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## **MEDIA STATEMENT**

### **Gazetting of Trade Exposure and Greenhouse Gas Benchmark Regulations and Renewable Energy Premium Notice in terms of the Carbon Tax Act**

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The Minister of Finance published on Friday, 19 June 2020 in Gazette Nos 43451, 43452 and 43453 the following regulations for the trade exposure and greenhouse gas (GHG) emission intensity benchmark performance allowance, and the notice for the renewable energy premium, in terms of the Carbon Tax Act (Act No. 15 of 2019):

- Regulations in terms of Section 19(b) for purposes of Section 10 for the Trade Exposure Allowance (Gazette No. 43451).
- Regulations in terms of section 19(a) on the Greenhouse Gas Emission Intensity Benchmarks for purposes of Section 11 for the performance allowance (Gazette No. 43452).
- Notice in terms of Section 6(2)(c) for the Renewable Energy Premium (Gazette No: 43453).

The gazetted Trade Exposure and GHG Emission intensity benchmark regulations take into account written comments submitted by stakeholders on the draft regulations which were published for public comment on 2 December 2019. Thirty eight sets of written comments were received on the draft regulations by the closing date on 24 January 2020, followed by a stakeholder consultation workshop and several bilateral meetings with industry associations and companies during February and March 2020. The consultations provided for further clarification of comments and finalisation of the regulations.

The main comments on the regulations included requests for clarification on:

- the process for the submission of new benchmarks;
- future adjustments of the trade exposure and performance allowances;
- the methodological approaches used to set the benchmarks and determine the trade exposure allowance;
- the need for transparency of the data sources and methodologies used;
- the inclusion of the timeframes for review of the respective allowances; and
- various technical and legal comments.

During stakeholder consultations on the Carbon Tax Policy Paper of 2013, some stakeholders raised their concern that the Renewable Energy Independent Power Producer Procurement Programme (REIPPPP), which provides a financial incentive for the uptake of low carbon renewable energy technologies, already serves as a form

of an implicit carbon price and imposition of the carbon tax could result in double taxation for the electricity sector. It was emphasized by National Treasury that there is need for an explicit economy-wide carbon price, to account for the negative externalities due to fossil fuel use beyond the electricity sector.

However, Treasury has taken note of the concern by easing the transition to a lower carbon economy by ensuring there will be no additional impact on the price of electricity due to the carbon tax during the first phase of the tax up to December 2022. In terms of Section 6(2)(c) of the Carbon Tax Act, taxpayers whose main activity is electricity generation from fossil fuels can offset the costs of purchasing renewable energy (the renewable energy premium), either under the REIPPPP or from non-REIPPPP projects, against their carbon tax liability.

The gazetted Notice for the Renewable Energy premium provides the quantum of the offset and takes into account consultations with the Department of Mineral Resources and Energy (DMRE), the REIPPPP office, the National Energy Regulator of South Africa and Eskom, as well as considering international trends in renewable energy technology prices which have fallen significantly in recent years and in some cases become cost competitive with fossil fuel based electricity. It sets out the rates per kilowatt hour by renewable energy technology namely, biomass, concentrated solar power, hydro, onshore wind, and solar photovoltaic. The renewable energy premium was determined using a weighted average of the renewable energy technology costs under the REIPPPP for 2019.

The finalisation of the regulations concludes an extensive stakeholder consultation process on the carbon tax over the past decade. Going forward, the National Treasury will embark on a policy process to inform the second phase (from 1 Jan 2023) to assess the impact of the carbon tax in bringing down the absolute level of GHG emissions. The review will consider strengthening the rate of the carbon tax and adjustments of the tax-free allowances in line with the Paris Agreement requirements for carbon neutrality by 2050 and pursuing mitigation efforts to limit warming to well below 1,5 degrees Celsius.

The carbon tax is an integral part of Government's package of policy measures to mitigate climate change as outlined in the National Climate Change Response Policy, National Development Plan and its Nationally Determined Contribution commitments under the 2015 Paris Agreement.

The gazetted Regulations and Notice together with a detailed summary of the stakeholder comments on the draft regulations and government responses are available on the National Treasury website ([www.treasury.gov.za](http://www.treasury.gov.za)). In addition, the sector and subsector trade and production data, methodology for ensuring the compatibility of the data, and calculations of the trade exposure allowance for the different sectors and subsectors are also published for information purposes.

## Summary of main comments and changes made to the regulations

### Trade Exposure Allowance Regulations Amendments

Section 10 of the Carbon Tax Act sets out the methodology for calculating the trade intensity of a sector which informs the level of the trade exposure allowance that a sector or subsector will qualify for, as determined by the Minister of Finance by Regulation. The trade exposure allowance aims to assist companies that may face potential adverse impacts on their competitiveness and companies can qualify for an allowance of up to 10 per cent of their total GHG emissions.

