Wednesday, 16 November 2022]

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OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

WEDNESDAY, 16 NOVEMBER 2022

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ANNOUNCEMENTS

National Assembly

The Speaker

1. Supplementary Rule to Rule 129G relating to period for Independent Panel to conduct its work

Part A – Purpose

The purpose of this rule is to enable the extension of the 30-day period prescribed in terms of Rule 129G(1)(b) by the Speaker, upon request by the independent panel based on good cause shown. The rule is issued in terms of Rule 6, which authorises the Speaker to frame a rule in the case of an unforeseen eventuality on a matter for which the current rules do not provide.

Part B - Application of rule

This rule applies to –

(a) circumstances where the independent panel established in terms of Rule 129 (D) has requested, on good cause shown, an extension of the time period for completing the functions required of it.

In light of the limitations of Rule 129G, and in accordance with Rule 6, the Speaker hereby frames the following Rule -

Rule 129G (3) –

(a) Notwithstanding rule 129G(1)(b), the Speaker may, at the request of the panel and on good cause shown, extend the time period stipulated in the said rule to such longer period as the Speaker may determine.

(b) In the event that the panel requests a further extension beyond the period determined by the Speaker as contemplated in paragraph (a), the Assembly may, on good cause shown, determine such an extended period.

Determination of period for independent panel to report

The Speaker has received a submission from the chairperson of the independent panel appointed to conduct a preliminary assessment on the motion initiated in terms of section

89 of the Constitution, read with National Assembly Rules 129A-129Q, as tabled by Mr V Zungula MP, which indicated that the panel would, notwithstanding the provisions of Rule 129G require until 30 November to conclude its work. In accordance with Rule 129G (3), Speaker hereby extends the deadline by when the independent panel must report, to 30 November 2022.

National Council of Provinces

The Chairperson

1. Bills passed by Assembly and transmitted to Council for concurrence

(1) Bill passed by National Assembly and transmitted for concurrence on 16 November 2022:

(a) **Division of Revenue Amendment Bill** [B22-2022] (National Assembly – sec 76).

The Bill has been referred to the **Select Committee on Appropriations** of the National Council of Provinces.

COMMITTEE REPORTS

National Assembly

1. Report of the Standing Committee on Finance on the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly- section 77), dated 15 November 2022

The Standing Committee on Finance, having considered the Rates and Monetary Amounts and Amendment of Revenue Laws Bill [B25 - 2022] (National Assembly- section 77) referred to it and classified as a Money Bill, reports the Bill as follows:

1. INTRODUCTION AND BACKGROUND

1.1. The Rates and Monetary Amounts and Amendment of Revenue Laws Bill (Rates Bill) was tabled in Parliament by the Minister of Finance ("Minister") on 26 October 2022, together with the 2022 Medium-Term Budget Policy Statement (MTBPS). The Rates Bill is a section 77 (of the Constitution) Bill dealing with national taxes, levies, duties and surcharges.

1.2. The Bill was preceded by the publication of the draft version, published with Budget 2022 on 23 February and on 29 July 2022, to solicit public comment.

1.3. The Rates Bill gives effect to changes in rates and monetary thresholds to the personal income tax tables and increases of excise duties on alcohol and tobacco. It also contains changes tabled by the Minister on 31 March and 31 May 2022 regarding temporary relief on the fuel levy as well as the postponement of the effective date of an increase in the health promotion levy.

2. PUBLIC PARTICIPATION

2.1. The Committee was briefed by National Treasury (NT) and the South African Revenue Service (SARS) on the Draft Rates Bill on 23 August and held public hearings on 13 September 2022.

2.2. On 20 September, NT and SARS presented detailed draft responses to the Draft Rates Bill to the Committee, addressing all the comments made during the public hearings and Committee briefings and deliberations.

2.3. NT and SARS reported that on 29 August they had received written public comments from 27 organisations and 80 individuals, which they responded to during their consultation process. They also hosted workshops with stakeholders on 8 and 12 September 2022.

2.4. The Committee received written and oral submissions from the following organisations and/or individuals: Congress of South African Trade Unions (COSATU), British American Tobacco South Africa (BATSA), Beer Association of South Africa, Philip Morris South Africa (Pty) Ltd, South African Breweries, Tobacco, Alcohol and Gambling Advisory.

3. OVERVIEW OF THE KEY TAX PROPOSALS IN THE DRAFT RATES BILL

3.1. The Rates Bill gives effect to changes in rates and monetary thresholds to the personal income tax tables and increases of excise duties on alcohol and tobacco. It also contains changes tabled by the Minister on 31 March and 31 May 2022 regarding temporary relief on the fuel levy as well as the postponement of the effective date of an increase in the health promotion levy.

3.2. On 31 March 2022, the Ministers of Finance and Mineral Resources and Energy issued a joint statement detailing measures to cushion the impact of large, expected increases in the prices of petrol and diesel. The relief included a two-month reduction in the general fuel levy of R1.50 per litre from 6 April 2022, reducing the levy by 40 per cent, at a fiscal cost of around R6 billion. This amount was to be funded through the sale of strategic oil stocks and would not have an impact on the fiscal framework. Government announced additional measures that were intended to come into force at the end of the two-month period, including the removal of the demand side management levy of 10 cents per litre for 95 unleaded petrol for the inland market, a reduction in the basic fuel price of 3 cents per litre and the introduction of price cap (maximum price) for 93 unleaded petrol to promote competition and reduce prices.

3.3. On 31 May 2022, after further price increases, government extended for another two months in a statement issued by the Ministers of Finance and Mineral Resources and Energy. However, unlike the previous relief, the loss in revenue could not be paid for through further sales of strategic oil stocks and will have an impact on the fiscal framework. It was expected that the second relief will lead to around R4 billion in revenue foregone.

3.4. On the delayed increase to the health promotion levy (HPL) for one year, the 2022 Budget stated that the HPL would be increased by 4.5 per cent to R2.31 cents per gram from 1 April 2022. Further announcements were made in the 2022 Budget to start consultations on lowering the 4g of sugar per 100ml threshold and to extend the levy to fruit juices. However, on 1 April 2022, after consultation with the Ministers of Agriculture, Land Reform and Rural Development and Trade, Industry and Competition, the Minister of Finance released a media statement announcing the delay in the implementation of the increase in the HPL to 1 April 2023 to allow further consultations. The consultations would begin after the release of a discussion paper on extending the HPL to 100% fruit juices and lowering the 4g per 100ml threshold.

4. KEY ISSUES RAISED IN THE PUBLIC HEARINGS

4.1. Most of the comments received were on the general increase in the excise duty on alcohol and tobacco by between 4.5 and 6.5 per cent (Main reference: Schedule No 1 to the Customs and Excise Act, 1964: clause 5 of the Draft Rates Bill), the South African government has a guideline to direct excise duty policy where duty should be 11, 23 and 36 per cent of weighted average retail price for wine, beer and spirits and 40 per cent of price of most popular brand for cigarettes. In 2022, excise duty changes of between 4.5 per cent (inflation) and 6.5 per cent were proposed.

Alcohol

4.2. Comments were received from industry about the delayed review of the excise on alcohol policy that the Minister of Finance announced will be undertaken in the 2021 Budget. Commentators stated that there had been no feedback received from National Treasury on the status of the review or when the discussion document will be released for public comment.

4.3. The National Treasury responded that it was busy finalising the review paper and once completed, all the stakeholders will be informed, and a consultative process initiated. It said that there have been several developments in the alcohol industry, the regulatory framework and the excise policy framework need to keep up with all these developments. Any structural changes to the excise policy framework will first be consulted with all stakeholders before implementation.

4.4. Other comments argued that there were many reasons why people drink alcohol and none of the consumption reasons relate to the cost or affordability of alcohol. They submitted that leveraging pricing policies was unlikely to address irresponsible drinking as it was not addressing the underlying drivers of alcohol consumption. It was further submitted that targeted policies or interventions that address the specific drivers were more likely to have a lasting impact than disproportionate polices that erode overall value to society.

4.5. The National Treasury partially accepted the latter comment, stating that the problems related to alcohol consumption and abuse require a comprehensive package of tax and non-tax measures to address them effectively. It stated that excise policy is a cost effective, key component of the package of measures as consumers do change their spending behaviour based on prices. It added that a lot more still needed to be done on non-tax measures to address the problem of excessive alcohol consumption. The World Health Organisation (WHO) has identified some of the alcohol policy “best-buys”, which include increasing alcohol beverage excise taxes, enacting and enforcing bans or comprehensive restrictions on exposure to alcohol advertising (across multiple types of media), and enacting and enforcing restrictions on the physical availability of retailed alcohol (via reduced hours of sale), amongst others.

4.6. Other comments addressed the issue of tax incidence over the past six years and its compounding impact which have shown a cumulative deviation of 17,03% (marginally down from 2021). It was stated that there were significant impacts of excise duty increases on the value chain which are ultimately absorbed by consumers at nearly double the intended excise duty rate. It was submitted that a rise in excise duties should ideally be in line with or below the inflation rate.

4.7. Other commentators suggested that the excise duty rate be fixed to enable investors to have some certainty and plan accordingly. Other commentators decried the different treatment of various categories of alcohol, particularly that of beer and spirits, which were treated unfavorably as compared to wine. Others submitted that the current regime of varying excise duty payment terms is inequitable. They stated that the Customs and Excise Act rules set out varying payment terms for the various alcoholic products ranging from 30 days in the case of beer to 130 days in the case of spirituous beverages. It was submitted that the payment terms for the collection of excise duties be uniformly applied across all alcoholic products.

4.8. Most of these comments were noted by the National Treasury, deferring some issues to the policy review process underway. On the issue of differential treatment of different beverages, National Treasury noted that beer is the preferred alcoholic beverage and dominates the alcoholic beverage market. It noted that it accounted for approximately 75 per cent of total alcoholic beverage consumption by volume, with alcoholic fruit beverages and spirit coolers at 12 per cent, wine at 10 per cent, and spirits at 3 per cent. If further added that industry data further estimated that beer represents about 51.4 per cent of the market based on absolute alcohol content and about 65.75 litres per capita consumption for individuals 15 years and older compared to wine estimates of 16 per cent and 8.61 litres in 2021.

4.9. The National Treasury further clarified that the current differential excise duty payment terms for the respective alcoholic beverage product categories reflected the unique product-specific characteristics. It said that excise duties are collected at a manufacturing level under the duty-at-source administration but are consumption taxes for which the tax costs are recovered by industry from consumers. It said that the lengthy maturation periods of wine and spirits meant that these industries typically must bear the costs of excise duties on their products for several years before they can be recovered from consumers, while the beer industry is in the favourable position to market its products and recover excise duty paid by it much sooner. The National Treasury said that the impact of these factors on the cash flow of the respective industries are reflected in the differential historical payment terms. Nonetheless, SARS in its 2019 discussion document expressed its intention to review and explore uniform payment terms during the process to rewrite the excise legislation.

Tobacco

4.10. Comments were received commending the National Treasury for taking a far more balanced approach in respect of the current 2022/2023 excise increase than was seen in the 2021/2022 fiscal year. It was submitted that high increases as seen in 2021/22 financial year (i.e. an 8% excise increase) would be unsustainable for the legal tobacco industry.

4.11. Other commentators decried the increase on the excise rate on cigarettes by 5.5%. It was submitted that this excise hike had placed the excise incidence on cigarette's Most Popular Price Category ("MPPC") at 45% compared to a targeted incidence of 40% as per the National Treasury's excise policy. It was said that the total tax incidence on the MPPC currently sits at 58.1% against the background of falling consumer affordability and unprecedented levels of illicit trade.

4.12. Others recommended that National Treasury should revise the base on which the current excise increase is determined, submitting that the Peter Stuyvesant brand should no longer be used as the MPPC. It was argued that in line with global best practice, South Africa's fiscal policy on cigarettes should be determined on Weighted Average Price ("WAP") in the market.

4.13. The National Treasury noted most of these comments and rejected some submissions. It noted that although the proposed increases kept the tax incident above the 40 per cent policy guideline of government, it is the industry that has continued to absorb a portion of the excise increases instead of passing them down to consumers. National Treasury said that this behaviour by industry leads to an overestimated tax incidence which then undermine Government policy intentions of reducing consumption and improving public health. The National Treasury emphasised that the excise increases by Government seek to ensure that tobacco products do not become affordable over time as this will increase consumption of tobacco products, which goes against public health policy objectives. It said that the excise policy framework for tobacco products is currently under review and once completed, all the stakeholders will be consulted.

4.14. The National Treasury rejected the submissions that Government change from the MPPC to WAP, as that will result in fundamental or substantive policy change with significant ramifications for tobacco control policy in South Africa. It said that the current benchmarking using MPPC already has differential impacts on cigarette products in terms of excise burdens, so National Treasury does not envisage a situation where there is a reversal on the current levels of excise duty rates. However, the excise policy framework for tobacco products is currently under review and some of these issues will be considered and inputs from all stakeholders will also be considered.

4.15. Comments were also received regarding the illicit tobacco trading in the country. It was submitted that the macro-economic environment in South Africa was worsening, and consumers were being further stretched. It was submitted that Duty Paid ("DP") cigarettes were becoming less affordable to consumers, who were moving at a rapid rate to the illicit Duty Not Paid ("DNP") cigarette market. It was submitted that a consequence of this is that South Africa now has one of the highest illicit cigarette trade levels in the world, at approximately 62% of consumption. It was submitted further that most of all consumption (illicit and licit), approximately 80%, takes place in the informal trade. It was further highlighted that the informal trade is dominated by single stick sales, and given the DNP price points, the legal market can simply not compete.

4.16. The National Treasury acknowledged that the problem of illicit trade undermines the health and excise policy objectives. However, the problem of illicit trade is an act of criminality and cannot be dealt with through excise rate adjustments but needs to be effectively addressed through robust compliance and law enforcement mechanisms. The National Treasury pointed out that SARS has been investigating and clamping down on the illicit economy focusing on the tobacco, gold and fuel industries, and this has resulted in many enforcement actions taken. It further assured that SARS was harnessing its capabilities to make non-compliance with legal tax obligations hard and costly to those who are engaged in criminal activities.

4.17. The National Treasury further stated that the Department of Health was leading Government on the matter of ratifying the World Health Organisation's Protocol to Eliminate Illicit Trade in Tobacco Products. As part of the Protocol, the National Treasury said, South Africa would be required to consider developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.

5. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

5.1. The Committee notes that the 2022 Budget contained no measures to raise additional tax revenue. The Committee notes further that this was done in order to support households and businesses.

5.2. The Committee further notes and welcomes the tax relief provided in March and May 2022 to support households by not adjusting the general fuel levy and the Road Accident Fund levies, while fully adjusting the personal income tax brackets and rebates for inflation. The Committee still awaits the finalization of the fuel levy review announced by the Minister of Finance, given the ever-increasing fuel prices which are putting a strain on households and the economy.

5.3. The Committee further notes and welcomes that excise duties on tobacco were increased by only 5.5 per cent, which most in the industry are happy about, compared to the 8 per cent increase last year. The Committee believes that the review of the excise policy on alcohol and tobacco has delayed as it was announced with the 2021 Budget Review. The Committee acknowledges the assurance from the National Treasury that it is finalizing this review paper which will then be released for public comment.

5.4. The Committee notes that the illicit trade in alcohol and tobacco is a serious problem and believes more needs to be done in terms of compliance and law enforcement mechanisms to curb this.

5.5. The Committee notes that the implementation of the proposed HPL price increase has been postponed until 1 April 2023 following consultation by the Minister of Finance with the Ministers of Agriculture, Land Reform and Rural Development and Trade, Industry and Competition. The Committee notes that further consultations would begin after the release of a discussion paper on extending the HPL to 100% fruit juices and lowering the 4g per 100ml threshold.

6. CONCLUSION

6.1. The Committee reports the Bill.

The Democratic Alliance reserves its position.

Report to be considered

2. Report of the Standing Committee on Finance on the Taxation Laws Amendment Bill [B26 - 2022] (National Assembly- section 77), dated 16 November 2022

The Standing Committee on Finance, having considered the Taxation Laws Amendment Bill [B26 - 2022] (National Assembly- section 77) referred to it and classified as a Money Bill, reports the Bill as follows:

1. INTRODUCTION AND BACKGROUND

1.1. The Tax Laws Amendment Bill (TLAB) was tabled in Parliament by the Minister of Finance on 26 October 2022, together with the 2022 Medium-Term Budget Policy Statement (2022 MTBPS). The TLAB is a section 77 (of the Constitution) Bill dealing with national taxes, levies, duties and surcharges.

1.2. The tabling of this Bill was preceded by the publication of its draft version (Draft TLAB) on 29 July 2022, to solicit public comments. It contained some of the tax announcements made in Chapter 4 and Annexure C of the 2022 Budget Review.

1.3. Following the budget announcement on 23 February 2022, the National Treasury held technical consultations with selected stakeholders to discuss the following proposals announced in the 2022 Budget Review: the impact of IFRS17 contracts on the taxation of short term and long-term insurers; clarifying the definition of “contributed tax capital”; and clarifying the tax treatment of collateral arrangements.

2. PUBLIC PARTICIPATION

2.1. The Committee was briefed by National Treasury and SARS on the Draft TLAB on 23 August 2022 and held public hearings on 14 September 2022. On 21 September

2022, National Treasury and SARS presented their detailed responses to the Draft TLAB to the Committee, addressing all the comments made during the public hearings and Committee briefings and deliberations.

2.2. The National Treasury and SARS reported that they received 104 written submissions from the public and responded to these comments during their own consultation processes. They also hosted workshops which ran for two days on 08 and 09 September 2022.

