

8 March 2019

Select Committee on Finance

National Council of Provinces

Attention: Zolani Rento

Communicated electronically to: [zrento@parliament.gov.za](mailto:zrento@parliament.gov.za)

Dear Mr Rento

**CAIA submission to the National Council of Provinces’ Select Committee on Finance, on the Carbon Tax Bill**

**INTRODUCTION**

The Chemical and Allied Industries’ Association (CAIA) represents the interests of a large proportion of the chemical industry in South Africa; throughout its value chain. The chemical sector contributes about 3.0% to the Gross Domestic Product and 22% to manufacturing that occurs in South Africa, thereby contributing strongly to our economy.  Economic growth increases the demand for products of the chemical industry, and this growth in turn drives product innovation. The contribution that the sector is making to the economy is falling due to, amongst other factors, the increasing cost of doing business in South Africa that includes the increasing imposition of regulatory and economic instruments.

Chemicals, chemical products and technologies are used in almost every area of life as well as in most facets of the world economy, thereby contributing to almost every value chain, even outside of the industry itself. In South Africa, the chemical sector therefore supports a range of other manufacturing sectors and plays an indispensable role in the provision of essential services as well as in economic growth.

As an association that forms part of a worldwide network of chemical industry associations, CAIA seeks to promote the continual improvement of performance in the safety, health and environmental arenas as well as to boost productivity and competitiveness of the chemical and allied industries in South Africa, thereby enhancing their sustainability.

Members are mainly large and medium size companies drawn from base chemicals, fertilizers, plastics in primary form, pesticides and other agricultural products, explosives and speciality chemicals. CAIA’s primary goals are to advocate industry advancement and cohesion, promote Responsible Care®, earn public trust for the chemical industry, strengthen its advocacy efforts and lobbying with Government, drive multi-industry participation and facilitation opportunities for the entire value chain, support education initiatives in science, engineering and technology and create maximum value for member companies.

The Association interacts with a number of employer bodies, the Chemical Industries’ Education & Training Authority, various professional societies and other associations representing sub-sections of the industry.

CAIA is the custodian of the global Responsible Care® initiative, which was launched in South Africa in 1994. Through this Initiative, companies make a formal public commitment to continually improve their safety, health, and environmental performance. CAIA operates through a board comprised of Chief Executive Officers of member companies, and the day-to-day running of the association is led by the Executive Director, Deidré Penfold.

The importance of a healthy, sustainable and growing chemical sector is key to many economies of the world. This is due to the upstream and downstream opportunities which are offered that are reflected in:

* the diversity and complexity of operations that the chemical industry is directly involved in, and
* the strong multiplier effects the chemical industry has on employment and Gross Domestic Product. In South Africa, these multiplier effects are 7.00x and 4.72x, respectively.

**BACKGROUND**

For CAIA members, the Carbon Tax Bill places liability on Greenhouse Gas (GHG) emissions where there are industrial processes, fugitive emissions and/or the combustion of liquid fuels, if compliance with the National Greenhouse Gas Emissions Reporting Regulations (NGHGERRs) is required. Furthermore, there are also tax implications for the transportation sector due to the use of liquid fuels, although reporting is not required according to the provisions of the NGHGERRs.

Due to these potential impacts, CAIA has been involved in consultations on the draft Carbon Tax Bill since the proposal thereof and initial calls for input by the Davis Tax Committee in 2015. The call requested input on the proposed scope and design of the tax. CAIA’s submission to the Committee strongly opposed the introduction of the tax. From as early as 2010, both business and state economic departments have argued against its implementation in South Africa due to the economic and technical challenges which would be faced. This demonstrates the historical lack of support for such a tax at its earliest stages of consideration.

Although the implementation of the tax has been delayed from 2016, CAIA still cannot support the implementation of a carbon tax for South Africa. This submission highlights the main reasons why the Committee should place serious consideration on the recent approval of the draft Carbon Tax Bill by the Standing Committee on Finance, and its intended implementation from 1 June 2019.

**COMMENTS**

**Impact of the Bill and associated legislation not fully determined**

* Although assessments and modelling work have been undertaken by the National Treasury (NT), the assessments do not comprehensively consider the potential negative socio-economic impacts; such as on inflation through the addition of the tax to the price of liquid fuels.
* The tax is not meant to impact those most vulnerable, but this aspect of the tax will impact all South Africans through inflation as, for example, transportation costs will increase which will be passed on to the consumer. This has even been recognised by the NT.
* Furthermore, the Deputy Director-General: Tax and Financial Sector Policy has recognised the importance of companies to the economy, the need for growth and long-term planning, and the difficulty in assessing the impact of the tax given the uncertainty also posed by the carbon budget process that needs to be finalised by the Department of Environmental Affairs (DEA).
* The full suite of climate change-related legislation has not yet been considered. This includes a lack of finalisation of legislation to be introduced by the DEA that includes the carbon budget regime that also aims to reduce the emission of greenhouse gas emissions. Why two instruments are necessary is still not yet clear.
* Within the proposed legislation of the NT even, the proposed draft regulations on trade exposure and performance allowances have not yet been released, despite commitments to this on two previous occasions. Without the full suite of legislation to consider, policy certainty is lacking due to the assumptions that must be made by businesses.

