

chemicals, co-produced with chlorine and hydrochloric acid, the production of caustic soda and chlorine is always limited by the demand for these products.

On balance, the recommended creation of rebate provisions for the importation of caustic soda would enable producers of copper and nickel to source their primary inputs at a lower price to increase production of copper and nickel and to encourage beneficiation of minerals within the SACU. The rebate provisions will be made subject to an ITAC permit issued in terms of specific Guidelines, rules and conditions.

RECOMMENDATION

In light of the foregoing, it is recommended that the Minister approve the Commission's recommendation for the creation of rebate provisions for: *“caustic soda classifiable under tariff subheading 2815.12, in such quantities, at such times and subject to conditions as the International Trade Administration Commission of South Africa may allow by specific permit for the extraction of copper and nickel classifiable under tariff headings 2603.00 and 2604.00”*, owing to the structural shortages in the caustic soda market whereby the duty has a cost rising effect on producers of copper and nickel.