2.3. The Committee received written and oral submissions from the following organisations and/or individuals: Beer Association of South Africa (BASA), British American Tobacco South Africa (BATSA), Vapour Products Association of South Africa (VPASA), Association for Savings and Investment South Africa (ASISA), South African Institute of Chartered Accountants (SAICA), Business Unity South Africa (BUSA), Banking Association of South Africa (BASA), PriceWaterhouseCoopers (PwC), World Wide Fund for Nature (WWF), South African Securities Lending Association (SASLA), Sasol, Minerals Council, Cement & Concrete South Africa (CCSA), Industry Task Team on Climate Change (ITTCC), Chemical and Amp; Allied Industries' Association (CAIA), ArcelorMittal, South African Breweries (SAB), Richards Bay Industrial Development Zone Company SOC Ltd (RBIDZ), Vaping Saved My Life (VSML), Wicked Imports, Japan Tobacco International (JTI), Reinsurance Group of America (RGA), South African Iron and Steel Institute (SAISI), South Africa Tobacco Transformation Alliance (SATTA) and South African Breweries (SAB).

3. OVERVIEW OF THE KEY TAX PROPOSALS IN THE TLAB

3.1. The 2022 TLAB amends the provisions and, in some instances, definitions, Schedules, Preambles, long titles and/or effective dates, and makes new provisions to some of the following statutes: the Income Tax Act, 1962; the Customs and Excise Act, 1964; the Value-Added Tax Act, 1991; the Taxation Laws Amendment Act, 2011; the Taxation Laws Amendment Act, 2013; the Carbon Tax Act, 2019; the Taxation Laws Amendment Act, 2019; and the Taxation Laws Amendment Act, 2021. The Bill contains 43 clauses plus one, two-part Schedule.

3.2. Under the category of individuals, employment and savings, the proposals specifically dealt with the following amendments:

3.2.1. Reviewing the timing of accrual and incurral of variable remuneration;

3.2.2. Apportionment of the interest exemption and capital gains tax annual exclusion when an individual ceases to be tax resident;

3.2.3. Reviewing the transfer of total interest in a retirement fund;

3.2.4. Clarifying the compulsory annuitisation and protection of vested rights when transferring to a public sector fund;

3.2.5. Clarifying paragraph (eA) of the definition of gross income regarding public sector funds;

3.2.6. Retirement of provident fund members on grounds other than ill-health; and

3.2.7. Clarifying the applicability of tax neutral transfers from a pension to a provident fund.

3.3. Under the category of general business tax, the proposals specifically dealt with the following issues/amendments:

3.3.1. Clarifying the definition of "contributed tax capital";

3.3.2. Refining the reversal of the nil base cost rules applicable to intra-group transactions;

3.3.3. Clarifying the rule that triggers recoupment under the debt forgiveness rules; and

3.3.4. Reviewing the debtor's allowance provisions to limit the impact on lay-by arrangements.

3.4. Under the category of taxation of financial institutions and products, the proposals dealt with the following issues/amendments:

3.4.1. Impact of IFRS 17 insurance contracts on the taxation of short and long-term insurers

3.5. Under the category of international tax, the proposals dealt with the following issues/ amendments:

3.5.1. Clarifying the deeming provisions in respect of royalties derived by Controlled Foreign Companies;

3.5.2. Clarifying the treatment of amounts from hybrid equity instruments deemed to be income under CFC rules; and

3.5.3. Clarifying the treatment of amounts from hybrid equity instruments deemed to be income under CFC rules.

3.6. On tax incentives, the following proposals were made:

3.6.1. Interaction between the application of the assessed loss restriction rules and capital expenditure regime for mining operations;

3.6.2. Interaction between the application of the interest limitation rules and capital expenditure regime for mining operations; and

3.6.3. Tax treatment of an asset acquired as government grant in kind.

3.7. Under value added tax (VAT), the proposals dealt with the following issues/ amendments:

3.7.1. Reviewing the section 72 decisions regarding cross-border leases of foreign-owned ships, foreign-owned aircraft and foreign-owned rolling stock for use in RSA;

3.7.2. Reviewing the section 72 decisions with regard to the VAT treatment of Flash Title Sales;

3.7.3. Reviewing the section 72 decisions with regard to the VAT treatment of Documentary Evidence for Repossessions;

3.7.4. Reviewing the section 72 decisions regarding the VAT Treatment of Registration of Certain Foreign Suppliers; and

3.7.5. Reviewing section 72 decisions regarding the VAT Treatment of Pooling Arrangements.

3.8. On carbon tax, the proposals dealt with policy issues.

3.9. Under the category of Customs and Excise, the TLAB highlighted proposals for the introduction of taxation of electronic nicotine and non-nicotine delivery systems.

4. KEY ISSUES RAISED IN THE PUBLIC HEARINGS

4.1. The key issues raised during the public hearings are the following: Customs & Excise: electronic nicotine and non-nicotine delivery system, and taxation of electronic nicotine and non-nicotine delivery system; Carbon Tax: Carbon Tax Rate Trajectory proposals from 2023 to 2030; electricity price neutrality extension; energy efficiency savings tax incentive extension; limiting carbon sequestration deduction to activities within operation control of the taxpayer; Income Tax: Individuals, Savings and Employment: reviewing the timing of accrual and incurral of variable remuneration; apportionment of the interest and capital gains tax annual exclusion when an individual ceases to be tax resident; clarifying paragraph (eA) of the definition of gross income regarding public sector funds; technical correction to the definition of "living annuity" in section 1 of the Income Tax Act; technical correction to the definitions of "pension preservation fund" and "provident preservation fund" in section 1 of the Income Tax Act; Income Tax: General Business Tax: clarifying the definition of "contributed tax capital"; refining the reversal of the nil base cost rules applicable to intra group transactions; clarifying the rule that triggers recoupment under the debt forgiveness rules; reviewing the debtor's allowance provisions to limit the impact on lay by arrangements; Income Tax: Taxation of financial institutions and products: Impact of IFRS 17 insurance contracts on the taxation of short term and long term insurers; Income Tax: Business incentives: interaction between the application of the assessed loss restriction rules and capital expenditure regime for mining operations; interaction between the application of the interest limitation rules and capital expenditure regime for mining operations; tax treatment of an asset acquired as a government grant in kind; International Tax: clarifying the treatment of amounts from hybrid equity instruments deemed to be income under CFC rules; clarifying the exclusion of participatory interest in foreign collective investment schemes from the definition of foreign dividend Value Added Tax; general comments on the proposed amendments as a result of the 2019 amendments to section 72 of the VAT Act; reviewing the section 72 decision with regard to cross border leases of foreign owned ships, foreign owned aircraft and foreign owned rolling stock for use in South Africa; reviewing the section 72 decision with regard to "flash title sales; reviewing the section 72 decision with regard to the VAT treatment of the registration of certain foreign suppliers; and reviewing the section 72 decision with regard to the VAT treatment of pooling arrangements.

4.2. This report will cover in detail only three main policy issues which are: the application of excise duty on vaping and electronic nicotine and non-nicotine delivery system, Carbon Tax, and Impact of IFRS 17 insurance contracts on the taxation of short-term and long-term insurers.

Application of vaping and electronic nicotine and non-nicotine delivery systems

4.3. In the 2022 Budget, a proposal was made to apply a flat excise duty rate of R2.90 per millilitre regardless of the nicotine content of the solutions with implementation effective from January 2023. After further consultation with SARS, the effective date has been postponed to June 2023 to allow for the administration systems to be put in place. As such, proposed amendments are made in the part 2 of Schedule 1 to the Customs and Excise Act in this regard.

4.4. Comments were received regarding the proposed rate of duty. Comments in this area were about the rate of duty which many commentators believed was excessive. It was argued that this high rate will affect the trade of all legitimate and tax paying vendors, which has the potential to lead to a reduction in income tax generation, VAT and possibly lead to further job losses. It was further argued that the tax will make it difficult for smokers and vapers to access less harmful alternatives, leading vapers to return to combustible tobacco products or even un-regulated black-market products.

4.5. Other commentators argued that vaping was a smoking cessation tool for adult smokers wishing to quit the habit. It was argued that it vaping is not smoking, it is combustion free and tobacco free, even if there may be tobacco flavoured variants of vaping liquid; and vaping has been scientifically proven to be at least 95% less harmful than smoking.

4.6. In its response National Treasury pointed out that vaping products were not recognised nor approved by the Medicines and Related Substances Act, 1965 as cessation products. It explained that the World Health Organisation recommends that governments scale up policies and tried and tested interventions, such as brief advice from health professionals, national toll-free quit lines and cessation interventions delivered via mobile text messaging. And where economically feasible, should also consider promoting nicotine replacement therapies and non-nicotine pharmacotherapies for cessation.

4.7. While other commentators called for a high flat rate such as R5/mil of e-liquids, others opposed the proposed rate of R2.90/mil. The National Treasury explained that this was an introductory rate and was comparable to other rates applied in other jurisdictions that have implemented excise duties on vaping and its products. The Minister of Finance makes the decisions about the excise rates and adjustments.

4.8. Several comments were also made about the administration of the tax. Commentators highlighted that the vaping market was extremely fragmented and this could lead to fiscal evasion. Other commentators recommended the introduction of an electronic track-and-trace system. Other raised issue of the implementation. Concerns were also raised about the potential illicit trading of vaping products.

4.9. To these comments, National Treasury pointed out that SARS, as the implementing agency, will ensure that all the necessary measures for licencing and registration of taxpayers is done for effective enforcement of the legislation. It further explained that the National Department of Health is leading Government on the matter of ratifying the World Health Organisation's Protocol to Eliminate Illicit Trade in Tobacco Products. As part of the Protocol, South Africa would be required to consider, as appropriate developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade. It further acknowledged that the implementation of a track and trace system would be beneficial for the administration of all excisable products as it would equally apply.

4.10. On the implementation date, the National Treasury pointed out that the initial proposal as announced in the 2022 Budget was to implement the excise duty from 1 January 2023. However, in the 2022 draft TLAB a consideration was made to have a later implementation date of 1 June 2023 to provide SARS and taxpayers sufficient time for the administration of the system. SARS will develop the administration rules and conduct stakeholder/taxpayer engagements.

4.11. The National Treasury pointed out that Illicit trade is a concern for Government, both in terms of undermining public health and harm reduction objectives, and fiscal collections. Therefore, every effort will be made to ensure that administration of the system is strengthened to address the problem when it occurs. However, there can never be a full proof system since some of the illicit trade is influenced by acts of criminality.

Carbon Tax Background

4.12. The Carbon Tax Act, Act No 15 of 2019 was signed into law by the President in May 2019. The carbon tax came into effect on 1 June 2019. It gives effect to the polluter-pays-principle and helps to ensure that firms and consumers take these costs into account in their future production, consumption and investment decisions. It is aimed at assisting in reducing Green House Gas (GHG) emissions and ensuring that SA meets its Nationally Determined Contributions (NDCs) commitments as part of its ratification of the 2015 Paris Agreement.

4.13. Carbon Tax was introduced at a very low effective carbon tax rate with significant tax-free emission allowances ranging from 60 per cent to 95 per cent in order to provide current significant emitters time to transition their operations to cleaner technologies through investments in energy efficiency, renewables, and other low-carbon measures.

4.14. The implementation of Carbon Tax interplays with the following policies: Paris Agreement & Nationally Determined Contributions for 2025 and 2030 – which set emissions targets; National Climate Change Response Policy (2011) and National Climate Change Bill – Bill introduced in National Assembly in February 2022 and published for public consultation by the Portfolio Committee on Environment, Forestry and Fisheries; Low Emissions Development Strategy (2020) – which seeks to achieve net zero emissions commitments by 2050; Carbon Tax Act (2019) – implemented on 1 June 2019; Sectoral emissions targets and carbon budgets, and mitigation plans – methodology and sector targets framework approved; Integrated Resource Plan (2019) – 2030 electricity plan; Energy Efficiency and Green Transport Strategies – to be implemented; Tax incentives for Energy efficiency, renewable energy, biofuels production, research, development and innovation and biodiversity conservation; Mandatory National Greenhouse Gas Reporting Regulations (2017) – which forms the basis for carbon tax and Greenhouse Gas Emissions Reporting to the United Nations Framework Convention on Climate Change; Presidential Climate Commission – which is tasked with the development of the Just Transition Framework and Implementation

Plan; Just Energy Transition Partnership and Investment Plan – which seeks to enable access to climate finance to facilitate a just transition commencing with the electricity sector; Green Finance Taxonomy – which seeks to assist the financial sector respond to climate change; Hydrogen Masterplan - Hydrogen Society Roadmap launched in February 2022 for the development of a hydrogen economy; and the Electric Vehicle Roadmap (DTIC).

4.15. Carbon tax is viewed by government as key to facilitating the Just Economic Transition. The policy rationale for a carbon tax is directly related to saving South Africa and the world from adverse climate change. The introduction of a carbon price will change the relative prices of goods and services, making emission-intensive goods more expensive relative to those that are less emissions intensive. This provides a powerful incentive for consumers and businesses to adjust their behavior, resulting in a reduction of emissions. Although it does not set a fixed quantitative limit on carbon emissions over the short term, a carbon tax at an appropriate level and phased in over time to the "correct level" will provide a strong price signal to both producers and consumers to change their behaviour over the medium to long term. It is hoped that this would minimise potential adverse impacts on low-income households and industry competitiveness through targeted revenue recycling and allowances.

4.16. The National Treasury pointed out some risks on the implementation of carbon tax. It said that certainty on tax free allowances will be dependent on progress we will make in reducing emissions and minimising impacts of climate change. There are also significant risks of carbon border adjustments and additional future costs on business which are likely if the carbon footprint and emissions intensity of exported products are not reduced.

4.17. It said that the carbon tax will force companies to reevaluate their long-term investment decisions, shifting away from emissions-intensive production toward low-carbon technologies. This can prepare South African firms for the global technological transition and strengthen their competitiveness in the future. The National Treasury pointed out that the first mover competitive advantage gains among developing countries creates incentives to leapfrog development via early adoption of low carbon technologies through research, development, innovation. Carbon tax is key to facilitating a just transition and complements the work underway by the Presidential Climate Commission on Just Transition framework and decarbonisation pathways towards achieving net zero emissions by 2050.

Carbon Tax proposals announced in Budget 2022

4.18. Budget 2022 made proposals for the extension of the first phase revenue recycling measures by 3 years ending in Dec 2025 (i.e. 1 January 2023 to 31 Dec 2025) to assist companies transition and aid the economic recovery. For the second phase of the carbon tax, considering South Africa's ambitious NDC commitments and efforts to meet the 1,5deg temp goal, proposals include ramping up the carbon tax from 2026 to 2050 and strengthening carbon price signals. This aims to provide policy certainty to companies on the carbon price path over the short, medium and long term to guide their planning and future investment decisions. It is envisaged that this will also assist with meeting South Africa's net zero emissions commitments by 2050.

4.19. Budget 2022 proposed increases in the carbon tax rate for the 2023 to 2025 tax periods by a minimum of US$ 1; and increasing to US$20 in 2026 and at least US$30/t$CO_2$e in 2030. To give effect to the carbon tax rate announcements made in Budget 2022, the following amendments were proposed in the 2022 draft TLAB: In 2023 to 2025**:** it is proposed that amendments are made to Section 5(2) of the Carbon Tax Act to provide for the carbon tax rate adjustment by US$1, US$2 and US$ 3/tCO_2e for the 2023, 2024, and 2025 tax periods ending on 31 December, respectively; In 2026 and 2030: it is proposed that amendments are made to Section 5(2) of the Carbon Tax Act to provide for that the carbon tax rate increases to US$20/t$CO_2$e rand equivalent in 2026 and US$30 in 2030; In 2027 to 2029**:** It is proposed that amendments are made to Section 5(2) of the Carbon Tax Act to provide for the carbon tax rate adjustment by US$2, 5 /t$CO_2$e per year for the 2027 to 2029 tax periods.

4.20. Comments received from stakeholders broadly support the carbon tax and recognise the importance of the carbon tax for the country's transition. Some stakeholders, however, do not support the carbon tax rate of US$20/tCO2e in 2026 and US$30/tCO2e in 2030 as they are of the view that it is too soon and too high and will inhibit investment in decarbonisation technologies and growth of new low-carbon growth sectors. They believe that the timing of the rate adjustments and potential removal of the tax-free allowances will result in very high costs within a short timeframe for business to absorb and mobilise the capital needed to transition to low-carbon operations which could result in a premature shut-down of companies.

4.21. These stakeholders are of the view that the annual carbon tax rate should be increased by inflation plus 2 percentage points until at least 2030 to allow for reviewing and aligning of different policies, and the higher carbon price is considered post 2035, on a date to be informed by detailed analysis of viable mitigation and socioeconomic considerations.

4.22. Other stakeholders are of the view that the implementation of an effective carbon price is a powerful tool to change behaviour by altering economic incentives and is a crucial mechanism to mitigating South Africa's emissions and meet its commitments to limit global temperature increases under the Paris Agreement. They believe that pricing carbon correctly to reflect the actual costs of emissions to society would be transformative in limiting the worst impacts of the climate crisis.

4.23. Some stakeholders are of the view that clause 38(1)(e) of the 2022 draft TLAB should indicate the progressive increase in the carbon tax rate necessary to ensure long term mitigation towards net zero emissions by 2050. They recommended that increases to the carbon tax rate post 2030 in clause 38(1)(e) of the 2022 draft TLAB should be commensurate with the best available science related to effective GHG emission reduction and in accordance with South Africa's Nationally Determined Contribution in force at the time. They further recommended that increases to the carbon tax rate post 2030 in clause 38(1)(e) of the 2022 draft TLAB should be commensurate with the best available science related to effective GHG emission reduction and in accordance with South Africa's Nationally Determined Contribution in force at the time.

4.24. Some stakeholders are of the view that it is important for South Africa's international competitiveness to have a domestic carbon price that is aligned with the international carbon price but at the same time also considers South Africa's unique socio-economic circumstances. They are of the view that a domestic price higher than the international price will put an undue cost burden on the South African industry.

4.25. There is broad agreement on the other hand that a domestic price lower than the international price could potentially impact negatively on demand for South African goods and may have cost implications in systems like the proposed European Union Carbon Border Adjustment Mechanism. Providing clarity of the pathway is essential both for incentivising investments into carbon emissions mitigation by the private sector, and for ensuring alignment with the international standards set by trading partners.

