

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

MONDAY, 13 MARCH 2017

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ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Classification of Bills by Joint Tagging Mechanism (JTM)

- (1) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 76 Bill:
 - (a) **Division of Revenue Bill** [B 4 – 2017] (National Assembly – sec 76).
- (2) The JTM in terms of Joint Rule 160(6) classified the following Bill as a money bill:
 - (a) **Appropriation Bill** [B 5 – 2017] (National Assembly – sec 77).
- (3) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 75 Bill:
 - (a) **Judicial Matters Amendment Bill** [B 14 – 2016] (National Assembly – sec 75).

National Assembly

The Speaker

1. Withdrawal of Bill

- (1) The Minister of Justice and Correctional Services withdrew the following Bill in accordance with Rule 334 of the Rules of the National Assembly:
 - (a) **Implementation of the Rome Statute of the International Criminal Court Act Repeal Bill** [B 23 - 2016].

2. Referral to Committees of papers tabled

- (1) The following paper is referred to the **Standing Committee on Finance** for consideration and report:
 - (a) Report of the Executive Officer of the Financial Services Board on the Road Accident Fund for 2015-16.
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TABLINGS

National Assembly and National Council of Provinces

1. The Minister in The Presidency: Planning, Monitoring and Evaluation

- (a) Annual Report of the National Conventional Arms Control Committee (NCACC) for the year ended December 2016, tabled in terms of section 23(1)(c) of the National Conventional Arms Control Act, 2002 (Act No 41 of 2002).
- (b) 2016 Fourth Quarterly Report of the National Conventional Arms Control Committee (NCACC) for October – December 2016 , tabled in terms of section 23(1) (c) of the National Conventional Arms Control Act, 2002 (Act No 41 of 2002).
- (c) Annual Performance Plan of the National Youth Development Agency (NYDA) for 2017/2018.
- (d) Work Programme of Statistics South Africa (Book 1) for 2017/18 [RP 41-2017].
- (e) Annual Performance Plan: Work Programme of Statistics South Africa (Book 2) for 2017/18 [RP 42-2017].

2. The Minister of Finance

- (a) Annual Performance Plan of National Treasury for 2017/18.
- (b) Annual Performance Plan for 2017/18 and Strategic Plan of the Financial Intelligence Centre for 2017/18 – 2021/22.
- (c) Strategic Plan (Corporate Plan) and Budget of the South African Special Risk Insurance Association (SASRIA) for 2017/18 – 2019/20.
- (d) Strategic Plan of the Government Pensions Administration Agency for 2017/2018 – 2020/2021.
- (e) Annual Performance Plan of the Government Pensions Administration Agency for 2017 – 2018.

- (f) Annual Performance Plan of the Pension Funds Adjudicator for 2017 – 2018.
- (g) Annual Performance Plan of the Office of the Ombud for Financial Services Providers for 2017– 2018.
- (h) Annual Performance Plan of the Accounting Standards Board for 2017/18.
- (i) Annual Performance Plan of the Co-operative Banks Development Agency for 2017 – 2018.
- (j) Corporate Plan of the Public Investment Corporation for 2017/18 – 2019/20.
- (k) Annual Performance Plan of the Financial Services Board (FSB) for 2017/18.
- (l) Corporate Plan of the Development Bank of Southern Africa for 2017/18.
- (m) Annual Performance Plan of the Office of the Tax Ombud for 2017/18.
- (n) Annual Performance Plan of the Independent Regulatory Board for Auditors (IRBA) for 2017/18 – 2019/20.

3. The Minister of Health

- (a) Annual Performance Plan of the National Department of Health for 2017/18 - 2019/20 [RP 44-2017].
- (b) Strategic Plan of the National Health Laboratory Service (NHLS) for 2017/18 – 2018/20.
- (c) Annexure E: Technical Indicator Descriptors of the Strategic Plan of the National Health Laboratory Service (NHLS) for 2017/18 – 2018/20.
- (d) Annual Performance Plan of the National Health Laboratory Service (NHLS) for 2017/18.
- (e) Annual Performance Plan of the Compensation Commissioner for Occupational Diseases in Mines and Works (CCOD) for 2017/18.
- (f) (Revised) Strategic Plan of the Compensation Commissioner for Occupational Diseases in Mines and Works (CCOD) for 2017/18 – 2019/20.

- (g) Annual Performance Plan of the South African Medical Research Council (SAMRC) for 2017/2018.
- (h) Annual Performance Plan of the Council for Medical Schemes for 2017 -18.
- (i) (Revised) Strategic Plan of the Office of Health Standards Compliance (OHSC) for 2015/16 – 2019/20 and Annual Performance Plan of the Office of Health Standards Compliance (OHSC) for 2017/18.

