

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 1330

11 DECEMBER 2020

NOTICE IN TERMS OF SECTION 10(6) OF THE COMPETITION ACT NO. 89 OF 1998 (AS AMENDED) BY VARIOUS INDEPENDENT CHROME ORE PRODUCERS

THE COMPETITION COMMISSION OF SOUTH AFRICA

NOTICE OF APPLICATION FOR AN EXEMPTION

1. Notice is hereby given in terms of section 10(6)(a) of the Competition Act, No. 89 of 1998, as amended (the “**Act**”) by the following entities:
 - 1.1. Rustenburg Platinum Mines Limited and Atomic Trading Proprietary Limited;¹
 - 1.2. Assore Limited and its subsidiaries, including but not limited to: Dwarsrivier Chrome Mine Proprietary Limited and Ore & Metal Company (collectively, “Assore”);
 - 1.3. Bauba Resources Limited and the firms controlled thereby, whether directly or indirectly;
 - 1.4. Chrometco Limited and the firms controlled thereby, whether directly or indirectly;
 - 1.5. Impala Platinum Holdings Limited and the firms controlled thereby, whether directly or indirectly;
 - 1.6. Northam Platinum Limited and the firms controlled thereby, whether directly or indirectly;
 - 1.7. Sibanye-Stillwater Limited and the firms controlled thereby, whether directly or indirectly;
 - 1.8. Siyanda Resources Proprietary Limited and the firms controlled thereby, whether directly or indirectly; and
 - 1.9. Tharisa plc, including its subsidiaries: Tharisa Minerals Proprietary Limited, Arxo Resources Limited and Arxo Metals Proprietary Limited.
2. The above-named entities are hereinafter referred to collectively as **Independent Chrome Ore Producers (“ICOPs”)** or the (**‘Applicants’**). The ICOPs, on behalf of whom the present application is lodged, are not members of any association which has been formed for purposes of the present Application. The Applicants engage among other things, in mining and production of chrome ore, a key input which is required to produce ferrochrome. The majority of ferrochrome is used in the production of stainless steel and the balance is used in other types of steel production.
3. The application is submitted in terms of section 10(1)(b) of the Competition Act, which section provides that a firm may make an application to the Competition Commission (“Commission”) to be exempted from the application of Chapter 2 of the Competition Act. The exemption is requested for a period of two years, commencing on and from the date on which the

¹With both such entities being subsidiaries, alternatively, affiliates of Anglo American Platinum Limited.

Commission ought to grant the exemption.

4. The Applicants became aware of plans to introduce an export tax on the outbound chrome ore (“**proposed tax**”) to support the deteriorating state of South Africa’s domestic ferrochrome production industry.² The Applicants are requesting the Commission to approve a two year exemption to facilitate the undertaking of research to find more viable and consolidated appropriate approach which can be considered to support the ferrochrome industry. The Applicants seek to explore interventions which may be possibly implemented to assist the declining domestic ferrochrome industry. The exploration of interventions may involve sharing competitively sensitive information and it is against this background that the Applicants are seeking an exemption.
5. The Applicants submit that the exploration process may involve the following interventions:
 - a) Palatable and non-destructive form of chrome ore export tax;
 - b) Appropriate offtake arrangements in terms of which the chrome ore sector obtains assurance that it will not be left with unsold volumes of, or reduced prices for, chrome ore, as a result of any export tax; and
 - c) Appropriate energy production or purchasing arrangements which improve the cost-effectiveness for the production of both chrome ore and ferrochrome.
6. The Applicants submit that an exploration of the contemplated interventions will also necessitate a variety of interactions that may be both horizontal and vertical in nature which may contravene sections 4(1) and 5(1) of the Competition Act.
7. Notice is hereby given in terms of section 10(6)(b) of the Act to allow interested parties twenty (20) business days from the date of the publication of this notice to make written representations to the Commission as to why the exemption should, or not, be granted.
8. The representations must be directed to:

Ms Balisa Mhambi
Competition Commission of South Africa
Market Conduct Division
Tel: 012 763 8613
Email: BalisaM@compcom.co.za
9. For the purposes of your representations, please make use of the following Case Number: **2020Sep0032** when sending correspondences in relation to this notice.

² Application filed with the Competition Commission South Africa by the various independent chrome ore producers dated September 2020.