4.26. They further noted that the EU's Carbon Border Adjustment Mechanism (CBAM) will effectively price high-carbon South African products out of the market, especially if this is replicated by other jurisdictions. The argument is that the imposition of the EU Carbon Border Adjustment Mechanism (CBAM) from 2027 will make access to international markets more challenging for South African carbon intensive products. Any allocated product (iron & steel, fertilisers, cement, and aluminium at present) will be subject to the EU's rate from a purchaser perspective – a steel purchaser will effectively pay the difference between SA's carbon price and the EU price to the EU.

4.27. Some further argued that pegging the price at the same level as the EU means that there is no difference, and that the South African fiscus will capture the total benefit of the tax. Imposition of a corresponding carbon price in the South African context therefore provides stronger local incentive for decarbonisation, increases the revenue for the fiscus that can better fund positive decarbonisation incentives, and will more rapidly drive decarbonisation and improve the competitiveness of South African products on an internationally priced market.

4.28. In response to these submissions, the National Treasury did not accept proposals of rate increases by inflation plus 2 percentage points until 2030, with higher prices only considered after 2035. It said that South Africa has made commitments in the Nationally Determined Contribution commitments under the Paris Agreement for a peaking of emissions in 2025, and a rapid decline in emissions in 2030. It said that emissions will decline in the range of 350 to 420 million tonnes and for the first time, the climate targets are compatible with the 1,5c temperature goal.

4.29. The National Treasury said that a credible price on GHG emissions is crucial and can go a long way towards building up a cost-effective climate policy framework. It clarified that the 2022 carbon tax rate proposals aim to provide policy certainty on the rate trajectory and a credible price signal to help achieve the NDC commitments approved by Cabinet. It added that the proposed rate increases of inflation plus 2 percentage points until 2030 with higher prices implemented after 2035 does not sufficiently reflect the polluter pays principle and the anticipated growing climate risks. It is also not in line with the carbon prices required to meet the 2deg temperature goal under the Paris Agreement in a cost-effective manner.

4.30. The National Treasury explained that the High-Level Commission on Carbon Prices, IMF, and the National Business Initiative analysis and assessment of the carbon prices recommends minimum effective carbon prices of at least US$25 by 2025 and US$40 by 2030 to adequately internalize the externality costs of climate change.

4.31. It stated further that for the headline carbon tax rates proposed in the draft TLAB, the effective carbon tax rates assuming average tax-free allowances of 80 to 85 per cent would be about R46 to R62/tCO2e (~US3-$4) in 2026 and R69 to 99/tCO2e (~US$4,5 - $6) in 2030. This rate is much lower if the other deductions such as the carbon tax deductibility for income tax purposes, sequestration and the cost recovery mechanism for the liquid fuel sector are considered.

4.32. The National Treasury further explained that although the proposed 2022 draft TLAB rates are below the carbon prices required to fully internalise the externality costs of climate change, they would start to align with the average effective carbon tax rates implemented globally. It explained that this would not impose a significant tax burden on companies but would send an important price signal to drive future investment decisions and companies that invest in low carbon technologies and energy efficiency measures now will have a lower carbon tax liability. The National Treasury added that globally, a shift toward low-carbon production is inevitable. The sooner local companies can begin the transition, the more competitive they will be and avoid the imposition of carbon border adjustments.

4.33. The National Treasury accepted submissions that recommended that increases to the carbon tax rate post 2030 in clause 38(1)(e) of the 2022 draft TLAB should be commensurate with the best available science related to effective GHG emission reduction and in accordance with South Africa's Nationally Determined Contribution in force at the time. It said that it must be noted that every tonne of greenhouse gas emitted has far reaching consequences that should be accounted for in applying the polluter pays principle. It said that if efforts to reduce emissions are not taken urgently, the repercussions of high emissions will be suffered by the future generations, which would not be in line with the principle of intergenerational equity.

5. COMMITTEE OBSERVATIONS

5.1. The Committee notes and welcomes the high levels of public participation shown in the processing of this Bill, starting from the consultation processes of National Treasury and SARS, who received over a hundred submissions during the consultative processes and responded to them. The National Treasury and SARS held workshops over two days on 8 and 9 September to workshop the draft Bills with stakeholders.

5.2. The Committee is satisfied with the way this Bill was processed, and the detailed comments provided by the National Treasury to those public comments. This does not mean that there would be consensus in all the proposals made in the Bill, as some issues are very contentious.

5.3. On vaping tax proposals in the Bill, the Committee notes that there would always be disagreement on the rate and structure of the new proposed taxes on electronic nicotine and non-nicotine delivery systems (ENNDS). While other stakeholders oppose the imposition of this tax, others support it and recommend a higher rate than the R290/ml proposed in the Bill. The Committee notes that proposed excise rate of South Africa compares to other rates applied in other jurisdictions that have implemented vaping taxes.

5.4. On the proposed increases in carbon tax, the Committee notes that South Africa faces severe and growing climate risks including extreme weather events such as storms, flooding and droughts, which will have major implications for the South African economy. The Committee agrees that there is a need for deep and urgent emissions reductions, and the implementation of a carbon tax that is meaningful, avoids double incentives and underpins South Africa's NDC commitments to the Paris Agreement.

5.5. The Committee further notes that the carbon tax increases proposed are well below what experts recommend as necessary to meet the goals of the Paris Agreement**.** The Committee notes also that there are real socio-economic costs of not dealing with climate change. South Africa has experienced some of the climate change events which shocked the country's fiscal framework, the recent one being the recent floods in KwaZulu-Natal and the Eastern Cape.

5.6. The Committee further notes that several comments that were made by stakeholders were accepted by the National Treasury as such that the US$ carbon tax rates be converted to the Rand equivalent, and other proposals under the following amendments: electricity price neutrality extension; energy efficiency tax incentive extension; limiting carbon sequestration deduction to activities within operational control of the taxpayer; and extension of carbon sequestration deduction to 1A2J sawmilling activities.

5.7. Lastly, the Committee notes the many other progressive amendments in the Bill.

6. CONCLUSION

6.1. The Committee reports the Bill.

The Democratic Alliance (DA) reserves its position.

Report to be considered.

3. Report of the Standing Committee on Finance on the Tax Administration Laws Amendment Bill [B27B - 2022] (National Assembly- section 75), dated 16 November 2022

The Standing Committee on Finance, having considered the Tax Administration Laws Amendment Bill [B27B - 2022] (National Assembly- section 75) referred to it, reports the Bill, with amendments, as follows:

1. INTRODUCTION AND BACKGROUND

1.1. The Tax Administration Laws Amendment Bill (TALAB) was tabled in Parliament by the Minister of Finance on 26 October 2022, together with the 2022 Medium-Term Budget Policy Statement (2022 MTBPS). TALAB is an ordinary (section 75 of the Constitution) Bill dealing with tax administration.

1.2. The tabling of this Bill was preceded by the publication of its draft version (Draft TALAB) on 29 July 2022, to solicit comments. It contained some tax announcements made in Annexure C of the 2022 Budget Review.

2. PUBLIC PARTICIPATION

2.1. The Committee was briefed by National Treasury and SARS on the Draft TALAB on 23 August 2022 and held public hearings on 14 September 2022. On 21 September 2022, National Treasury and SARS presented their detailed responses to submissions received on the Draft TALAB to the Committee, addressing all the comments made during the public hearings and Committee briefings and deliberations.

2.2. The National Treasury and SARS reported that they received 104 written submissions from the public and responded to these comments during their own consultation processes. They also hosted workshops which ran for two days on 8 and 9 September 2022.

2.3. The Committee received written and oral submissions from the following organisations and/or individuals: South African Institute of Chartered Accountants (SAICA), South African Institute of Tax Practitioners (SAIT) PricewaterhouseCoopers (PwC).

3. OVERVIEW OF THE TAX PROPOSALS IN THE TALAB

3.1. The 2022 TALAB seeks to amend:

3.1.1. the Transfer Duty Act, 1949, so as to effect a consequential amendment;

3.1.2. the Estate Duty Act, 1955, so as to effect a textual correction;

3.1.3. the Income Tax Act, 1962, so as to effect a consequential amendment; to allow a regulated intermediary to recover refundable dividends tax from the Commissioner in certain instances; to make a textual correction; and to effect a technical correction;

3.1.4. the Customs and Excise Act, 1964, so as to insert a definition and effect consequential changes related thereto; to effect technical corrections; to provide for the publication of advance rulings in certain circumstances; to enable the Commissioner to make rules for the time for submission of entries in respect of any types of cargo; to clarify a provision relating to particulars on invoices and to effect changes to other provisions consequential to this clarification to ensure consistency of wording relating to invoice particulars; to repeal an outdated provision; to insert a chapter providing for advance rulings in respect of the tariff classification, the application of a specific valuation criterion and the origin of goods of a specific class or kind and for related matters; to provide for consequential amendments relating to advance rulings; and to enhance the general enabling rule provision;

3.1.5. the Value-Added Tax Act, 1991, so as to effect consequential amendments and insert a specific exception from registration for non-resident suppliers under certain circumstances;

3.1.6. the Tax Administration Act, 2011, so as to amend a definition; to provide for the reduction of a penalty in certain circumstances; delete a recognised controlling body; to provide that the tax compliance status of a taxpayer must also include an indication that a taxpayer is a newly registered taxpayer as stipulated; and to clarify that SARS has the right to revoke third party access to a taxpayer's tax compliance status under certain circumstances; and

3.1.7. the Employment Tax Incentive Act, 2013, so as to classify employment tax incentive reimbursements as refunds for purposes of the Tax Administration Act, 2011, and specifically as refunds of tax for purposes of the understatement penalty provisions in terms of the Tax Administration Act, and to provide for matters connected therewith.

4. KEY ISSUES RAISED IN THE PUBLIC HEARINGS

4.1. Most issues raised during the written submissions and public hearings under TALAB were on the Customs and Excise Act, 1964 and the Tax Administration Act, 2011. In this report, only the key issues raised are reported.

CUSTOMS AND EXCISE ACT AMENDMENTS

Insertion of definition of "invoice"

4.2. On the Customs and Excise Act, the issues raised were on the insertion of a definition of "invoice" and related reference changes (Main reference: section 1 of the Customs and Excise Act: clause 7). Comments were received on the definition of "invoice", which SARS noted and offered to consider in the final Bill. SARS clarified that the intention of providing a definition was to avoid repetition and to ensure consistency in relation to wording referring to invoices or particulars on invoices in the Customs and Excise Act. It said that throughout the Act there are different words used when referring to an invoice, for example *"prescribed invoice"*, *"invoice as prescribed"*, *"correct and sufficient invoice"*, *"true, correct and sufficient invoice"* and *"relative prescribed invoice"*. It explained that the invoice itself cannot be prescribed by SARS because it is up to the seller what their actual invoice looks like. It further explained that SARS' aim is to avoid qualifying "invoice" in every instance where it is used by stating additionally that it must be true, correct and sufficient for the purposes of a making a valid entry and contain any additional information as may be prescribed.

Insertion of Chapter IXA – Advance Rulings.

4.3. The key comments were on the "applicant's tax matters to be in order" in order to obtain an advance ruling (Main reference: section 74B read with 74C of the Customs and Excise Act; clause 17). Commentators stated that an advance ruling should be a means of facilitating compliant trade. They contended that considering and resolving a person's complete tax matters will hinder the applicant's good intention of applying for a binding ruling to ensure future customs compliance. They added that an advance ruling should not be seen as an incentive for customs compliance but rather a tool to aid taxpayers to be compliant and to avoid further tax cases.

4.4. They explained that if an applicant under the Tax Administration Act (TAA) wishes to apply for a ruling, they are required to have no outstanding payments in terms of a "tax Act" which as defined in the TAA, excludes customs and excise legislation. They said that this means that a party applying for a ruling in terms of the TAA could possibly have outstanding payments in respect of customs and excise legislation, and the ruling would still be granted. However, if an applicant under the proposed rulings system in Chapter IXA wishes to apply for a ruling, all their tax payments arising under any tax legislation need to be up to date in order to have their customs and excise advance ruling application considered. They argued that this unequal treatment could deter applicants from using the proposed ruling process, even applicants who have legitimate disputes with SARS regarding amounts demanded from them under the Customs and Excise Act. It was submitted that this proposed requirement be dropped or amended to only apply to outstanding customs and excise liabilities, and only in cases where the applicant is not legitimately disputing the liability with SARS.

4.5. In its response, SARS explained that tax compliance is currently a requirement for registration, licensing and accreditation and will be verified on application for a binding ruling. Furthermore, an advance ruling benefits an applicant because it creates certainty due to its binding nature. It explained that the applicant must be tax compliant to obtain this benefit. It should be noted that tax compliance is not a requirement to obtain a determination. SARS said that the proposed amendment will, however, be adjusted to make provision for cases where arrangements acceptable to SARS have been made to file outstanding tax returns or pay outstanding tax debt.

4.6. On the "applications for advance rulings limited to tariff, value and origin" (Main reference: section 74C of the Customs and Excise Act; clause 17), comments were received that this proposed provision should be amended to allow applications to be brought to obtain clarity, consistency and certainty regarding the interpretation and application of the Customs and Excise Act. It was explained that a substantial portion of customs and excise disputes with SARS arise due to disagreements on the interpretation of provisions of the Customs and Excise Act. It was further explained that the Internal Administrative Appeal (IAA) process is costly, time-consuming, and often fails to provide certainty on matters of interpretation. It was submitted that a system allowing for advance rulings on interpretational issues could assist with this issue and help reduce the burden on customs and excise Appeal Committees.

4.7. It was argued that the narrow focus of the proposed system which only provides for rulings on tariff classification, customs valuation, and the origin of goods, means that the IAA process remains the only internal mechanism to resolve questions of interpretation under the Customs and Excise Act. The commentators submitted that wording like that governing the advance rulings system under Chapter 7 of the TAA could be incorporated into the proposed Chapter IXA of the Customs and Excise Act, to widen its ambit. Alternatively, the proposed Chapter IXA could incorporate wording like that of section 114A of the Customs and Excise Act, in terms of which a specific part of the TAA is deemed to apply to the Customs and Excise Act, with any necessary changes as the context may require. They added that the latter option is arguably the more elegant solution, and there is precedent for it in section 114A.

4.8. SARS did not accept this submission and explained that advance rulings in the customs context should not be confused with advance rulings in the tax context, which relate to interpretation issues and specifically provide for SARS to reject ruling applications relating to the value of an asset. SARS explained that the reason for specifically enabling a system of advance rulings in respect of tariff, valuation and origin is South Africa's commitment in terms of Article 3 of the World Trade Organisation Trade

Facilitation Agreement. SARS explained further that Article 3 obliges member states to provide for a system of advance rulings for the tariff classification and origin of goods as well as on the appropriate method or criteria to be used for determining the customs value of goods. South Africa has committed to implementing such a system by 2028. It said that interpretation rulings are not foreseen at this stage but may be considered as the programme matures.

4.9. On "Limiting applicants to importers and exporters" (Main reference: section 74C of the Customs and Excise Act; clause), commentators contended that the requirements may unnecessarily exclude certain applicants with legitimate interests. They submitted that applications should be allowed to be made on behalf of a "class" as this could allow entities representing diverse members who share common interests to approach SARS for rulings. They said that a broader array of applicants should be encouraged to apply for advance rulings on a wider variety of topics, and unnecessarily onerous restrictions should not be placed on applicants.

4.10. SARS did not accept this proposal stating that the facility will only be available to applicants who are registered importers. It said that representatives authorised to do so may submit on behalf of individual applicants. SARS further explained that class rulings are not foreseen because the tax matters of the applicant, which is a requirement of registration, licensing and accreditation, will also be verified on application for a binding ruling. Furthermore, advance rulings relate to a client's specific circumstances/goods. Although advance rulings in the tax context include class rulings, the distinction between customs and tax context above should again be noted.

4.11. Another comment was that subsection (1) of this proposed provision will limit the person that may apply for an advance ruling to registered "importers and exporters" only, whereas there are other participants in the customs and excise arena that may benefit from the advance rulings process. Again SARS did not accept this submission, explaining that it is foreseen that registered importers will be the persons in the customs environment who will make application for advance rulings on tariff, value and origin. SARS said that changes would be effected to the provisions of the Draft TALAB to reflect this position. Representatives authorised to do so may submit applications on behalf of individual applicants.

4.12. Other comments were on the following provisions: “Manner of submission of applications”; “Consideration of applications”; “Granting of an application”; “Validity period of advance ruling”; “Entry of goods under advance ruling”; “Recipient to advise Commissioner of change in circumstances”; “Offence contemplated in section 79”; and “Reference to “document purported to be an invoice” in sections 84, 86 and 107. SARS addressed all the comments, accepting some and rejecting some.

TAX ADMINISTRATION ACT AMENDMENTS

Imposition of understatement penalty (USP) for ETI

4.13. On the TAA, comments were received on the “Imposition of understatement penalty for employment tax incentives (ETI) improperly claimed” (Main reference: section 221 of the Tax Administration Act, 2011, read with section 10 of the Employment Tax Incentive Act, 2013 (ETI Act); clauses 26 and 29). Commentators stated that as it currently stands, the amendment will apply retrospectively to periods prior to the date on which the Bill comes into effect. It was argued that the provisions would seemingly place SARS in the position whereby an assessment raised prior to the implementation date could not impose USP for a certain tax period, monthly PAYE tax periods in the current instance, whereas an assessment raised on or after the implementation date could impose understatement penalties for that same tax period.

4.14. It was submitted that the effect of the amendment should be that taxpayers that claimed the ETI in periods before the implementation date should face the same risk and should not be worse off or face additional understatement penalties, purely because of when they are audited and receive additional assessments. Consequently, the implementation date should be amended to state that the provisions will only come into operation on 1 March 2023 and will only apply to tax periods commencing on or after this date. SARS said that the effective date will be changed to indicate that the proposed amendment will apply to returns filed on or after 1 September 2022.

4.15. Commentators said that the USP should only be imposed to the extent that the penalty under section 4(2) of the ETI Act is not also levied on the same amount. Section 4(2) levies a 100% penalty where the employer claims an ETI despite not being eligible in terms of section 4(1). They said that the USP imposed should therefore either be excluded in full if an ETI Act penalty was imposed or should apply similar to para 20(2B) of the Fourth Schedule to the Income Tax Act where the penalty imposed in the ETI Act is deducted from the understatement penalty amount. SARS accepted this submission and stated that the interaction between section 4(2) of the ETI Act and the USP will be clarified to ensure that there is no duplication of penalties.