Taking into account stakeholder comments on the 2013 Carbon Tax Policy and the 2015 Draft Carbon Tax Bill, the Regulations for the Trade Exposure Allowance provides a list of sectors and subsectors and the level of the trade exposure allowance that it would qualify for. This is based on a calculation of the trade intensity of the sector or subsector which serves as a proxy for trade exposure. The main comments and changes to the regulations are summarised below:

- Update of the data and calculations of trade intensity. Stakeholders suggested that the calculations using the gross value added data to determine the trade intensity of certain sectors and subsectors should be updated using the latest Supply and Use tables data as published by Statistics South Africa (StatsSA) in 2016. The data used for the calculation of trade intensity was updated and the level of the allowances were recalculated for sectors where GVA data was used. The level of allowances for different sectors remain largely unchanged except for the manufacture of tobacco products and man-made fibres sector where the allowances reduced from 10 per cent to about 7 and 4.5 per cent, respectively.
- Proposal for subsector trade intensity calculation and trade exposure allowance for sugar. For the sugar industry, a proposal for a subsector trade intensity calculation using the latest trade data and the production data as submitted to the former Department of Agriculture, Forestry and Fisheries was considered and accepted after verification of the data and has been included in the list for the trade exposure allowance.
- Calculation of company trade intensity. The company-specific trade intensity includes imports which are defined as 'an amount equal to the monetary value of products that were imported by the taxpayer during the tax period. Clarity was requested on whether this refers to imports by the company of the product it manufactures or all imports by the company or only imports of raw material. The regulation has been amended to clarify that for the import, export and sales data, this relates to a final product relevant for the company.



- Request for publication of the trade and production data as well as the methodology used for the trade intensity calculation. The methodology used for aligning trade and production data, relevant trade and production data, and the calculation of trade intensities and applicable allowances has been published on the National Treasury website. The links to the production and trade data on the StatsSA and Department of Trade, Industry and Competition (the dtic) websites will also be made available to the public.
- Qualifying trade intensity thresholds for the allowance. There were some concerns from stakeholders that the approach taken to determine which sector or subsector qualifies for the maximum trade exposure allowance is too generous (the 30 per cent trade intensity threshold), and does not reflect the actual trade exposure of a sector. The analysis shows that sector trade intensity on average exceeds 50 per cent but to aid the economy transition to a low carbon economy, the 30 per cent threshold was maintained as the cut off. However, this comment is noted and will be taken into account as part of the review of the trade exposure allowance methodological approach.

#### GHG Emissions Intensity Benchmark Regulations changes

Section 11 of the Carbon Tax Act sets out the formula to be used by taxpayers to calculate the applicable performance allowance. For a tax period, taxpayers that perform better than an approved sector or subsector GHG emissions intensity benchmarks will qualify for a performance allowance. The performance allowance seeks to encourage firms to reduce the carbon intensity of their production processes relative to their peers and promote the competitiveness of local products.

In 2015, the National Treasury requested that stakeholders develop benchmark proposals for purposes of the performance allowance. To help facilitate the development of GHG emissions intensity benchmarks, the National Treasury commissioned a study through the World Bank and a report entitled “Emissions intensity benchmarks for the South African Carbon Tax” was published in 2014 available on:

[http://www.treasury.gov.za/publications/other/GHG\\_Emissions\\_Intensity\\_Benchmarks\\_for\\_SA\\_Carbon\\_Tax.pdf](http://www.treasury.gov.za/publications/other/GHG_Emissions_Intensity_Benchmarks_for_SA_Carbon_Tax.pdf). This was followed by a stakeholder consultation workshop in May 2015.

The gazetted Regulations for the GHG Emissions intensity benchmarks sets out the emissions intensity benchmarks for sector and subsectors that submitted benchmark proposals during the period 2016 to 2020. The following changes were made to the regulations:

- Request for benchmark methodology transparency. It was clarified that the methodological approach and data requirements for setting benchmarks was outlined



in the NT technical study GHG Emission Intensity Benchmarks Report of 2014, which served as a guidance document to sectors and industries developing benchmarks.

- Methodology for determining the applicable benchmark where multiple benchmarks or a range applies for a single activity. The regulation has been amended to include a formula to determine the applicable benchmark.
- Grid emission factor (GEF) to be used for the calculation of the GHG emission intensity benchmarks. Clarity was requested from stakeholders on the GEF that is, the emissions intensity of electricity generation in the grid to be used to determine scope 2, indirect emissions. It was clarified that the GEF will be 0,94tonneCO<sub>2</sub>e/MWh as proposed in the NT technical study for GHG Emission Intensity Benchmarks Report of 2014. Most sectors submitted revised, lower benchmark values and the benchmarks listed in Annexure A of the Regulation were amended accordingly.
- Stringency of benchmarks and review. Some stakeholders were of the view that the benchmarks are set using an average emission intensity of a sector or subsector which provides relatively high benchmark values of low stringency, and that the regulation should indicate how the benchmark values would be tightened over time. The proposals were noted and will be considered as part of a project to review the benchmarks through the Partnership for Market Readiness Project through the World Bank.
- Data transparency, measurement and verification of emissions intensity for a tax period. Extensive discussions were held with industry associations and companies on the provision of data used to set benchmarks and concerns were raised on taxpayer data confidentiality and Competition Act issues. This was noted and there was a view that aggregated and anonymised data would address these concerns. Some stakeholders suggested that the National Treasury and the Department of Environment, Forestry and Fisheries should verify the company GHG emissions intensity for a tax period. Consideration will be given to include a provision for data reporting, measurement and verification in the Carbon Tax Act.

**Issued by National Treasury**

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