4. The Minister of Human Settlements

- (a) Strategic Plan of the Department of Human Settlements for 2015 – 2020.
- (b) Annual Performance Plan of the Department of Human Settlements for 2017 – 2018.
- (c) Strategic (Corporate) Plan of the National Home Builders Registration Council (NHBRC) for 2014 – 2019.
- (d) Annual Performance Plan of the National Home Builders Registration Council (NHBRC) for 2017 – 2018.
- (e) (Five Year) Strategic Plan of the Estate Agency Affairs Board of South Africa for 2014 – 2019.
- (f) Annual Performance Plan of the Estate Agency Affairs Board of South Africa for 2017/18.
- (g) (Five Year) Strategic Plan of the Housing Development Agency for 2017/18 -2021/22.
- (h) Annual Performance Plan of the Housing Development Agency for 2017/18.
- (i) Strategic Plan of the National Urban Reconstruction and Housing Agency (NURCHA) for 2014/2015-2018/2019.
- (j) Annual Performance Plan of the National Urban Reconstruction and Housing Agency (NURCHA) for 2017/2018.
- (k) Strategic Plan of the Social Housing Regulatory Authority (SHRA) for 2015-2020.
- (l) Annual Performance Plan of the Social Housing Regulatory Authority (SHRA) for 2017/18.
- (m) Strategic Plan of the Rural Housing Loan Fund (RHLF) for 2014/15 – 2018/19.

- (n) Annual Performance Plan of the Rural Housing Loan Fund (RHLF) for 2018.
- (o) Strategic Plan of the National Housing Finance Corporation (NHFC) SOC LTD for 2014/15-2018/19.
- (p) Annual Performance Plan of the National Housing Finance Corporation (NHFC) SOC LTD for 2017/18.
- (q) Corporate Strategic Plan of the Community Schemes Ombud Service for 2014/15 - 2018/19.
- (r) Annual Performance Plan of the Community Schemes Ombud Service for 2017/2018.

5. The Minister of International Relations and Cooperation

- (a) (Revised) Strategic Plan of the Department of International Relations and Cooperation for 2015 – 2020.
- (b) Annual Performance Plan of the Department of International Relations and Cooperation for 2017/18.
- (c) (Revised) Strategic Plan for of the African Renaissance and International Cooperation Fund (ARF) for 2015 – 2020 and Annual Performance Plan for 2017/18.

6. The Minister of Mineral Resources

- (a) Annual Performance Plan of the South African Diamond and Precious Metal Regulator for 2017/18 and MTEF Budget for 2017/18-2019/20.

7. The Minister of Telecommunications and Postal Services

- (a) Annual Performance Plan of the Department of Telecommunications and Postal Services for 2017 – 2018.
- (b) Annual Performance Plan of the Universal Services and Access Fund (USAF) for 2017 – 2018.
- (c) Strategic Plan and Annual Performance Plan of the Universal Services and Access Agency of South Africa (USAASA) for 2017-2018.
- (d) Strategic (Corporate) Plan and Annual Performance Plan of South African Post Office for 2017/18 – 2019/20.
- (e) Strategic Plan for 2017/2018 – 2019/2020 and Annual Performance Plan of ZA Domain Name Authority (ZADNA) for 2017/2018.

- (f) Annual Performance Plan for 2017/20 and Strategic (Corporate) Plan of Sentech for 2017 – 2020.
- (g) Annual Performance Plan of the State Information Technology Agency (SITA) 2017 - 2018.
- (h) Annual Performance Plan of the National Electronic Media Institute of South Africa (NEMISA) for 2017/2018.
- (i) Strategic (Corporate) Plan of the Broadband Infraco for 2017/18 – 2021/22 and Annual Performance Plan of the Broadband Infraco for 2017/18.

National Assembly

1. The Speaker

- (a) Reply from the Minister of Communications to Report of Ad Hoc Committee to inquire, in terms of section 15A(1)(b) of the Broadcasting Act (No 4 of 1999) (the Act), into the ability of the South African Broadcasting Corporation (SABC) Board to discharge its duties as prescribed in the Act as adopted by the House on 7 March 2017.

Referred to the **Portfolio Committee on Communications**.

COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Trade and Industry 8 March 2017

The Portfolio Committee on Trade and Industry having visited (i) the National Regulator for Compulsory Specifications (NRCS) to evaluate the plan of action implemented with respect to the Letter of Authority approval process; (ii) the Department of Trade and Industry regarding the implementation of its industrial development and incentive programmes and (iii) companies such as Smith Capital Equipment, Conduent (formerly Xerox), AARD Mining Equipment, Guestro Naledi Inhlanganiso Group Foundry and Unique Engineering, which have been participants in these programmes; reports as follows:

1. Introduction

In terms of section 42(3) of the Constitution of the Republic of South Africa, 1996, the National Assembly, among others, scrutinize and oversee executive action. The National Assembly through the Portfolio Committee on Trade and Industry oversees the work of the Department of Trade and Industry (DTI) and its entities to ensure that national priorities such as the creation of decent employment are met. The DTI's main mandate is to facilitate the creation of an environment conducive to industrialisation and regional economic development that facilitates economic transformation, as well as the regulation of business and protection of consumers. Its range of functions should therefore support the achievement of this mandate.