Tax compliance status (TCS) system abuse

4.16. On "Tax compliance status system abuse" (Main reference: section 256 of the Tax Administration Act; clause 28), comments were received that in paragraph 2.28 of the Draft Memorandum of Objects of the Draft TALAB reference is made to the submission of so-called "nil returns" in order to appear compliant. This is a risk management matter for SARS, as there would surely be a risk indicator if a taxpayer applies for a tax compliance status (TCS) PIN, and nil returns have been submitted. The individual cases where this happens can therefore be investigated by SARS prior to penalising the taxpayer. SARS did not accept this submission explaining that the audit process requires a significant amount of time and involves a number of procedural steps which mean that the mischief intended by submitting nil returns will have been achieved by the time revised assessments can be issued.

4.17. Commentators noted with concern the proposal to endorse TCS documents, and elsewhere, with a note to state that the taxpayer is a newly registered taxpayer. The commentators said that they understand that there are many instances of manipulation of the TCS system, mainly resulting in tender fraud, the risk will remain with the user of the TCS PIN. They said that in (almost) all instances, a taxpayer submitting a tender will have to submit their Companies and Intellectual Property Commission ("CIPC") registration documents, which will already indicate that the entity is newly registered and the user of the TCS PIN should be aware of this fact prior to contracting with the taxpayer. They raised concern that the endorsement will be used to prejudice newly registered SMMEs in applying for tenders. SARS did not accept this submission and explained that the indication of a taxpayer as a "newly registered taxpayer" will not prejudice newly registered SMMEs in any way if suppliers are already asking for this information at the time of applying for tenders. This information will in any event demonstrate that a taxpayer is a new taxpayer. SARS demonstrating this as part of the taxpayer's TCS will have no further negative effect on the taxpayer.

4.18. SARS explained further that a taxpayer's TCS is based on actual history. The intention is that the indication whether a taxpayer is a "newly registered taxpayer" should only apply to the first date that a return would generally be required for the first tax for which the taxpayer is registered. After this date SARS would be able to determine whether the taxpayer in fact submitted a return or not, and therefore supply a tax compliance status based on actual history. If the taxpayer is not registered for a particular tax, this provision will not apply to that tax.

4.19. SARS said that changes will be made to address the challenge that may be encountered by dormant companies registered for corporate income tax that are not required to submit provisional tax returns (these companies are only required to submit a return within one year after the financial year end of the company) or individuals registered for personal income tax that fall within the auto-assessment population (i.e. they are not required to submit returns at all). It said that the proposed wording will be changed to indicate that a taxpayer will no longer be regarded as a "newly registered taxpayer" on the *earlier of* the following three events:

- The taxpayer has reached the first date on which the taxpayer is required to submit a return or make a payment under a tax Act, in respect of a tax for which the taxpayer is registered;
- The taxpayer has submitted a return or made a payment, prior to the first date on which the taxpayer is required to submit a return or make a payment as mentioned; or
- A period of one year from the date the taxpayer was registered for a tax in terms of a tax Act has lapsed.

4.20. Another comment was received that the ability to revoke access to compliance status can have far-reaching consequences for taxpayers, including a restraint on its ability to conduct business. This power is afforded to SARS in general and is not reserved for senior SARS officials. The ability to revoke access to the compliance status in the case of fraud, misrepresentation or non-disclosure of material facts or the suspicion thereof should be reserved for senior SARS officials. SARS accepted this submission explaining that the proposed legislation will be changed to reserve the power to revoke the access for a senior SARS official.

5. COMMITTEE OBSERVATIONS

5.1. The Committee welcomes the amendments which are directed at improving SARS' administrative capacity, efficiency and enforcing compliance. The Committee believes that all public comments on the Draft TALAB were adequately responded to by SARS and the Committee supports the Bill.

6. CONCLUSION

6.1. The Committee agrees with technical amendments proposed in the A list of the Bill as presented to the Committee on 16 November 2022.

6.2. The Committee reports the Bill [B27B-2022].

The Democratic Alliance (DA) reserves its position.

Report to be considered.

4. Budgetary Review and Recommendation Report of the Portfolio Committee on Trade, Industry and Competition, dated 16 November 2022

The Portfolio Committee on Trade, Industry and Competition, having assessed the service delivery performance of the Department of Trade, Industry and Competition (DTIC), against its mandate and allocated resources, namely the financial and non-financial resources for the period 1 April 2021 to 30 September 2022, reports as follows:

1. INTRODUCTION

The financial period under review had been focused on implementing the Economic Reconstruction and Recovery Plan (ERRP) to address the socio-economic impact of the COVID-19 pandemic, exacerbated by the unrest in Gauteng and KwaZulu-Natal in July 2021, and the floods in the Eastern Cape and KwaZulu-Natal in April 2022. The ERRP emphasised the creation of a conducive environment for the continued development of the productive sectors of the economy. The DTIC's contribution to the implementation of the ERRP includes the leveraging the sectoral master plans, localisation and beneficiation policies, regional and global trade, and its regulatory frameworks.

In the 2022 State of the Nation Address, the President also emphasised the need to improve the business environment for all companies by reducing red-tape across all spheres of government. In response to this, the DTIC had introduced a programme to reduce red-tape across its programmes and entities.

The DTIC's allocated budget remained under pressure due to fiscal constraints and the slow economic recovery. The DTIC's allocated budget for the 2021/22 financial year had been adjusted upward from R9,73 billion to R11,8 billion in support of the manufacturing industry that had been impacted by the unrest.

The Committee has for the first time in its Budgetary Review and Recommendation (BRR) reporting process covered the full 18-month period in accordance with the Money Bills Amendment Procedure and Related Matters Act (Act No. 9 of 2009).

1.1. Mandate of the Committee

Section 5 of the Money Bills Amendment Procedure and Related Matters Act requires the National Assembly, through its committees, to annually assess the performance of each national department over an 18-month period. A committee must submit a report of this assessment known as a BRR Report. The overarching purpose of the BRR Report is for the committee to make recommendations on the forward use of resources to address the implementation of policy priorities and services, as the relevant department may require additional, reduced or re-configured resources to achieve these priorities and services. This Act gives effect to Parliament's constitutional power to amend the budget in line with the fiscal framework. The BRR Report process enables the Committee to exercise its legislative responsibility to ensure that the DTIC, as well as its entities, are adequately funded to fulfil their respective mandates.

1.2. Purpose of the BRR Report

The purpose of this report is to analyse the annual financial and non-financial performance of the DTIC for the 2021/22 financial year, and for the first and second quarters of the 2022/23 financial year for the DTIC, against predetermined objectives to inform recommendations for its forward-looking budget. This report, therefore, assesses performance for the 2021/22 financial year, as well as the first six months of the 2022/23 financial year, namely from 1 April 2021 to 30 September 2022, within the context of the three-year Medium-Term Expenditure Framework.

1.3. Method

The Committee met with the Office of the Auditor-General (AG) on 11 October 2022 to discuss the audit outcomes for the 2021/22 financial year. This was followed by a briefing from the DTIC on its 2021/22 annual report. The DTIC then briefed the Committee on its financial and non-financial performance for the first half of the 2022/23 financial year on 1 November 2022.

1.4. Outline of the contents of the report

This BRR Report consists of the introduction (Section 1) and eight sections. Section 1 briefly provides an overview of the mandate of the Committee, the purpose of this report and the method followed in preparing this report.

Section 2 provides a summary of the key financial and non-financial performance recommendations of the Committee as captured in its previous BRR Report. Section 3 sets out the key policy focus areas for the DTIC. This includes an overview of its strategic objectives and mandate. Section 4 provides an assessment of the DTIC's financial and non-financial performance against its budget allocation from 1 April 2021 to 31 March 2022, as well as its audit findings and human resource management, for the period ending 31 March 2022.

Section 5 considers the financial and non-financial performance of the DTIC for the period ending 30 September 2022. Then, section 6 outlines key issues raised by the Committee during its deliberations with the Department.

Section 7 provides the Committee's concluding remarks followed by a note of appreciation in Section 8. Section 9 then concludes with the Committee's recommendations for the National Assembly's consideration and approval.

2. SUMMARY OF PREVIOUS KEY FINANCIAL AND PERFORMANCE RECOMMENDATIONS OF THE COMMITTEE

2.1. 2021 BRR Report recommendation

"Informed by its deliberations, the Committee recommends that the House requests that the Minister of Trade, Industry and Competition should consider reviewing the Broad-Based Black Economic Empowerment Act (Act No. 46 of 2013) with the intention of establishing a Broad-Based Black Economic Empowerment Tribunal with powers to rule on and sanction prohibited conduct under the legislation."[1]

3. OVERVIEW OF THE KEY RELEVANT POLICY FOCUS AREAS

3.1. Strategic objectives

The DTIC's mission is to:

- "Promote structural transformation, towards a dynamic industrial and globally competitive economy;
- Provide a predictable, competitive, equitable and socially responsible environment, conducive to investment, trade and enterprise development;

[1] Portfolio Committee on Trade and Industry (2021: 37)

- Broaden participation in the economy to strengthen economic development;
- Continually improve the skills and capabilities of the DTIC to effectively deliver on its mandate and respond to the needs of South Africa's economic citizens;
- Co-ordinate the contributions of government departments, state entities and civil society to effect economic development; and
- Improve alignment between economic policies, plans of the state, its agencies, government's political and economic objectives and mandate."[2]

Figure 1: List of entities reporting to the DTIC

Development Finance Institutions	Regulatory Entities	Technical Infrastructure Institutions
• Export Credit Insurance Corporation of South Africa • National Empowerment Fund • Industrial Development Corporation	• Company and Intellectual Property Commission • Companies Tribunal • Competition Commission • Competition Tribunal • International Trade Administration Commission of South Africa • National Consumer Commission • National Credit Regulator • National Consumer Tribunal • National Gambling Board of South Africa • National Lotteries Commission	• National Metrology Institute of South Africa • National Regulator for Compulsory Specifications • South African Bureau of Standards • South African National Accreditation System

The DTIC is responsible for administering 55 pieces of legislation; and overseeing 17 entities (excluding the Broad-Based Black Economic Empowerment (B-BBEE) Commission, which is a trading entity within the administration of the DTIC) that contribute towards fulfilling its mandate (see Figure 1 above). In addition to overseeing the DTIC, the Committee oversees these entities, as a number of its strategic objectives are implemented by them.

4. OVERVIEW AND ASSESSMENT OF THE FINANCIAL AND NON-FINANCIAL PERFORMANCE FOR THE PERIOD 1 APRIL 2021 TO 31 MARCH 2022

[2] DTIC (2021: 16)

This section provides a comparison between what the DTIC targeted in its Annual Performance Plan (APP) against its performance set out in the Annual Report for the 2021/22 financial year. It then provides an overview of the AG's audit outcomes and human resources as at 31 March 2022.

4.1. Non-financial performance[3]

The section below detailed the DTIC's performance by programme for the 2021/22 financial year against its targets as set out in the APP for the 2021/22 financial year. For the financial year, the DTIC had a total of 73 Key Performance Indicators (KPIs)/Performance Targets[4]. In the previous financial year, it had 35 KPIs. Therefore, most of the performance targets for the 2021/22 financial were new.

Table 1: Summary of 2021/22 Performance Indicators per Programme

Programme		Performance targets	Achieved
1	Administration	6	4
2	Trade Policy, Negotiations, and Cooperation	7	7
3	Spatial Industrial Development and Economic Transformation	8	8
4	Industrial Competitiveness and Growth	10	8
5	Consumer and Corporate Regulation	5	5
6	Industrial Financing	9	8
7	Export Development, Promotion and Outward Investments	7	7
8	Inward Investment Attraction, Facilitation, and Aftercare	6	5
9	Competition Policy and Economic Planning	7	7
10	Economic Research and Coordination	8	7
	Total	**73**	**66**

Source: DTIC (2022a)

Of the 73 targets, 66 had been achieved, meaning that the DTIC had achieved 90,4 per cent of its targets compared to 94 per cent in the previous financial year.

Programme 1: Administration[5]

The Administration Programme is responsible for providing strategic support and management to the DTIC and its entities. Under this Programme, six performance targets had been set, which would aid mainly the implementation of transformation through Employment

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[3] DTIC (2021 and 2022a)

[4] DTIC (2021)

[5] DTIC (2022a: 55-59)

Equity and Black Economic Empowerment. Of the six performance targets, two had not been achieved. Targets that had been achieved were:

- Ensuring 3,5 per cent representation of people with disabilities had been exceeded, as the DTIC had achieved 3,9 per cent representation of people with disabilities;
- Ensuring 50 per cent representation of women in senior management had also been exceeded, as 54 per cent senior management were comprised of women;
- Paying all creditors within 30 days; and
- Developing two status reports on the implementation of the shared services framework. The purpose of the shared services framework is to ensure the efficient use of resources in the DTIC and its entities. The three status reports had been on the (i) approved cybersecurity and Information and Communication Technology (ICT) service continuity policy framework; (ii) the shared entity document libraries; and (ii) the capacitation of the forensic audit unit.

Targets that had not been achieved during the financial year included:

- The implementation of 50 per cent of the Capacity Building Plan to ensure that the DTIC's substructure is fit for purpose and that there is culture change as well as upskilling and reskilling. For the financial year, the implementation of the Capacity Building Plan had reached 21,2 per cent. The process to appoint a service provider had been delayed by National Treasury's decision to holt the process; and
- The Review of the entities' Governance Framework and implementation thereof had not been completed by the end of the financial year as planned.

Programme 2: Trade Policy, Negotiations, and Cooperation[6]

The purpose of the Programme is to facilitate the building of an equitable global trading system by strengthening trading and investment relations with key markets globally. Furthermore, in line with the New Partnership for Africa's Development, the Programme is responsible to promote the development of the African continent through regional and continental integration.

[6] DTIC (2022a: 65-66)

Under this Programme, there had been seven targets, which had been achieved. The targets related to the production of reports in terms of the African and international work of the Programme. These reports included:

- Bi-annual reports on the readiness of African Union members and customs unions to implement tariff preferences;
- Bi-annual reports on progress made in meetings of the Southern African Customs Unions (SACU) on matters of the African Continental Free Trade Agreement (AfCFTA);
- Progress on trade in services negotiations under the AfCTFA; and
- Border interceptions and other measures to reduce illegal imports in collaboration with the South African Revenue Service (SARS) and the International Trade Administration Commission of South Africa (ITAC); and
- Bi-annual reports on progress on AfCFTA protocols on investment, competition, intellectual property rights and e-commerce.

The Programme had also produced annual reports on:

- Initiatives to facilitate access to foreign markets particularly the United States, the European Union, and China; and
- South Africa's negotiating position in meetings of Brazil, Russia, India, and China; G20; and the World Trade Organisation (WTO).

Programme 3: Spatial Industrial Development and Economic Transformation[7]

The purpose of the Programme is to promote inclusive economic transformation and to industrialise the economy through developing and funding Special Economic Zones (SEZs), and Black Industrialists. There had been eight targets planned under this Programme and all targets had been achieved. These were:

- The establishment of the national support unit for SEZs at the Industrial Development Corporation (IDC) to improve the performance of SEZs;
- The production of an application for an SEZ designation for the Minister's consideration;
- The production of two reports on integrated SEZs, Industrial Parks, and District Development Model;
- The development of an annual and three quarterly reports on the progress of SEZs;

[7] DTIC (2022a: 71-72)

- The implementation of nine annual targets for the revitalisation of Industrial Parks. (Five parks had been in construction, one had been in close-out, three have been completed, and two had been in the design phase);
- The production of an annual and three quarterly progress reports on Industrial Parks and Digital Hubs;
- The development of B-BBEE regulations; and
- The production of an annual report on the worker, community, historically disadvantaged individual ownership of the economy.

Programme 4: Industrial Competitiveness and Growth[8]

The Industrial Development Programme is the DTIC's second largest programme in terms of budget allocation. It is responsible for the design and implementation of policies, strategies and programmes to develop the manufacturing and related sectors of the economy to contribute to the creation of decent jobs, adding value to manufactured products and enhancing competitiveness in the domestic and export markets.

The Programme had ten targets, of which it had achieved eight. The following targets had been achieved:

- Progress reports on the implementation of five Master Plans namely: the Automotive Sector; Poultry; Sugar Value Chain; Steel and Metal Fabrication; and Clothing, Textiles, Footwear, and Leather Master Plans, had been produced;
- An effective localisation monitoring system in collaboration with National Treasury had been developed;
- Semi-annual reports on compliance with designations had been produced; and
- An annual report on inputs and stakeholder consultation into the Procurement Bill had been developed as planned.

The following targets had not been achieved:

- The development of two Master Plans had not been achieved. One Master Plan on Global Business Services had been developed and launched. However, the Master Plan on Plastics could not be completed because the consultation process had taken longer than planned; and

[8] DTIC (2022a: 76-80)

- The development, in collaboration with National Treasury, of two reports on designated products and proposals for designations had not been achieved. One report on designation had been produced. The other designation had been delayed because the consultation process had been broadened to minimise challenges that had previously been experienced in the designation of products for local procurement.

Programme 5: Consumer and Corporate Regulation[9]

The Consumer and Corporate Regulation Programme is aimed at developing and implementing coherent, predictable and transparent regulatory solutions that facilitate easy access to redress and efficient regulation for economic citizens. Under this Programme, the DTIC had achieved its five targets, namely the production of the following reports:

- One report on the worker participation model in corporate governance;
- Two progress reports on the development of the Companies Amendment Bill;
- Two progress reports on the review of the Liquor Amendment Bill;
- Two reports on the finalisation of the implementation plan of the National Credit Amendment Act; and
- A report on the development of the SEZs legislative changes.