**Punitive nature of the tax**

* CAIA argues that as the tax aims to change behaviour and set a price on GHG emissions, it is punitive where there is a lack of choice in the market to facilitate behaviour change; such as in the road transportation sector and where there is other combustion of liquid fuels.

**Lack of ring-fencing of revenue**

* Although the NT position on ring-fencing of tax revenue is clear (lack of fiscal prudency), CAIA does not support that tax revenue is not ring-fenced. Taxes should be used to effectively address challenges that are not managed through normal market mechanisms.

**Administration of the tax through the Customs and Excise Act**

* Draft amendments were released that will require the administration of the tax through the provisions of the Customs and Excise Act, as an environmental levy.
* This will require registration with the South African Revenue Service (SARS) at a level to be determined (facility/company/activity).
* Administration of the tax through registration and licencing of facilities by the SARS requires extensive consultation to ensure that - should the tax be implemented - it is as free of as much administrative burden as possible. The administration of the tax through this mechanism is not supported but the NT has not been receptive to other mechanisms.

**Deductibility of the tax**

* It remains unclear if the tax is tax deductible. Despite the NT referring to it being tax deductible, it must be remembered that environmental levies are not tax deductible. This causes confusion and uncertainty.

**Effect of the tax on competitiveness**

* Despite the Customs and Excise Act stating that there will be a tax on imports, there is no further information forthcoming on how this will be applied to ensure that locally manufactured products do not become uncompetitive due to the imposition of the tax.

**Waste sector emissions**

* Emissions required to be reported are liable for the tax but are provided with a 100% allowance for the first phase. It has been confirmed by the NT that companies still need to undertake the administrative process with the SARS and through the Customs and Excise Act. This is not supported as this is purely an administrative burden.

**Carbon Offsetting**

* The use of the term “must” in Section 13(1) of the Bill is problematic: “…a taxpayer must reduce the amount in respect of the carbon tax for which the taxpayer is liable in respect of a tax period by utilising carbon offsets as prescribed by the Minister.”. Although currently understood not to be the intention of the NT, this could be interpreted to mean that a taxpayer has to enter into carbon offset projects and utilise the allowance.
* CAIA and other stakeholders have repeatedly called for increased flexibility to be provided as a part of the Carbon Offset Regulations and ultimate regime, but to no avail. Allowances are limited to 10% of the tax liability, and project types and geographic locations of projects are restricted.
* It must be considered that carbon offset projects may represent the best mechanism to achieve least-cost mitigation.

**Lack of policy certainty**

* Although the NT has attempted to provide some degree of policy certainty beyond the first phase of the carbon tax that is up to the end of 2022, it is insufficient to foster a healthy environment conducive to investor and business certainty.
* The proposal includes a very different tax regime after 2022, and a study undertaken shows a very wide range of negative impacts on the economy and employment - the range being dependent on the base tax rate on emissions that exceed a carbon budget, a tax on emissions below a carbon budget, and the removal of tax-free allowances.
* It is however clear that the electricity price neutrality committed to by the NT for the first phase will not be taken forward into subsequent phases, having a further impact on the unsustainable increases in the price of electricity.

**Lack of mitigation opportunities**

* Companies in the chemical sector have for many years voluntarily taken decisions and made investments to reduce their GHG emissions where technologically possible, even to the extent of achieving reductions of more than 90% of industrial process-related emissions. Such voluntary action will still result in these companies having a carbon tax liability despite further reductions not being technologically feasible.

**Reservations by the Democratic Alliance**

* The Report of the Standing Committee on Finance contains the following reservations of the Democratic Alliance:
  + While supporting enhanced energy efficiency, the Bill does not take into account the country’s stage of economic development and its global contribution to GHG emissions.
  + The first period until 2022 should be considered a trial not only to adjust rates and tax-free thresholds but re-evaluate the need for the carbon tax in South Africa’s carbon reduction strategy.
  + The revenue from carbon tax should be ring-fenced.
  + The Bill does not allow for companies to achieve 100% tax free status.
* These reservations should be included in the National Council of Provinces’ deliberations on the proposed Carbon Tax Bill.

**CONCLUSION**

As can be noted through the above examples, there are many outstanding matters that need to be considered, despite the voting that has already taken place on the Bill and the intention of the NT to finalise the Bill on 19 March 2019. CAIA believes that this is premature given the consideration that is still due by the NCOP.

CAIA will summarise this submission at the hearings to be held on 12 March 2019 and trusts that future engagements will consider how to balance social, economic and environmental imperatives more effectively without the introduction of the Carbon Tax.

Yours sincerely

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Deidré Penfold

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