



BLOCK EXEMPTION FOR THE PROMOTION OF EXPORTS

WHAT DO YOU NEED TO KNOW ABOUT THE BLOCK EXEMPTION FOR THE PROMOTION OF EXPORTS?

The Block Exemption for the Promotion of Exports, 2025 allows for certain types of cooperation between firms involved in exporting goods and services from South Africa.

The purpose of the exemption is to help South African exporters respond to the economic impact of global trade tariff changes, reduce export costs and strengthen the resilience and growth of South African exports.

The exemption applies only within its stated scope and does not create a general permission for firms to coordinate on all commercial matters.

Firms must follow the process set out in the Regulations before implementing agreements or practices covered under the exemption.

WHAT IS A BLOCK EXEMPTION?

The Competition Act generally prohibits firms from entering into certain types of agreements that could restrict competition.

A block exemption is a legal instrument that exempts certain categories of agreements or practices from specified provisions of the Competition Act, subject to the conditions, safeguards and limits set out in the regulations.

The exemption creates a controlled pathway for exporters to collaborate, provided that the collaboration stays within the permitted categories and firms obtain written in-scope confirmation before implementation.

DEFINITIONS

Coordination

An agreement, concerted practice or decision by an association of firms as contemplated in section 4(1) of the Competition Act.

Export markets only

The exemption is limited to firms exporting goods or services from South Africa to export markets and to the export products or services covered by the Regulations.

HDP firms

Firms owned and controlled by historically disadvantaged persons as contemplated in the Competition Act.

Horizontal and vertical agreements

The exemption may cover certain coordination between firms, including competitors or firms at different levels of the value chain, where the coordination is export-focused and falls within the Regulations.

Independent third party

A person or firm with no direct or indirect interest in the relevant firms, appointed to facilitate the sharing and aggregation of competitively sensitive information.

No automatic implementation

Firms must first obtain written in-scope confirmation from the Commission before implementing covered agreements or practices.

SMMEs

Small, micro or medium-sized businesses as defined by the Minister in the applicable Government Gazette or successor instrument.

WHO DOES THE EXEMPTION APPLY TO?

The exemption is available to firms exporting goods or services from South Africa to export markets.

The exemption applies to agreements or practices specifically listed in the regulations that relate to export markets and export products.

The regulations specifically provide that HDP firms and SMMEs at all levels of the value chain must be afforded an opportunity to opt into agreements or practices, including negotiations of the agreements or practices, entered into under the Regulations.

WHAT TYPES OF EXPORT COORDINATION MAY BE EXEMPTED?

The Regulations identify specific categories of export-related coordination that may qualify.

1. Coordination aimed at achieving economies of scale and efficiencies in export markets to improve the competitiveness of South African export products.
2. Coordination on sharing or offsetting landed costs faced in export markets.
3. Coordination on joint financing or joint development of export infrastructure, including infrastructure in South Africa, transit points and the export destination.
4. Coordination on funding and sharing export related market information, including information on import regulations and product regulations in export markets.
5. Coordination on sharing of export related information on aggregated export prices or aggregated export volumes in export markets:
 - through an independent third party funded by the parties to the coordination; and,
 - In agricultural markets determined by the dtic, on a case-by-case basis, as requiring coordination; and
 - only if such information is strictly necessary to support the export of agricultural products identified by the dtic.
6. Coordination on sharing the costs of shipment, storage, inspection, freight, consolidation hub, insurance and other logistics costs in export markets.
7. Coordination on the collective marketing of South African goods as a brand in export markets.
8. Coordination on the joint negotiation of protocols of export programmes and compliance with quality specifications or standards of goods in export markets.
9. Coordination on the joint negotiation or joint contracting with overseas buyers where such engagement is required or requested by foreign governments.

WHAT IS EXCLUDED FROM THE EXEMPTION?

The Regulations expressly exclude the following conduct and transactions:

- **MARKET ALLOCATION**

Firms may not agree or which customers or markets they will each supply where it relates to goods or services sold to the final customer or consumer.

- **COLLUSIVE TENDERING**

Firms may not agree who will win a tender for goods or services intended for the final customer or consumer.

- **RESALE PRICE MAINTENANCE**

Firms may not agree on prices or price limits at which goods or services will be resold to the final customer or consumer.

- **COMMERCIAL AGREEMENTS**

The exemption is limited to the specific export-related activities covered by the regulations. Firms may not enter into commercial agreements with the aim to avoid competition.

- **ANY MERGER TRANSACTION**

DO FIRMS NEED CONFIRMATION FROM THE COMMISSION?

Yes, firms that wish to enter into agreements or engage in practices covered by the exemption must first seek written confirmation from the Commission that the agreement or practice falls within the scope of the Regulations.

No agreement or practice may be implemented unless confirmation has been provided by the Commission.

Upon receiving the exemption request, the Commission can in relation to the scope, confirm, reject or recommend any safeguards it deems necessary in order to ensure that the agreement or conduct is in full compliance with the Regulations.

WHAT ARE SAFEGUARDS?

Safeguards are conditions or controls that the Commission may put in place to ensure that firms cooperate only in the ways allowed by the exemption and do not use the exemption to engage in wider anti-competitive conduct.

HOW LONG WILL THE COMPETITION COMMISSION TAKE?

The Commission must decide within 30 business days of receipt of the request.

It may extend this by a further period not exceeding 30 business days if there is good cause.



If the Commission has not made a decision and has not extended the period, or has not made a decision within the extended period, the agreement or practice is regarded as confirmed.

WHEN CAN CONFIRMATION BE REVOKED?

The Commission may revoke confirmation if;

- safeguards are breached,
- the collaboration exceeds the exemption granted,
- the confirmation was granted on the basis of false information or,
- the reason for granting confirmation no longer exists.

The Commission must notify the relevant firms in writing of its intention to revoke confirmation and provide an opportunity to make representations before a decision is made.

MONITORING AND RECORD KEEPING REQUIREMENTS

Firms participating in agreements or practices that fall within the scope of the exemption must notify the Commission and the dtic within 15 business days of implementation.

Firms must keep accurate written records of meetings, correspondences relating to the agreement, information exchanged between the firms and any other relevant records.

The Commission may request these records at any time.

Correspondence can be sent to the Competition Commission at exemption.conditions@compcom.co.za and the dtic at exemption.conditions@thedtic.gov.za.

PRACTICAL CHECKLIST BEFORE IMPLEMENTATION

- Is the collaboration aimed at export markets and export products or services only?
- Does the proposed conduct fall within one of the categories listed in the Regulations?
- Have the parties documented the export-related objective, scope, safeguards and implementation timeline?

- Have HDP firms and SMMEs been afforded an opportunity to opt into the agreement or practice?
- Is any information exchange strictly necessary and appropriately managed?
- Has written in-scope confirmation been requested from the Commission?
- Have notification and record keeping responsibilities been allocated to named persons within the participating firms?

HOW LONG WILL THE REGULATIONS REMAIN IN FORCE?

The Regulations came into effect on the date of publication in the Government Gazette and will apply for a period of five years.

The Minister may extend the period by notice in the Government Gazette, after consultation with the Commission and taking into account tariffs in the export markets.

The Minister may also expand or reduce the areas of exempted collaboration by notice in the Government Gazette after consultation with the Commission.

If the exemption is withdrawn, the Minister may provide a reasonable period for firms to wind down agreements or practices that were implemented under the exemption.

FOR MORE INFORMATION CONTACT THE COMMISSION

Telephone: (012) 394 3200

General email: ccsa@compcom.co.za

Export block exemption notifications:
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