Programme 6: Industrial Financing[10]

The Industrial Financing Programme is responsible for improving the administration of the DTIC's incentive programmes through designing and implementing incentives and programmes that support investment, competitiveness, employment creation, and equity. Under Programme 6, all nine targets had been achieved, namely:

- A targeted investment value of R23 billion leveraged from approved projects and enterprises had been exceeded and approximately R34,2 billion worth of investments had been leveraged as a result of high value projected investments;
- A report had been produced on access to affordable financing for Small, Micro and Medium Enterprises, and on appropriate annual targets for the IDC and the National Empowerment Fund (NEF) for Black Industrialists, women, and youth-owned enterprises;
- An Integrated Industrial Financing web portal for sectors had been developed and piloted;
- Three incentive programmes, namely the Automotive Incentive Scheme, the Critical Infrastructure Programme (CIP), the Export Marketing and Investment Assistance

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[9] DTIC (2022a: 84-85)

[10] DTIC (2022a: 88-91)

(EMIA), and the Sector-Specific Assistance Scheme, had been amended to extract greater development impact;

- A call for investment in local film productions of South African stories had been made;
- A monitoring report on the implementation of the Economic Recovery Programme had been developed;
- A report on the implementation of the economic distress facility programme had been developed;
- Action reports on partnerships and activities necessary to increase access to funding for enterprises had been produced; and
- A report on co-funding support for infrastructure development had been produced.

Programme 7: Export Development, Promotion and Outward Investments[11]

The Export Development, Promotion, and Outward Investments Programme is aimed at promoting South African exports in high growth markets; identifying new markets for South African manufactured products; and enhancing the ongoing promotion of exports. Furthermore, the Programme supports the building of trade and investment relationships with other African countries

Under this Programme, there had been seven targets, all of which were are achieved. These were:

- An impact assessment report on export promotion and development initiatives had been developed and produced in partnership with the Economic Research and Coordination Programme;
- Sixty-nine companies participated in export promotion initiatives for the first time against a target of 50 companies;
- Five hundred and ninety-one individuals had participated in export training and capacity building initiatives and a mentorship programme, which included Women, Youth, and People with Disabilities, against a target of 300 individuals;
- Sixty-one barriers had been resolved by the Export Barriers Monitoring Mechanism against a target of 60;
- A women's incubation programme had been developed to support gender equality to leverage opportunities in Africa;

[11] DTIC (2022a: 96-97)

- The development of a District AfCFTA Strategy Helper as part of the Export Data Assistant platform had been developed as planned; and
- An AfCFTA export plan by product, sector, and country had been developed to set out opportunities for the country.

Programme 8: Inward Investment Attraction, Facilitation, and Aftercare[12]

The purpose of the Programme is to support foreign direct investment flows and domestic investment by providing a one-stop-shop for investment promotion, investor facilitation and aftercare support for investors. Five targets had been planned and achieved, namely:

- Approximately R180 billion worth of investment projects was in the pipeline, against a target of R50 billion;
- A total of 33 investor issues had been unblocked and fast-tracked against a target of 24;
- The development of four statistical reports on company registration had been planned, however, only one report had been developed. According to the DTIC, this target had not been achieved because "one statistical report that was provided by CIPC did have information on company registration within one day";
- The development and upkeep of the Ease of Doing Business website; and
- Fifty-five inter-governmental and stakeholder meetings had been held against a target of 30.

A new target that had not originally been in the APP was to "Provide support for South African Investment Conference (SAIC) (including raising sponsorships, publicity and follow-up on matters raised at the conference) and report on the implementation of pledges made by investors"[13] had also been achieved.

Programme 9: Competition Policy and Economic Planning[14]

The Programme focuses on developing and implementing policy interventions that promote competition. Key areas addressed under this Programme are market inquiries, mergers and acquisitions, and investigations regarding the prohibition of abuse of dominance in cases that are of public interest. Furthermore, the implementation of recommendations of market inquiries, mergers and acquisitions, and investigations regarding the prohibition of abuse of dominance to maximise redress on the affected parties.

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[12] DTIC (2022a: 102-104)

[13] DTIC (2022a: 102)

[14] DTIC (2022a: 108-110)

The Programme had nine performance targets for the financial year that had been achieved or exceeded, namely:

- The development of ten reports on implementation of changes to competition legislation and oversight activities against a target of four reports;
- The development of five action minutes on the monitoring of mergers to ensure that competition authorities took into account public interest;
- The development of five reports on the impact of public interest interventions;
- The development of a portfolio report on the possible market inquiries;
- The development of an Action Minute on the initiation of one new competition market inquiry;
- The development of a report on enabling and implementing recommendations of one market inquiry; and
- The development of an Action Minute on the implementation of the Social and Solidarity Economic Policy Framework.

Programme 10: Economic Research and Coordination[15]

The purpose of the programme is to develop and roll out legislative processes to facilitate an inclusive economy through interventions to increase competitiveness in the economy.

For the financial year, the programme had eight targets. Of these, seven targets had been achieved. Performance had been as follows:

- A National Economic Development and Labour Council impact report had been produced;
- One Economic Cluster Impact Report on economic sector, investment, and employment had been produced;
- Six Policy and Research Briefs had been published against a target of four. The Policy and Research Briefs were on: (i) Selected administered and manufacturing input prices; (ii) the Plastic products manufacturing industry; (iii) Industrial infrastructure and socioeconomic development; (iv) a Just transition to a greener economy in South Africa; (v) the Mobile applications development industry; and (vi) Internalising the commercial forestry industry's externalities in South Africa;

[15] DTIC (2022a: 114-116)

- Four factsheets had been produced and published, namely on: (i) Expanding local production of nutraceuticals in South Africa, (ii) the Localisation of medical devices in South Africa: Syringes manufacturing, (iii) the Localisation of soy beans, and (iv) the Localisation potential in the tyre industry;
- The development of two District Economy briefs for OR Tambo and EThekwini had been produced jointly with the Export Development, Promotion, and Outward Investments Programme;
- An assessment report on fiscal policy options to promote economic growth, employment and industrialisation had been produced; and
- Two reports analysing the impact of the DTIC and entity programmes on employment, economic growth, trade, and investment had been produced. The reports included a report on the Impact of the DTIC interventions in terms of the Coega SEZ and the EMIA for the period 2015-2021.

The target that had not been achieved was the production of two research studies to identify areas of future growth. Only one report had been produced on electric vehicle industry. The second report had not been produced due to non-compliance by the service provider.

4.2. Financial performance

4.2.1 Allocated Budget for the 2021/22 Financial Year

In February 2021, during the Minister of Finance's Budget Speech, the DTIC had been allocated a budget of R9,73 billion for the 2021/22 financial year. This budget had been R46 million more than the previous financial year's (2020/21) budget of R9,2 billion.[16] During the adjustments period, the DTIC's budget had been adjusted up to R11,8 billion. In the Adjusted Estimates of National Expenditure Report, the National Treasury reported that adjustment to amount to an additional R2,07 billion as follows: a special appropriation of R1,3 billion had been allocated to "cover costs related to the support of businesses that were affected by COVID-19 lockdown restrictions and by the public unrest in July 2021"[17]. This special appropriation and a further increase of R829,9 million had increased Transfers and subsidies from R7,8 billion to R9,95 billion and a decrease of R54,5 million in Current payments (compensation of employees, and goods and services) from R1,87 billion to R1,82 billion.[18]

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[16] National Treasury (2021a)

[17] National Treasury (2021b)

[18] National Treasury (2021b)

In terms of programmes, the adjustments had affected all programmes. The following programmes' budgets had been adjusted downwards: Administration (-R2,0 million); Trade Policy, Negotiations and Cooperation (-R6,3 million); Spatial Industrial Development and Economic Transformation (-R15,0 million); Consumer and Corporate Regulation (-R1,6 million); Export Development, Promotion and Outward Investments (-R0,8 million); Inward Investment Attraction, Facilitation and After Care (-R1,2 million); and Economic Research and Coordination (-R8,4 million). While the Industrial Financing, Competition Policy and Economic Planning, and Industrial Competitiveness and Growth programmes had been adjusted upwards by R1,4 billion; R748,5 million; and R3,6 million respectively.

Furthermore, during the financial year there had been virements within the programmes. These further affected the various programme allocations. The virements had amounted to R265,4 million being moved from nine programmes to the Industrial Financing Programme. The reason for these virements to the Industrial Financing Programme had been the "Increased uptake of the services investment and automotive incentive programmes by companies across the critical sectors of the economy, as well as top structure under the Special Economic Zones programme"[19]. The reasons for virements from most of the programmes had been that there were unused funds due to limited travel as most meeting and engagements had taken place virtually. The virement from the Spatial Industrial Development and Economic Transformation programme of R124,2 million had been as a result of the "Slow uptake of the New Clothing Textile Footwear Leather Growth Programme"[20].

The virements within programmes are shown in Figure 2 below:

[19] Department of Trade, Industry and Competition (2022a:20)

[20] Ibid

Figure 2: DTIC Virements: 2021/22 Financial Year

Source: DTIC (2022a), illustration from Madalane (2022)

The combined effect of the adjustments and virements is evident in the Financial Appropriation per programme. This is shown in Table 2 below.

4.2.2 Financial Performance by Programme

For the 2021/22 financial year, the DTIC had spent R11,61 billion of the allocated R11,81 billion. This equated to overall expenditure of 98,3 per cent of the budget. Underspending had been minimal at R197,9 million (or 1,7 per cent). Expenditure in seven of the ten programmes had been over 90 per cent. On the other three programmes, expenditure had been 81,8 per cent, 77 per cent and 58,4 per cent. Expenditure in the key programmes, namely: Industrial Competitiveness and Growth, Industrial Financing, and Competition Policy and Economic Planning, had been between 99,5 per cent and 100 per cent.

In terms of under-expenditure by value, the key contributors had been the Administration Programme (R66,0 million); the Spatial Industrial Development and Economic Transformation Programme (R36,6 million); the Industrial Financing Programme (R29,0 million); and the Economic Research and Coordination Programme (R27,0 million). In terms of value, the Industrial Financing Programme was one of the main contributors to underspending; however, its underspending relative to its allocated budget was only 0,4 per cent.

Detailed expenditure against the budget (appropriation) for each of the programmes is shown in Table 2 below.

Table 2: Expenditure by Programme

Programme (R million)	Final Appropriation	Actual Expenditure	% Actual Expenditure	% Variance
1. Administration	787,3	721,3	91,6%	8,4%
2. Trade Policy, Negotiations and Cooperation	218,8	217,8	99,5%	0,5%
3. Spatial Industrial Development and Economic Transformation	159,0	122,4	77,0%	23,0%
4. Industrial Competitiveness and Growth	1 638,4	1 638,1	100,0%	0,0%
5. Consumer and Corporate Regulation	324,6	323,4	99,6%	0,4%
6. Industrial Financing	6 495,0	6 465,9	99,6%	0,4%
7. Export Development, Promotion and Outward Investments	415,2	399,0	96,1%	3,9%
8. Inward Investment Attraction, Facilitation and After Care	65,7	53,7	81,8%	18,2%
9. Competition Policy and Economic Planning	1 643,1	1 634,5	99,5%	0,5%
10. Economic Research and Coordination	65,0	38,0	58,4%	41,6%
Total	**11 812,0**	**11 614,1**	**98,3%**	**1,7%**

Source: DTIC (2022a: 18), calculations from Madalane (2022)

Programme 1: Administration

The Programme expenditure had been R721,3 million against a budget of R787,3 million. This reflected under-expenditure of R66,0 million (or 8,4 per cent of the Programme's budget). The DTIC reported that the underspending in this programme was a result of lower than expected spending on goods and services due to meetings and engagements being on virtual platforms as well as lower payments for capital assets.

Programme 2: Trade Policy, Negotiations, and Cooperation

The Programme's expenditure had been 99,5 per cent of the allocated budget. Expenditure amounted to R217,8 million, R1,0 million less than the allocated budget of R218,8 million.

Programme 3: Spatial Industrial Development and Economic Transformation

This Programme had the second largest underspending by both value and percentage with underspending of R36,6 million, which translated to 23 per cent of the Programme's budget. Actual spending had been R122,4 million against a budget of R159,0 million. Underspending resulted from lower than expected spending on goods and services because of meetings being held on virtual platforms.

Programme 4: Industrial Competitiveness and Growth

This Programme's entire budget of R1,6 billion had been spent for the financial year.

Programme 5: Consumer and Corporate Regulation

Approximately 99,6 per cent of the Programme's budget had been spent. Expenditure had been R323,4 million against a budget of R324,6 million in the 2021/22 financial year.

Programme 6: Industrial Financing

This Programme captures the core mandate of the DTIC, it is the largest programme accounting for approximately 55 per cent of the total budget. The Industrial Financing Programme had spent 99,6 per cent of the allocated budget of R6,49 billion. Actual expenditure amounted to R6,47 billion in the current financial year.

Programme 7: Export Development, Promotion and Outward Investments

The Programme's expenditure had been R399 million against a budget R415,2 million. This translated to 96,1 per cent of the allocated budget being spent. Lower than expected compensation of employees, and postponed recruitment and deployment of foreign economic representatives to the foreign trade and investment offices resulted in underspending in this Programme.

Programme 8: Inward Investment Attraction, Facilitation, and Aftercare

Under the Programme, R53,7 million had been spent against a budget of R65,7 million. Therefore, 81,8 per cent of the budget had been spent. Underspending resulted from lower than expected spending on goods and services because meetings had been held on virtual platforms, as well as on delays in transfers due to certain provincial One-Stop Shop set-up related processes still being finalised.

Programme 9: Competition Policy and Economic Planning

This Programme had the second largest budget after the Industrial Financing Programme. The Programme's budget for the financial year had been R1,64 billion. Of that budget, R1,63 billion (99,5 per cent of the total budget) had been spent.

Programme 10: Economic Research and Coordination

The Programme's expenditure had been 58,4 per cent of the budget of R65,0 million for the 2021/22 financial year. A total of R38,0 million had been spent. Underspending resulted from lower than expected spending on goods and services because meetings had been held on virtual platforms, and some commissioned studies still being finalised.

4.2.3 Expenditure by economic classification[21]

A large sum of the DTIC's R11,8 billion budget, approximately R10,1 billion (85 per cent of the total budget) had been allocated to transfers and subsidies to departmental entities and private enterprises, among others, approximately R1,65 billion (14 per cent of the total budget) had been for the DTIC's operations, and R20,3 million (0,2 per cent of the total budget allocation) had been allocated to payments for capital assets. A large proportion of the DTIC's R1,65 million operational budget (current payments) had been for compensation of employees (R1,06 billion or 65 per cent of the operational budget or 9 per cent of the DTIC's total budget).

Actual expenditure of the operational budget had been 91,7 per cent. An amount of R1,51 million had been spent against the budget. Within this budget, the compensation of employees, which is the largest cost item had been R46 million less than budgeted, translating to 95,7 per cent of the compensation budget being spent. Expenditure of goods and services had been R494,8 million, approximately 84,5 per cent of the goods and services allocation.

Detailed in Table 3 below is the DTIC expenditure by economic classification.

Table 3: Expenditure by economic classification

[21] DTIC (2022a: 118)

(R million)	Final Appropriation	Actual Expenditure	% Actual Expenditure	%Variance
Current Payment	**1 650,2**	**1 513,3**	**91,7%**	**8,3%**
Compensation of Employees	1 064,6	1 018,5	95,7%	4,3%
Goods and services	585,6	494,8	84,5%	15,5%
Transfers and subsidies	**10 140,4**	**10 096,8**	**99,6%**	**0,4%**
Departmental agencies and accounts	1 294,7	1 294,7	100,0%	0,0%
Foreign governments and international organisations	30,7	30,3	98,9%	1,1%
Public corporations and private enterprises	8 654,6	8 611,4	99,5%	0,5%
Non-profit institutions	153,3	153,3	100,0%	0,0%
Households	7,1	7,0	99,8%	0,2%
Payments for capital assets	**20,3**	**2,8**	**13,7%**	**86,3%**
Machinery and equipment	17,1	2,5	14,4%	85,6%
Software and other intangible assets	3,3	0,3	10,3%	89,7%
Payments for Financial assets	**1,1**	**1,1**	**99,9%**	**0,1%**
Total	**11 812,0**	**11 614,1**	**98,3%**	**1,7%**

Source: DTIC (2022a: 118), calculations from Madalane (2022)

4.2.4 Transfers to Entities

The DTIC has 17 entities as shown in table 4 below. Four of the entities are self-funded, namely the Company and Intellectual Property Commission, the IDC, the NEF, and the National Lotteries Commission (NLC).

Table 4: Transfers to entities and Transfers as a share of each entity's Income

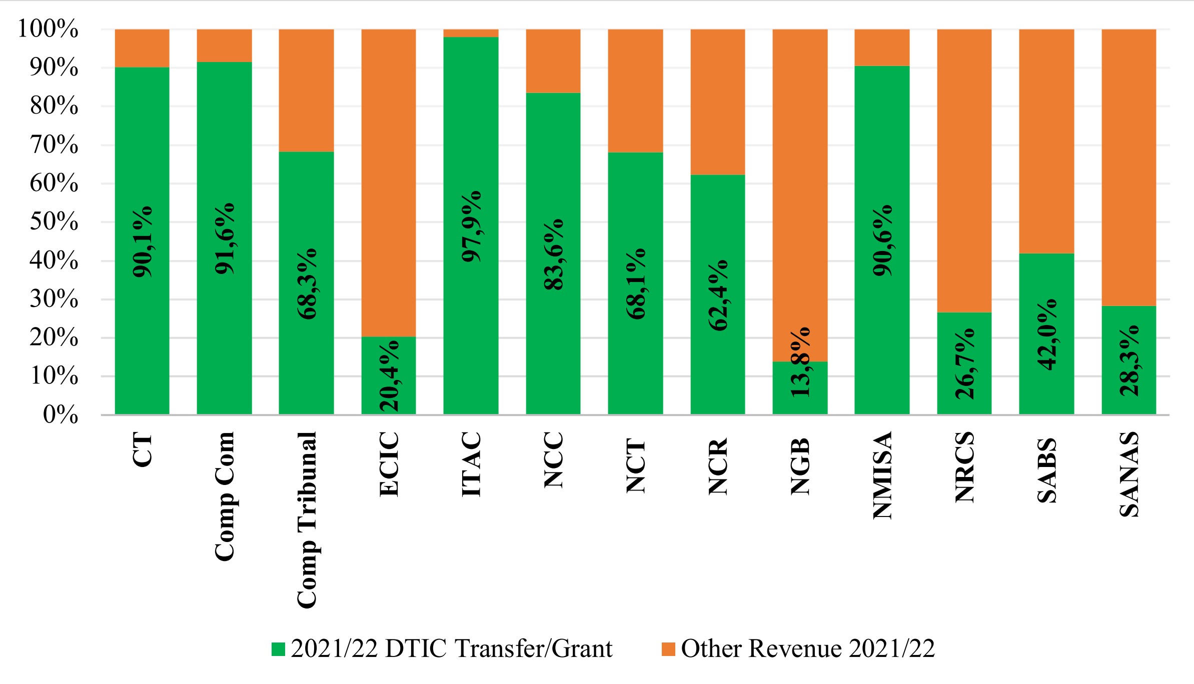
Entity (R'000s)	2020/21 Transfers	2021/22 Transfers	Change: 2020/21 - 2021/22	Total Budget 2021/22	Share of Budgeted Income
Companies Tribunal	20 752	20 313	-2,1%	22 534	90,14%
Company and Intellectual Property Commission	**Self-Funded**				
Competition Commission	302 586	439 550	45,3%	479 838	91,60%
Competition Tribunal	32 342	36 970	14,3%	54 121	68,31%
Export Credit Insurance Corporation of South Africa	162 712	208 078	27,9%	1 019 109	20,42%
Industrial Development Corporation	**Self-Funded**				

Entity (R'000s)	2020/21 Transfers	2021/22 Transfers	Change: 2020/21 - 2021/22	Total Budget 2021/22	Share of Budgeted Income
International Trade and Administration Commission	95 998	112 478	17,2%	114 862	97,92%
National Consumer Commission	51 530	58 505	13,5%	70 006	83,57%
National Consumer Tribunal	47 492	53 515	12,7%	78 609	68,08%
National Credit Regulator	71 272	82 632	15,9%	132 519	62,35%
National Empowerment Fund	**Self-Funded**				
National Gambling Board	31 027	35 928	15,8%	259 898	13,82%
National Lotteries Commission	**Self-Funded**				
National Metrology Institute of South Africa: - Operations (R121,1 million) - Infrastructure (R140,7 million)	223 291	261 716	17,2%	288 956	90,57%
National Regulator for Compulsory Standards	126 126	144 099	14,3%	540 289	26,67%
South African Bureau of Standards	270 421	328 819	21,6%	783 189	41,98%
South African National Accreditation System	28 748	32 967	14,7%	116 572	28,28%

Source: DTIC (2022a: 244), calculations from Madalane (2022)

As is evident from the figure below, most of the entities rely heavily on the transfers from the DTIC, in particular the ITAC, the National Consumer Commission, the National Metrology Institute of South Africa (NMISA), the Companies Tribunal, the Competition Commission (CompCom), the National Consumer Tribunal, the Competition Tribunal, and the National Credit Regulator whose transfers from the DTIC range between 50 and 98 per cent of their budgets.

Figure 3: Transfers as a share of each entity's Income



Source: Madalane (2022)

NMISA has been receiving additional funding for infrastructure upgrades from the DTIC for a number of years. In the fifth Parliament, during an oversight to its entities, the Committee had been briefed on and saw the status of NMISA's infrastructure. The Committee, thereafter, in its BRR Report, had recommended that NMISA be allocated additional funding for infrastructure upgrades. This resulted in the additional funding of R140,7 million in the current financial year. In the previous financial year, NMISA had received R119,7 million.

Other technical infrastructure institutions, namely the South African Bureau of Standards (SABS) and the National Regulator for Compulsory Specifications (NRCS), are also undertaking infrastructure upgrades, which have not received funding for these purposes through recent transfers from the DTIC. However, these institutions may require additional funding in this regard in future.

While the IDC is a self-funded entity, it receives funding from the DTIC for programmes and incentives which it administers on behalf of the DTIC. For the 2021/22 financial year, it had received transfers from the DTIC of approximately R3,4 billion. This was for the following incentive programmes:

- Clothing and Textile Production Incentive which fund companies in the clothing and textiles industry to develop world class manufacturing capabilities – R477,4 million had been allocated (R624,0 million in the 2020/21 financial year);

- Customised Sector Programme – R10 million had been allocated (R12,9 million in the 2020/21 financial year);
- Tirisano Construction Fund which provides funding support for the construction industry – R46,2 million had been allocated (R93,7 million in the 2020/21 financial year);
- Steel Development Fund which provides funding to the steel industry at concessional rates, and addresses weak balance sheets[22] – R37,7 million had been allocated (R29,4 million in the 2020/21 financial year);
- Small Enterprise Finance Agency – R251,7 million had been allocated (R196,7 million in the 2020/21 financial year);
- Industrial Financing – R1,9 billion had been allocated (R892 million in the 2020/21 financial year); and
- Social Employment Fund which supports the creation of employment through community-based economic activities – R 800 000 had been allocated.

Other Transfers that had been made during the 2021/22 financial year were to:

- **Public corporations and private enterprises**: Research, Industrial Parks Programme, SEZs Programme, and for the establishment of One-Stop-Shop (R1,9 billion)[23]
- **Private Enterprises:**
    - **Transfers to various institutions:** EMIA, Support Programme for Industrial Innovation, and CIP (R184,2 million)
    - **Subsidies:** Automotive Production and Development Programme: Production Allowance, Supplier Cluster Development, National Research Foundation: Technology and Human Resources for Industrial Programme, Business Process Service Incentive Enterprise Investment Programme, Film and Television Production Incentive Manufacturing Competitiveness Enhancement Programme (R2,4 billion)
- **Foreign governments and international organisations:** WTO, Organisation for the Prohibition of Chemical Weapons, United Nations: Treaty on the Prohibition of Nuclear Weapons, United Nations Industrial Development Organisation, World Intellectual Property Organisation, and Treaty Organisation for Metrology (R30,6 million)
- **Non-profit institutions:** Proudly South African Campaign, Intsimbi Future Production Technologies Initiatives, Centurion Aerospace Village, Trade and Industrial Policy Strategies, Automotive Supply Chain Competitiveness Initiative, and Black Business Council (R153,3 million)

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[22] DTIC (2020b)

[23] Excludes transfers to DTIC entities

- **Households** (R7,0 million)

4.3. Audit outcomes

The AG annually conducts an audit assessment on the reporting of the DTIC's financial statements and its non-financial performance reporting. In terms of its annual performance report, Programme 6, Industrial Financing, had been assessed to determine whether the reported performance information was useful and reliable. The outcome of this assessment had been that the AG "did not identify any material findings on the usefulness and reliability of the reported performance information for this programme"[24].

In terms of the DTIC's financial statements, it had received a clean audit opinion for the 2021/22 financial year. For this sixth administration, the DTIC has had clean audits (2019/20, 2020/21, 2021/22). No irregular expenditure or fruitless and wasteful expenditure had been incurred for the financial year.

4.4. Human resources

The DTIC's permanent employee headcount at 31 March 2022 had been 1 176, against a structure of 1 350 approved positions. A total of nine employees had joined the Department, while 78 employees had left the employ of the DTIC during the financial year. This means that 174 positions had been vacant. Of the 78 employees that had left the DTIC, 41 had resigned, seven had been due to death, 12 contracts had expired, eight had retired, eight had been transferred to other public service department, and one employee had been dismissed due to misconduct.

The vacancy rate, therefore, had been 13 per cent, which was higher than the previous year's vacancy rate of 9 per cent. Government's efforts to reduce the wage bill have also contributed to the higher vacancy rate at the DTIC, with the DTIC only filling critical positions.

Furthermore, 54 interns had been appointed for the 2020/22 cycle, however, by the end of the 2021/22 financial year, 41 interns had been in the employ of the Department.

The table below shows employees of the DTIC by skills levels against the approved structure as well as the vacancy rate at each level.

[24] DTIC (2022: 182)

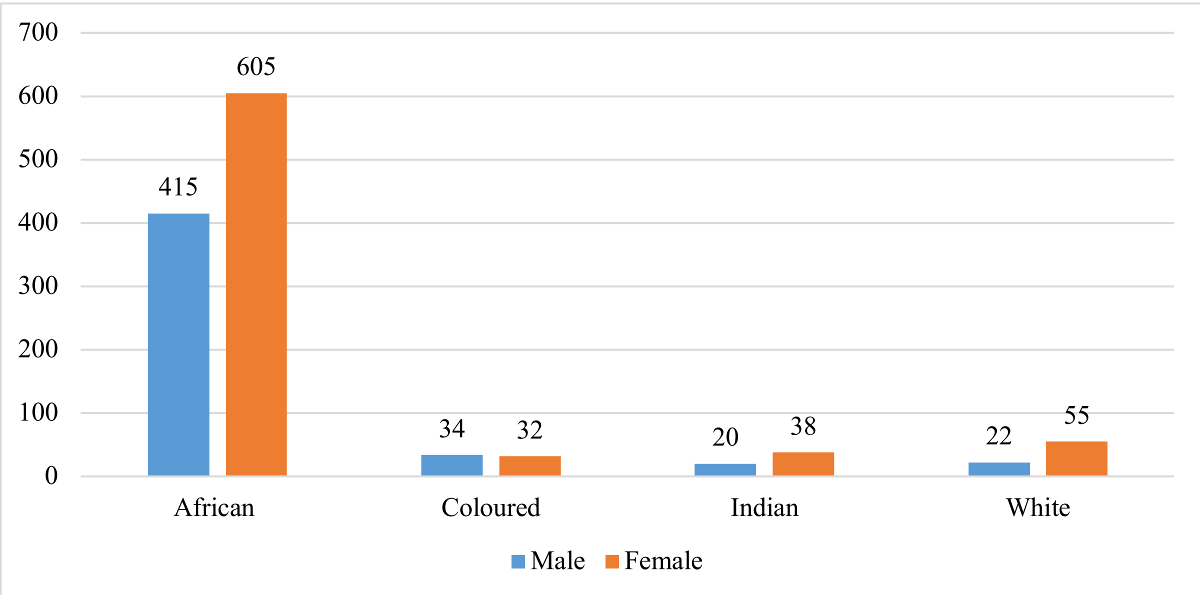
Table 5: Posts, Filled Posts and Vacancy Rate

	Number approved posts	Number of posts filled	Vacancy rate
Lower skilled (levels 1-2)	1	1	0%
Skilled (levels 3-5)	73	63	14%
Highly skilled production	398	357	10%
Highly skilled supervision	609	531	13%
Senior management (levels 13-16)	269	224	17%
Total	**1 350**	**1 176**	**13%**

Source: DTIC (2022)

The employee race profile had been 83,5 per cent black, 5,4 per cent coloured, 4,8 per cent Indian, and 6,3 per cent white. Female representation had been at 59,8 per cent. Female representation at top management had been 54 percent, also 54 per cent in senior management, 51,6 per cent at the professional and specialists level, and 72,6 per cent skilled and technical levels. Representation of people with disabilities had been 3,9 per cent of total employees of the DTIC.

Figure 4: Employment Equity Profile



Source: Madalane (2022)

Personnel costs for the year had amounted to R1,01 billion (8,8 per cent of the budget) and R26 million had been spent on professional and special services. An amount of R1,6 million had been spent on training staff.

5. OVERVIEW AND ASSESSMENT OF THE FINANCIAL AND NON-FINANCIAL PERFORMANCE FOR THE PERIOD 1 APRIL TO 30 SEPTEMBER 2022

This section provides a comparison between what the DTIC targeted in its APP against its performance set out in its first and second quarter reports for the 2022/23 financial year.

5.1. Non-financial performance[25]

In the first quarter, 94 per cent (51) targets had been achieved while 6 per cent (3) targets had not been achieved. Targets that had not been achieved were under Programme 1: Administration; Programme 2: Trade Policy, Negotiations and Cooperation; and Programme 8: Inward Investment Attraction, Facilitation and After Care. In the second quarter, 95 per cent (72) targets had been achieved while 5 per cent (4) of the targets had not been achieved. Under the Administration Programme, two targets had not been achieved, a further two targets had not been achieved under Programme 2: Trade Policy, Negotiations and Cooperation.

The targets that had not been achieved in the first quarter were as follows:

- ***Administration Programme***: the target for producing a Factsheet on the DTIC's services had not been achieved.
- ***Trade Policy, Negotiations and Cooperation Programme***: the target that had not been achieved was engaging the ITAC on the list of actions to reduce red-tape. This target, according to the DTIC, had not been achieved because the consultation processes within ITAC took longer than anticipated.
- ***Inward Investment Attraction, Facilitation and After Care Programme***: the DTIC had facilitated or coordinated R1,1 billion in investment pledges for the quarter against a target of R10 billion for the quarter. This target, according to the DTIC, had been impacted by the COVID-19 restrictions preventing project consultations with foreign investors and participation in the key investment promotion events.

Table 6: Summary of First and Second Quarter Performance by Programme.

Programme	First Quarter		Second Quarter	
	Targets	Achieved	Targets	Achieved
1. Administration	9	8	14	12
2. Trade Policy, Negotiations and Cooperation	4	3	11	9

[25] DTIC (2022b, and 2022c)

Programme	First Quarter		Second Quarter	
	Targets	Achieved	Targets	Achieved
3. Spatial Industrial Development and Economic Transformation	7	7	11	11
4. Industrial Competitiveness and Growth	8	8	11	11
5. Consumer and Corporate Regulation	2	2	4	4
6. Industrial Financing	3	3	5	5
7. Export Development, Promotion and Outward Investments	8	8	6	6
8. Inward Investment Attraction, Facilitation and After Care	5	4	4	4
9. Competition Policy and Economic Planning	4	4	3	3
10. Economic Research and Coordination	4	4	7	7
Total	54	51	76	72

Source: DTIC (2022c)

In the second quarter, targets that had not been achieved were:

- ***Administration Programme:*** The first target that had not been achieved was in relation to the Proposal for the operation and staffing of an Entity Oversight Unit and implementation of improved oversight. The target had been the commissioning of a study by the Economic Research and Coordination Programme; however, by the end of the quarter, the study had not been commissioned. The DTIC had been doing further consultation on the Terms of Reference with the various branches/units.
- ***Administration Programme:*** The second target that had not been achieved was in relation to the Proposal for the rationalisation of entities. In particular, the target had been for the commissioning of a study in this regard; however, this target had also not been achieved for the same reason the previous study had not been commissioned.
- ***Trade Policy, Negotiations and Cooperation Programme:*** The first target that had not been achieved was the submission of the Draft Amended Anti-dumping Regulations to the Executive Authority. The reason for not achieving this target had been delays by the ITAC due to internal consultation.
- ***Trade Policy, Negotiations and Cooperation Programme:*** The second target that had not been achieved was the production of the Report on progress on the SACU tariff offer because there had been no consensus by SACU on the tariff offer.

5.2. Financial performance[26]

The DTIC had been allocated a budget of R10,85 billion for the 2022/23 financial year. This budget had been adjusted during the second quarter of the financial year to R10,87 billion. The adjustment had been an increase of approximately R19,8 million. By the end of the second quarter, the DTIC had projected that R5,8 billion would be spent; however, approximately R5,6 billion had been spent, accounting for 52 per cent of the annual budget. Given this expenditure, the available budget remaining had been R5,27 billion.

The section below shows expenditure by programme and by economic classification as at 30 September 2022.

5.2.1 Financial Performance by Programme

The DTIC had projected to spend R5,8 billion by the end of the second quarter. Of this, R5,6 billion had been spent. This resulted in under-expenditure of R235,5 million (4 per cent of the year-to-date (YTD) expenditure). The main contributors to underspending had been the Industrial Financing Programme with R249,3 million, the Administration Programme with R42,5 million, and the Consumer and Corporate Regulation Programme with R36,9 million. However, over-expenditure had been incurred in the Trade and Investment South Africa Programme of 126,6 per cent (actual expenditure had been more than double the projected budget for the first and second quarter).

Table 7: Expenditure by Programme as at 30 September 2022

Programme (R'000)	Adjusted Budget 2022/23	Projected YTD Expenditure	Actual YTD Expenditure	% YTD Variance	Available Budget
1. Administration	853 461	399 635	357 140	-10,6%	496 321
2. Trade Policy	234 733	164 227	153 668	-6,4%	81 065
3. Spatial Industrial Development	163 910	79 575	68 947	-13,4%	94 963
4. Industrial Policy	1 746 639	1 195 525	1 177 558	-1,5%	569 081
5. Consumer and Corporate Regulation	342 878	223 683	186 760	-16,5%	156 118
6. Industrial Financing	5 312 890	2 497 664	2 248 341	-10,0%	3 064 549

[26] Ibid

Programme (R'000)	Adjusted Budget 2022/23	Projected YTD Expenditure	Actual YTD Expenditure	% YTD Variance	Available Budget
7. Trade and Investment South Africa	355 325	111 559	252 746	126,6%	102 579
8. Invest South Africa	74 288	25 762	24 039	-6,7%	50 249
9. Competition Policy	1 744 608	1 115 894	1 113 007	-0,3%	631 601
10. Economic Research	50 442	25 703	21 530	-16,2%	28 912
Total	**10 879 174**	**5 839 227**	**5 603 737**	**-4,0%**	**5 275 437**

Source: DTIC (2022c), calculations from Madalane (2022)

5.2.2 Financial Performance by Economic Classification

In terms of the economic classification, the main share of expenditure had been for incentives (R2,16 billion), disbursement to the DTIC's entities (R1,67 million), disbursements to external programmes at the IDC and Council for Scientific and Industrial Research (R864,7 million), and operational costs (R773,3 million). Of the operational costs, the largest share had been for the compensation of employees which had been approximately, R501 million (65 per cent of the actual operational expenditure). (See Table 8 below.)

Table 8: Expenditure by Economic Classification as at 30 September 2022

Programme	Adjusted Budget 2022/23	Projected YTD Expenditure	Actual YTD Expenditure	% YTD Variance	Available Budget
Current Payment	**1 735 391**	**867 940**	**773 313**	**10,9%**	**962 078**
Compensation of Employees	1 047 287	522 974	501 082	4,2%	546 205
Goods and services	688 104	344 966	272 231	21,1%	415 873
Transfers and subsidies	**9 130 708**	**4 967 065**	**4 829 527**	**2,8%**	**4 301 181**
Incentive Payments	5 159 161	2 417 732	2 167 928	10,3%	2 991 233
Departmental Entities	2 005 744	1 561 154	1 677 858	-7,5%	327 886
External Programmes	1 753 516	872 543	864 774	0,9%	888 742
Non-profit organisations	165 437	113 020	113 119	-0,1%	52 318
Membership fees (International organisations)	44 073	2 219	1 935	12,8%	42 138
Households	2 777	397	3 913	-885,6%	-1 136
Payments for capital assets	**13 074**	**4 222**	**897**	**78,8%**	**12 177**
Payments for Financial assets	**1**	**0**	**1**	**0,0%**	**0**
Total	**10 879 174**	**5 839 227**	**5 603 737**	**4,0%**	**5 275 437**

Source: DTIC (2022c), calculations from Madalane (2022)

6. ISSUES RAISED DURING THE DELIBERATIONS

The following concerns were raised in relation to the performance of the DTIC during the Committee's deliberations:

6.1 ***Impact of investment pledges on the broader economy***: In 2018, President M Ramaphosa committed to raise over R1,2 trillion worth of investment over a five-year period. For the period under review, the DTIC had hosted the 2021 SAIC on behalf of the Presidency, which resulted in government securing an additional R366 billion worth of new investment pledges. The Committee enquired what proportion of pledges had been materialised and the number of jobs created as a result of the process. The Minister informed the Committee that the investment pledges received to date amounted to R1,1 trillion. The investment drive is to expand the overall output of the South African economy thereby creating job opportunities and economic growth. An example of a completed project was the investment by Mercedes-Benz in 2018 in the automotive manufacturing industry. The process took over five years as it required the reorganisation of the shop floor, purchasing of new machinery and changing the infrastructure to produce the new model. Another example was a Sappi pulping facility in Umkomaas, KwaZulu-Natal. The project was first announced at the 2018 SAIC. This project was recently opened by the President and was a mill expansion and upgrade project worth R7,7 billion.

With respect to Brownfield versus Greenfield investments, the Minister was of the view that there was not necessarily an artificial distinction between brownfield and greenfield investments, as long as the investment led to an increased productive capacity. The objective with the investment drive is to strengthen the investment commitments by firms to increase the aggregate output in the economy whether through expansion of existing or through new capacity. it was also equally important to look for new economic opportunities in areas South Africa had not explored yet, especially in relation to the green economy, such as the production of components for the green energy sector, and digital technologies. Furthermore, he noted that a different set of criteria would apply depending on whether a company already planned to investment and may do so despite a weak investment environment. However, if the investment environment is weak a company may pause its investment, hence the drive by Invest South Africa to improve the investment environment to provide companies with the confidence to publicly indicate that they plan to invest in South Africa. The Minister further indicated that a number of investment projects were new and when a new factory, production line or facility was opened, the DTIC would indicate if there is a link to SAIC pledges.

6.2 ***Entities' expansion as part of the investment drive***: The Committee enquired whether the expansion of government's investment in Transnet should be reflected as part of the investment drive. With regard to public and private investment, the Minister was of the view that both sectors should drive investment. He explained that most economists argued that the significant decline in public investment had contributed to slow economic growth. Therefore, Transnet increasing its investment since the 2015/16 financial year was part of the effort to increase public investment in public infrastructure. He further stated that developed economies such as the United States, China and the European Union view levels of public investment as an important part of investment that is complementary to private investment. Furthermore, the challenges faced by Eskom was due to declining investment over many years resulting in it not performing the required maintenance and the necessary upgrades at its plants. Public investment is, therefore, complementary investment that ensures that the country can achieve its economic objectives.

6.3 ***Perceived failure of investment pledges to reduce unemployment:*** While investment pledges across a number of projects could promote industrial development and job creation, the impact on labour absorption appeared to have been insignificant given continued rising levels of unemployment. Furthermore, a view was expressed that despite the DTIC claiming that all things were functioning optimally, the macro-economic data with respect to economic growth and job creation did not reflect this. The Committee enquired whether the DTIC was considering a policy change to more capital-intensive or labour-intensive initiatives to reduce unemployment. The Minister was of the view that it was not that the DTIC policies were failing, but that the scale of the economic challenge facing South Africa requires more investment. He argued that a modern economy is complex and is affected by a number of external and domestic factors beyond the DTIC's control, such as the impact of the war in Ukraine, the EU implementing trade restrictions on citrus black spot, the effect of oil price increases on inputs within South Africa or the domestic energy supply crisis. All of these factors could influence South Africa's investments, exports and manufacturing sector. He informed the Committee that, through Invest South Africa, the DTIC wants to unblock administrative decisions or red-tape that delay investment, thereby delaying growth and job creation. Through collaboration between the private and public sector, the DTIC identifies projects that would either create jobs or retain existing jobs, but acknowledged that the DTIC cannot control most external and internal factors that compromise growth and job creation. The objective was to ensure that the factors that the DTIC can directly control is done more effectively and efficiently by eliminating corruption, and maladministration of projects, among others.

With regard to whether government should shift towards capital-intensive initiatives, the Minister was of the view that a combination of capital- and labour-intensive projects was needed. With regard to the Master Plans, a combination of sectors, such as the steel sector (capital-intensive) and the clothing and furniture sectors (labour-intensive) had been selected. Within a sector like the automotive sector, the majority of coordination was with the large auto assemblers. However, the DTIC's focus is increasingly on ensuring that the downstream component makers are established as this has massive job creation potential.

6.4 ***Revitalisation of Industrial Parks:*** A key tenant of the Revitalisation of Industrial Parks Programme is to ensure economic development at a local level, thereby ensuring the socio-economic upliftment of the surrounding communities, local economic development and job creation. Furthermore, the Programme intends to promote industrialisation, attract investment, and increase the parks' occupancy rate, among others. The first phase of the Programme focused on security infrastructure upgrades, bulk infrastructure and critical electricity to curtail deterioration of the parks. However, the question of ownership regarding industrial parks remains a concern as the DTIC has limited authority and this is predominately the domain of the provincial government. Notwithstanding the question of ownership, the Committee enquired what additional measures were being considered by the DTIC to improve the efficiency and growth of industrial parks as it is a critical tool for job creation and driving industrial competitiveness at a regional level. The Minister noted that most industrial parks visited have not been well maintained to attract investors. He indicated that the DTIC was developing a new spatial development programme to address the challenges of the management and operation of industrial parks. He acknowledged that national government had limited powers in relation to industrial parks. However, there was a need to link support from national government to the right of national government to help improve governance at a provincial and/or local level; thereby ensuring that appropriate people are appointed to head these parks. This should be accompanied by a coordinated drive to increase investment in these parks. The DTIC was also currently reviewing the possible role of the private sector in the ownership, management and operation of industrial parks, as an appropriate partnership between the public and private sector in this regard could ensure that these parks operated more efficiently and effectively. However, the support of the provinces, and in some cases local authorities, was critical for such a partnership to be effective. The DTIC was therefore still in discussion with the relevant stakeholders. The review process was expected to culminate in a policy position for Cabinet's consideration.

6.5 ***Localisation:*** Building local industrial capacity for the domestic and export market has been a key policy objective of government. Through localisation, government seeks to address high levels of unemployment and poverty as well as strengthening industrial development. The Committee enquired about the broader impact of localisation as a percentage to Gross Domestic Product (GDP) growth, as well as its impact on inflation. The Minister acknowledged that more work should be done to achieve a greater impact of localisation on the economy. Going forward, the DTIC would be looking at a monetary metric to determine the impact of localisation on the economy. In respect of the impact of localisation on inflation, the Minister was of the view that localisation has its advantages and disadvantages. The CompCom is actively monitoring food prices and government is taking the necessary steps to mitigate its impact. However, it should be noted than when a country is dependent on imports the impact of global markets on the consumer is immediate. According to the Minister, government is looking at insulating the economy from the external economic shocks by building an economy that creates industrial capacity and jobs.

6.6 ***Localisation and the impact of the pandemic and international conflicts:*** The recent COVID-19 pandemic and the conflict between Russia and Ukraine have demonstrated that it is necessary for South Africa to build some internal resilience and self-sufficiency to mitigate the impact of such unforeseen events, and reduce its dependence on imports. The Committee enquired what direct benefits that had been derived from the localisation policy. The Minister informed the Committee that there are a number of benefits associated with localisation citing the clothing industry as an example. He argued that through successful localisation a greater share of clothing was manufactured domestically, and the benefits derived were reflected in the increased number of jobs created, especially among the youth. Furthermore, South Africa also increased its GDP output resulting in increased benefits to the fiscus through a higher tax intake. This would allow government to increase spending on public infrastructure, such as water supply and energy infrastructure thereby enhancing greater GDP output.

Additional benefits of localisation are that it creates economic opportunities for Small and Medium Enterprises (SMEs), encourages new entrants into the market, and provides greater resilience for the South African economy against international economic disruptions. A further benefit of localisation, as expressed by Toyota South Africa, is the guaranteed local supply chain during economic uncertainties and/or a disruption in the international supply chain.

6.7 ***Impact of global growth rate projections on developing economies:*** Global economic activity has slowed down significantly influenced by higher than expected inflation; a significant slowdown in China, as a result of Covid-19 responses; and the war in Ukraine, which impacted negatively on the global food and energy markets. The South African economy is not isolated from these global developments. In light of this, and given that China is one of South Africa's largest trading partner, the Committee enquired whether the DTIC was considering measures to mitigate against the impact of the global economic slowdown on the South African economy. The Minister acknowledged that the negative global economic outlook is of great concern as the majority of South Africa's mineral resources and other exports were dependent on the export market. The majority of the vehicles produced in South Africa were exported to the European Union. If the EU entered an economic recession, the consumption of cars would decline, and this would have a negative impact on the local automotive industry. In addition, iron ore and other primary minerals were exported to China, and if its growth rate declined significantly, the demand for South African minerals would drop. So therefore, according to the Minister, South Africa must find a way to mitigate against these external threats. However, it was difficult to do so without the necessary fiscal tools available.

6.8 ***Load-shedding and its impact on economic growth:*** The ongoing load-shedding has a negative impact on economic growth and the ability of government to successfully implement its Reimagined Industrial Strategy. It could be estimated that South Africa has lost approximately 100-days of electricity due to load-shedding in 2022 alone, which has had a significant economic cost to the country. Failure to address the electricity challenge could undo the gains made in this regard, and compromise government's quest for economic growth and job creation. The Committee enquired what measures are being considered by government and the DTIC to address the supply of electricity. The Minister acknowledged that Eskom and the energy crisis is at the center of the challenge faced by the South African economy, and this had been deeply damaging to government's industrialization efforts. The DTIC supports all initiatives from Cabinet in addressing the energy-related issues. It has done significant work on the manufacturing of components of the energy value chain, and to have localisation requirements crafted in a manner that prioritise energy generation. He informed the Committee that what is required is new renewable energy development and the necessary funding to support such initiatives. The IDC is funding a black-owned company, Pele Green Energy, which would improve security of energy supply in the country. Furthermore, the Minister informed the Committee that coinciding with the recent State visit to Saudi Arabia, ACWA Power and the IDC signed a Memorandum of Understanding to explore a partnership in the development of green hydrogen and its derivatives in the South Africa. The Minister also indicated that more work had been done with regard to energy-saving technologies. A few case studies around energy-saving technologies has shown that if there is the ability to increase supply of electricity in an energy-efficient way, South Africa would be in a position to build sufficient reserves so that load-shedding would not affect the economy.

6.9 ***The impact of the Steel Master Plan on the manufacturing industry:*** The *South African Steel and Metal Fabrication Master Plan 1.0* is aimed at revitalising the downstream steel industry emphasising the local industry as a key driver for job creation and supporting government's objective to reindustrialise and becoming once again a global competitor. The Committee enquired to what extent the Master Plan has supported new entrants and how it has contributed to the viability of SMEs in the steel value chain. The Minister informed the Committee that the Master Plan seeks to support downstream activities. Locally produced steel is used in the production of wheel barrows and within the downstream automotive component sector, as well as in the toolmaking industry.

6.10 ***Support for the local automotive industry:*** Given the current economic realities facing South Africa, public procurement has the potential of being a critical lever in achieving important socio-economic objectives. In light of this, the Committee enquired how government was supporting the procurement of locally produced vehicles to promote and ensure the sustainability of the automotive industry. The Minister informed the

Committee that the DTIC's main form of support to the automotive industry was for the domestic production of vehicles through the Automotive Production and Development Programme. However, state procurement of vehicles must comply with National Treasury prescripts, and no inherent designation was available for this.

6.11 ***Status of the Auto Green Paper:*** In May 2021, the DTIC had published the *Auto Green Paper on the Advancement of New Energy Vehicles in South Africa* for public comments. The Green Paper seeks to establish a clear policy foundation that would enable the country to coordinate a long-term strategy that will position it at the forefront of advanced vehicle and vehicle component manufacturing. The Committee enquired what the status of the Green Paper was and whether Cabinet had adopted it. The Minister informed the Committee that the Auto Green Paper had solicited a significant number of public comments, but after evaluating the comments, followed by a cost-analysis based on the expectation of the industry, the DTIC had determined that it would not be affordable to implement the policy in its current form. Subsequently, the DTIC has been engaging with the auto industry to consider alternative options that would make the shift to electric vehicles more affordable. According to the Minister, many of the issues had been resolved; however, the key issue remains the budget. The DTIC was currently in discussion with National Treasury to enable it to find a roadmap for the production of electric vehicles. In sourcing alternative revenue streams in support of the policy, the DTIC has been engaging partner countries such as the United States, France, Germany and the United Kingdom to invest. Although some investment had been committed, the terms and conditions of these investments is not favourable towards South Africa, and hence the negotiations were ongoing. Recently, the inter-ministerial committee met to evaluate the progress regarding negotiations to transition to a green economy. According to the Minister, all the necessary work has been completed, with the exception of sourcing the budget to implement the policy given the current financial constraints facing South Africa.

6.12 ***Processing of funding applications:*** The Committee has received a number of requests from the public either to intervene or assist them with matters relating to unsuccessful funding applications. These also included complaints regarding the manner in which officials of these public entities reporting to the DTIC are threatening the public when they enquire about the status of an application or to the reasons on why the application have not been successful. The Committee enquired whether the DTIC had considered establishing an independent assessor to deal with these queries of failed funding applications. The Minister informed the Committee that he welcomed and encouraged Members to submit any complaints around corruption and abuse of authority by officials. He further stated that the DTIC was considering whether an independent assessor or an ombudsman or a panel that would assess and consider complaints from the public regarding development finance institutions. However, he cautioned that it would not be good governance if Ministers became involved in the process of adjudication as this may lead to corruption or could lead to an enormous misallocation of resources. Therefore, boards should have the freedom to follow the necessary guidelines that would govern such an adjudication process. Furthermore, he indicated that not all applications are good, therefore, not all applications would be successful.

6.13 ***Theft of public infrastructure:*** The impact of the theft of public infrastructure for scrap metal on the broader economy should not be underestimated, particularly in relation to rail transport and electricity infrastructure on the manufacturing sector. The Committee enquired whether the DTIC ever considered commissioning research to determine an alternative source to copper for the transmission of electricity. The Minister informed the Committee that Telkom and other companies had already moved away from copper, with optic fibre as its replacement. Eskom has also been using aluminium cable as a source for transmission of electricity, but this is not as an efficient conductor of electricity as copper. However, it appears that aluminium is better for long distance transmission. It should also be noted that replacing all the existing copper cables immediately would be costly given the vast networks of cabling, and this could only be done gradually.

6.14 ***Decision regarding the Draft Scrap Metal Policy:*** Recently government had published the *Draft Policy Proposals on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metals Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metal Products to Limit Damage to Infrastructure and the Economy* calling for public comments. The Committee enquired when the government would finalise the process as a delay creates uncertainty and difficulty for investors to invest given the uncertain environment. The Minister informed the Committee that the DTIC was in a rigorous process of considering all comments received and were awaiting comments from the security cluster before submitting it to the Cabinet for its consideration.

6.15 ***Concentration of economic activity:*** The CompCom's *Report on Measuring Concentration and Participation in the South African Economy: Levels and Trends* confirmed the high levels of economic concentration in the South African economy. The report also highlighted the high levels of exits of SMEs from the economy. This would undermine the goal of building an inclusive economy to contribute towards the structural transformation of the economy. The Committee enquired what measures were being considered by the DTIC to address the high levels of economic concentration, as well as to support SMEs to enable them to contribute to improved economic participation and transformation. In his response the Minister informed the Committee that the Commission had a number of tools to address concentration in the economy. These included market inquiries, approval of mergers, and mechanisms to combat anti-competitive behaviour. In terms of market inquiries, the Commission has to determine whether there was merit to initiate an investigation into the state and nature of competition in a market. The Commission would initiate an investigation only if grounds exist for such an inquiry. According to the Minister, the Commission was currently busy with market inquiries on Online Intermediation Platforms and on Fresh Produce. With regard to mergers, the Commission must determine whether such a merger would lead to greater concentration when considering it. If it increased concentration, the Commission is compelled to determine whether there were any public interest grounds to warrant the merger, as part of its consideration. In respect of addressing anti-competitive behaviour, the Commission focuses on identifying cartels, particularly in highly competitive markets, it also monitors abuse of dominance activities to ensure that large firms do not use their market power to keep smaller players from entering the market, or raising prices on goods, which negatively affects consumers.

6.16 ***High concentration of ownership within the real estate sector:*** The CompCom's *Report on Measuring Concentration and Participation in the South African Economy: Levels and Trends* confirmed the high level of economic concentration in the South African market. It further highlighted the high concentration of ownership within the real estate sector, which impedes the transformation of the sector. The Committee enquired whether the Commission had considered conducting a market inquiry into the real estate sector, and whether there was any restriction of competition within the real estate sector. The Minister informed the Committee that the property sector is quite a significant sector. However, the Commission would follow their criteria to determine whether it should initiate a market inquiry into the real estate sector. He indicated that the Commission had some capacity challenges but the recently appointed

Commissioner was looking at measures to expand the capacity in the conduct of market inquiries.

6.17 ***Illicit trade from China and its impact on reindustrialisation efforts:*** Illicit trade contributes to the erosion of the productive capacity in a country as goods are imported cheaply or in large volumes without complying with the necessary national trade regulations displacing local production on an unfair basis. This displacement can have a negative impact on the economy, as it can erode employment opportunities and hamper socio-economic improvement among the most vulnerable. Government has established a Quick Response Team comprising officials from the Chinese Embassy, the DTIC, SARS and ITAC to address illegal imports from China given their impact on the industrialisation drive. The Committee enquired what measures were being considered to mitigate the impact of illegal imports from China on local industries. The Minister acknowledged that illegal imports can have a negative impact on the country's industrialisation drive and has raised his concerns with the Chinese authorities' in this regard. He further informed the Committee that through collaboration with the Chinese authorities the government has been able to take illegal importers to court as they misrepresented the value of the products being imported. Another achievement by the Team has been the re-opening of the Chinese market to South African oysters after a year. This had been achieved through discussions with relevant Chinese authorities, and has saved a number of jobs in the domestic oyster industry.

6.18 ***Extension of African Growth and Opportunity Act (AGOA):*** The AGOA significantly contributed to increasing export-led job creation in many sectors, including the automotive and agricultural sectors in South Africa. However, the terms of AGOA would be expiring in 2025. The Committee enquired what the Minister's position was regarding AGOA and whether he supported an extension, or a trade agreement between South Africa and the USA. The Minister informed the Committee that the government was having further discussions with the US Administration in December 2022. Government has met with the African Trade Ministers and the view on the African continent would be to seek an extension of AGOA. This would be discussed further at the AGOA Forum in 2023, which South Africa would be hosting. The view of South Africa is that the partnership should be extended, as it has been mutually beneficial for all parties.

6.19 ***Review of the Southern African Development Community-European Union Economic Partnership Agreement (SADC-EU EPA):*** The five-year review of the EPA between the EU and the SADC EPA Group started in November 2021. The Committee enquired to the status of the review of the Agreement.

6.20 ***Trade leads***: The DTIC reported that it had accessed 2 565 trade leads during the Intra-African Trade Fair held in KwaZulu-Natal during the 2021/22 financial year. The Committee requested the DTIC to clarify what the purpose of trade leads were and how they were accessed. The Minister responded that the intention of trade leads was to identify export opportunities for South African manufacturers. Trade leads were generated from various sources such as at exhibitions, from private sector including manufacturers, retailers and global traders, South African embassies abroad, and international Presidential visits with the business sector. The Presidential visits are often focused on South African produced goods to global markets. There had been such a recent visit to West Africa and the Presidency was planning additional visits to Saudi Arabia and Kenya in this regard.

6.21 ***Empowerment:*** B-BBEE policy is a critical tool used by government to redress the challenges of the past through the promotion of active economic participation by black South Africans, which would also contribute to socio-economic transformation of the economy. Most recently a view was expressed that "empowerment rules" curtail Eskom's performance and hence it should be revisited. In light of the above, the Committee enquired whether merit should play a more prominent role in empowerment deals. In his response, the Minister stated that government should find policy initiatives that could lead to job creation thereby increasing growth and the job creation impact of empowerment initiatives. He acknowledged, that during the initial phases of the empowerment process, lessons were learnt, therefore, a greater focus would be on empowering workers and industrialists. It should be noted that the worker empowerment objective is to provide equity to workers irrespective of their race. Secondly, a sharper focus should be on industrialists ensuring a greater percentage stake in ownership of companies. Furthermore, the Minister informed the Committee that many white South Africans are being supported by the IDC and the DTIC, but one should acknowledge that participation of blacks in the economy is proportionally lower despite the fact that there are capable black South Africans that could contribute in growing the economy, through vehicles such as the Black Industrialist Programme.

6.22 ***Appointment of Senior Management:*** There had been a number of vacancies at senior management level within the DTIC for a prolonged period of time, which compromises its ability to effectively implement its mandate. The Committee enquired what steps the Minister has taken to ensure the appointment of a Director-General for the DTIC and a Commissioner for the ITAC. The Minister informed the Committee that regarding the process of appointing a Director-General, the inter-ministerial committee was seized with the matter and that he would inform the Committee on the appointment when it was confirmed. Similarly, with regard to the appointment of the Commissioner of the ITAC, the Minister informed the Committee that interviews had been concluded, with a shortlist of candidates identified for consideration.

6.23 ***Prevention of irregular expenditure at the NLC***: Given the allegations of corruption and maladministration involving the NLC, the Minister had initiated a forensic investigation, which was being further supported by the President's appointment of the Special Investigating Unit (SIU) to investigate the matter. Subsequently, the Minister had appointed the new Chairperson, Dr N Pityana, and a number of board members that have a strong governance reputation. The Board had thus begun implementing changes to address the uncovered maladministration within the NLC. As the NLC had previously failed to take appropriate steps to either prevent irregular expenditure or discipline officials incurring irregular expenditure, the Committee enquired what proactive measures were being considered to ensure consequence management to deter officials from incurring irregular expenditure experience within the NLC.

6.24 ***Appointment of the Chief Executive Officer (CEO) and Board of the SABS***: The SABS has been under administration since July 2018. The administrators had been tasked with (i) undertaking a diagnostic analysis of the SABS, (ii) developing a 'turn-around' strategy for the institution, and (iii) implementing this strategy in consultation with the shareholder to stabilise the institution. Significant progress has been made in turning the SABS' financial situation around; however, there was a need to re-establish its decision-making and governance structures to ensure that it can strategically position itself, and deliver on its mandate to develop standards in the industrial priority sectors and offer compliance assurance services. Therefore, the Committee enquired what were the timeframes for the appointment of a permanent Board and a CEO for the SABS. The Minister informed the Committee that the appointment process of the CEO and the Board had begun with the positions having been advertised. He emphasised that it was critical to appoint people with the requisite technical expertise. He further informed the Committee that it was his intention to have the Board and the CEO appointed before the end of the 2022/23 financial year, as it would improve governance at the SABS.

6.25 ***Investment in local film industry promoting local content***: The DTIC had been offering financial incentives with a special focus on support to the local film industry to tell South African stories. However, during the Committee's oversight of the DTIC over the financial year, it had heard that there had been slow uptake of this offering in spite of a specific call in this regard. In light of this, the Committee enquired how South Africa ensured that stories or documentaries about its local heroes were captured on film. The Minister informed the Committee that the President was a proponent of promoting films capturing local content, telling stories about South Africa's heroes and its history. Furthermore, it would also be important for especially young film makers to tell stories about the South, about people on the African continent, but also stories about white South Africans.

6.26 ***KPIs measuring reduction in unemployment rate***: The Committee enquired whether the Minister would consider measuring the achievement of the DTIC against the actual reduction in the unemployment rate. The Minister explained that the unemployment rate is driven by a number of factors. While the DTIC contributes to creating an enabling environment for job creation, it does not have the necessary tools or levers to fundamentally change the unemployment rate. He could, therefore, not commit the DTIC to such a target.

6.27 ***Red-tape reduction***: The reduction in red-tape in an effort to improve business activity in support of job creation has been a key objective of government. However, the DTIC reported that the Report on red-tape reduction in the ITAC processes had not been finalised. The Committee requested the DTIC to provide clarity in this regard. The Minister acknowledged that this was an important focus, and that there was a need to find the right balance between having good rules to prevent corrupt activities while making it easier to do business. In terms of ITAC, the intention is to make it easier for business to apply for trade relief.

6.28 ***Job creation initiatives***: The Committee enquired whether the DTIC has considered job creation schemes. The Minister informed the Committee that other than public works programmes, the other measures at government's disposal would be to invest in infrastructure, energy, transport, and logistics, as well as developing skills in young people. Currently, government is investing significantly in Higher Education, through the National Student Financial Aid Scheme. It is the hope that government receives an economic return with many of the recipients joining the labour market as entrepreneurs, the creator of jobs. Localisation as a policy measure can also contribute towards significant job creation. Although localisation as a policy measure had been criticised in the media, the trend towards localisation in the developed world has gained traction. The Minister informed the Committee that in his recent engagements with officials from the United States of America, they expressed their support for using public resources to rebuild the American manufacturing capabilities. China and India are other examples of countries finding ways through localisation to create jobs for young people.

7. CONCLUSIONS

Based on its deliberations, the Committee drew the following conclusions:

7.1 The Committee welcomed the positive impact of the investment pledges made since 2018 as a result of the investment drive initiated by President Ramaphosa, with the completion of a number of projects, such as the investment by Mercedes Benz and Sappi. It would appear that the initial goal to raise R1,2 trillion investment over the five years would most likely be exceeded, with R1,1 trillion investment pledged to date. The commitment by the DTIC to link investment pledges to actual investment projects is appreciated. However, it is critical that the pledges translate into actual investment and jobs created.

7.2 The Committee is of the view that both public and private sector investment is critical to drive the development of a country's economy and contributes to economic growth. Furthermore, investment by the public sector is essential as it promotes and facilitates economic growth through the creation, expansion, and upgrading of public infrastructure. Therefore, the Committee welcomes investment by government through its public sector entities that would contribute to the expansion and growth of the economy thereby creating significant job opportunities.

7.3 Notwithstanding the cost of the pandemic and the Russian-Ukraine War, among other recent global phenomena, the South African economy has been buffered by the pockets of industrial resilience that emerged during this time. The Committee was of the view that the localisation policy assisted in companies being able to expand their operations in this regard. The Committee welcomed the fact that since 2019 localisation focused on strategic industries, defined by their capacity to be labour-absorbing, providers of critical goods, or significant export earners. This demonstrated the need to intensify localisation to circumvent the over-reliance on imports, and to create additional economic opportunities for SMEs.

7.4 The Committee was concerned about the impact of the localisation policy on the broader economy, particularly price inflation for consumers, as this may not be factored in during the review of the policy. Therefore, the DTIC should provide it with regular reports on the socio-economic impact of the localisation policy, such as the contribution towards the economy, impact on prices and jobs created as a result of this policy choice.

7.5 The Committee remained concerned of the economic impact of ongoing load-shedding on the manufacturing sector. It welcomed the DTIC's support to contribute to government's initiatives to address the energy crisis, in particular the recent financial support to companies manufacturing components for renewable energy supply.

7.6 The revitalisation of Industrial Parks is of vital importance to the Committee as it views the development of industrial parks as a key vehicle to promote and develop local and rural economies. However, there is a need to effectively maintain their infrastructure and allocate appropriate human and sufficient financial resources to ensure that they are able to attract and retain investment, including financial incentives for SMEs investing in these parks. This requires a coordinated drive among national, provincial and local governments, with a particular focus on under-developed rural provinces.

7.7 Furthermore, the Committee also welcomed the policy review underway on the role of the private sector in the ownership, management and operation of industrial parks as this may improve the effectiveness of the industrial parks.

7.8 The Committee acknowledged the importance of Special Economic Zones created in order to facilitate economic growth in certain geographic regions by leveraging tax and business incentives to attract foreign direct investment and technological advancement. Their job creation potential should not be underestimated, hence the Committee is of the view that national government should actively intervene in ensuring that they operate optimally and are sufficiently resourced.

7.9 The Committee welcomed the progress made with regard to the Auto Green Paper and acknowledged the need to source funding for the implementation of this proposed policy. The completion of the process, in the view of the Committee, is critical to position South Africa's automotive manufacturing sector to remain sustainable given the transition into electro-mobility solutions and technologies.

7.10 The Committee encouraged the DTIC to finalise the *Draft Policy Proposals on Measures to Restrict and Regulate Trade in Ferrous and Non-Ferrous Metals Waste, Scrap and Semi-Finished Ferrous and Non-Ferrous Metal Products to Limit Damage to Infrastructure and the Economy* to ensure certainty for the upstream and downstream industries.

7.11 The Committee welcomed the establishment of the Quick Response Team comprising officials from the Chinese Embassy, the DTIC, the South African Revenue Service and the International Trade Administration Commission of South Africa to address illegal imports from China, as this eroded domestic economic opportunities and the reindustrialisation efforts, as well as slowing down socio-economic improvements among the poor. Furthermore, the Committee applauded the efforts by the DTIC that secured the re-opening of the Chinese market to South African oysters.

7.12 The Committee supported the position that African Growth and Opportunity Act should be extended beyond 2025, and encouraged the Minister to secure South Africa's inclusion in any extension of African Growth and Opportunity Act.

7.13 The European Union is one of South Africa's most significant trading partners in terms of the value of exports. Therefore, the Committee was concerned that it had not received a status update in terms of the progress of the review of the Southern African Development Community-European Union Economic Partnership Agreement.

7.14 The Committee was concerned about the high levels of economic concentration in the economy, which is an impediment to structural transformation. In particular, it had been concerned about economic concentration in the real estate sector and encouraged the Competition Commission to consider whether there is a need to initiate a market inquiry in this regard.

7.15 The Committee welcomed the proposed shift in broad-based black economic empowerment to focus on the empowerment of all workers and on black industrialists. It also recognised the need to place a greater emphasis on merit for strategic positions, while growing the requisite technical skills and capabilities of all South Africans.

7.16 Furthermore, the Committee is encouraged by the DTIC's efforts to reduce red-tape and eliminate corruption and the maladministration of projects, as this will improve the ease of doing business and ensure resource allocation efficiency to facilitate new entrants into the market and to promote economic growth and job creation.

7.17 The Committee urged the Minister to expedite the appointment processes for the Director-General of the DTIC and the Commissioner of International Trade Administration Commission of South Africa.

7.18 The Committee was of the view that the absence of a permanent Chief Executive Officer and a board contributed to the ongoing challenges facing the South African Bureau of Standards, including its ability to address its infrastructure challenges. It was concerned that this may contribute to it not being able to strategically deliver on its mandate to develop standards in the industrial priority sectors and offer compliance assurance services. Therefore, the Committee urged the Ministry to urgently address the appointment of members of the Board, and to ensure that the Chief Executive Officer is subsequently appointed, as well as to ensure that it has sufficient financial resources to address its aging infrastructure challenge.

7.19 The Committee welcomed the improvement in the National Regulator for Compulsory Specifications' audit outcome in the 2021/22 financial year to an unqualified audit with findings. This represented significant progress in addressing the challenges around estimating its levy revenue, which had resulted in qualified audit outcomes over the previous financial years.

7.20 The Committee was encouraged by the financial support provided by the National Empowerment Fund and the Industrial Development Corporation in promoting entrepreneurial development by supporting Small and Medium Enterprises. However, it would further encourage that these development finance institutions continue assisting applicants through the application process and to ensure that they speedily resolve funding-related enquiries.

7.21 The Committee welcomed the progress made in the forensic investigations initiated by the Minister and the Special Investigating Unit into allegations of corruption and maladministration involving the National Lotteries Commission. It also welcomed the preservation orders obtained by the SIU in an attempt to recover the stolen funds that had been meant for the upliftment of the poor. However, it would implore the Special Investigating Unit to complete its investigation into the allegations of corruption and maladministration at the National Lotteries Commission. Furthermore, the Committee was encouraged by the significant changes underway at the National Lotteries Commission and welcomed the appointment of the new Chairperson, Prof N Pityana, and other board members who have a strong governance record.

7.22 The Committee was concerned about the DTIC's general oversight of its entities in relation to governance. It would, therefore, encourage the urgent completion of the review process of the entities' Governance Framework to identify the challenges in this area that should be addressed.

8. APPRECIATION

The Committee would like to thank the Minister of Trade, Industry and Competition, Mr E Patel, and the acting Director-General, Mr S Khan, for their cooperation and transparency during this process. The Committee also wished to thank its support staff, in particular the Committee Secretary, Mr A Hermans, the Content Advisor, Ms M Sheldon, and the Researcher, Ms Z Madalane, for their professional support and assistance in drafting this report. In addition, the Committee thanked the Committee Assistant, Ms Y Manakaza, for assisting it during this process. The Chairperson wished to thank all Members of the Committee for their active participation during the process of engagement and deliberations and their constructive recommendations reflected in this report.

9. RECOMMENDATIONS

Informed by its deliberations, the Committee recommends that the House requests that the Minister of Trade, Industry and Competition should consider:

9.1 Developing a strategy and implementation plan to effectively utilise the current tariff concessions as contained in the African Growth and Opportunity Act as it relates the automotive sector, as well as agricultural and agro-processed goods; and submitting a progress report to the National Assembly within six months after the adoption of the report.

9.2 Finalising the review of the entities' Governance Framework; and reporting to the National Assembly on the status of the Review within six months of the adoption of the report.

Report to be considered.

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National Council of Provinces

1. Report of the Select Committee on Health and Social Services on the Children's Amendment Bill [B18B – 2020] (National Assembly – S76), dated 15 November 2022:

The Department of Social Development briefed the Committee on the Children's Amendment Bill [B18B – 2020] (National Assembly – S76) on 13 September 2022. The Bill was referred to the Committee on 07 September 2022.

The Select Committee on Health and Social Services, having deliberated on and considered the subject of the **Children's Amendment Bill [B18B – 2020] (National Assembly – S76),** referred to it and classified by the JTM as a Section 76 Bill, reports that it has agreed to an amended Bill **[B18D – 2020].**

AMENDMENTS PROPOSED BY THE

SELECT COMMITTEE ON HEALTH AND SOCIAL SERVICES

CLAUSE 9

1. On page 6, in line 7 after "age" to omit "or less" and substitute <u>"or less</u>".

CLAUSE 14

2. On page 7, in line 5, to omit "provision" and substitute "provisions".
3. On page 7, in line 5, after "(1)" to insert","

Process

- The Children's Amendment Bill [B18B-2020] was referred to the Committee on 07 September 2022.
- The Department briefed the Committee on 23 September 2022. All provinces had briefings and public hearings on the Bill.
- All Provinces concluded their hearings. All provinces submitted negotiating mandates on the 01 November 2022.

- The Committee finalised the Bill on 15 November 2022 and adopted it with amendments.

Report to be considered.