Physical oversight visits provide the Committee with the opportunity to test whether reporting by the Department and its entities are a true reflection of its reported service delivery.

1.1 Purpose of the visit

The Committee embarked on an oversight visit on 31 January and 1 February 2017 to the Gauteng province. The purpose of the Committee's visit was to conduct an oversight to assess the impact of the DTI's industrial development and incentive programmes on companies benefitting from these. Companies included Smith Capital Equipment, Conduent (formerly Xerox), AARD Mining Equipment, Guestro Naledi Inhlanganiso Group Foundry and Unique Engineering. The Committee also visited the NRCS to evaluate the plan of action implemented with respect to the Letter of Authority approval process.

1.2 Delegation

The following Members of Parliament and the Secretariat participated in the oversight:

- Ms J Fubbs, Chairperson (African National Congress (ANC))

- Mr J Esterhuizen (Inkatha Freedom Party (IFP))
- Mr G Hill-Lewis (Democratic Alliance (DA))
- Mr B Mkongi (ANC)
- Mr N Koornhof (ANC)
- Mr A Williams (ANC)
- Mr D Macpherson (DA)
- Ms P Mantashe (ANC)
- Ms S Van Schalkwyk (ANC)
- Mr A Hermans, Committee Secretary
- Mr T Madima, Committee Secretary
- Ms Z Madalane, Researcher

1.3 Purpose of the report

This report captures the substantive discussions the Committee had during the oversight visit. The Committee Secretaries can be contacted for access to the detailed presentations from various stakeholders.

The report is set out in three parts. Part A provides an overview of the NRCS' plan of action implemented to address challenges with its Letter of Authority approval process. Part B provides an overview of the Industrial Policy Action Plan and incentive programmes, as well as the companies visited that are participants/recipients of these, and an outline of the key issues raised during the visit. Part C sets out the Committee's findings/conclusions, acknowledgements and recommendations to the Minister of Trade and Industry.

Part A: The National Regulator for Compulsory Specifications (NRCS)

The NRCS is established and mandated to promote public health and safety, environmental protection and ensure fair trade¹. This mandate is achieved through the development and administration of technical regulations and compulsory specifications, as well as through pre-market approval (such as

¹ NRCS Act (No. 5 of 2008).

the issuing of Letters of Authority (LOAs)) and market surveillance activities to ensure compliance with the requirements of the compulsory specifications and technical regulations. While consumer protection lies at the heart of the activities of the NRCS, this function cannot be separated from South Africa's role as a global trading partner. South African goods and services need to be competitive in terms of cost and quality and, at the same time be guaranteed to be safe for human use, safe for the environment and fit for purpose.

2. NRCS Letter of Authority Approval Process

2.1. Overview

The visit to the NRCS specifically dealt with the LOA approval process in the Electrotechnical business unit. In this regard, the NRCS provided an overview of the process; the number of received applications and approved applications; factors contributing to the delay in processing LOAs; and the interventions implemented and the impact of these; as well as the risk-based approach and challenges experienced.

The NRCS raised the following key issues during its presentation:

- *Factors attributed to applicants that contribute to delays:* Between 1 December 2016 and 27 January 2017, approximately 38 per cent of the applications were returned to applicants for corrective action. This phenomenon adds to the NRCS' workload, as applications that have been cancelled/closed/rejected join the queue at the very beginning and are treated as new applications and applications returned with corrective action join the queue at the evaluation stage. The following factors from the applicants could contribute to the delays in processing applications: (i) delays in attending to corrective action requests; (ii) incomplete applications/documentation; (iii) testing to wrong standards or versions of standards; and (iv) misinterpretation of the requirements.

- *Impact of interventions:* The NRCS has embarked on the following interventions:
 - increasing capacity by approving the recruitment of six candidate inspectors to undergo focused/fast-tracked training (including the two positions approved in the second quarter last year)) to increase the staff complement of approvals inspectors from 7 to 13. This is expected to balance the applications inflow to the expected throughput, thus managing and eliminating the backlog;
 - requiring electro-technical market surveillance inspectors to allocate 50 per cent of their time on approvals as from 1 December 2016, for approximately three months or until the backlog has been eliminated; and
 - incentivising inspectors to work over the shutdown/recess period. This led to the number of unassigned applications declining from 5 231 in November 2016 to 708 by 27 January 2017 and 6 001 applications being processed by 27 January 2017. Of the 6 001 processed applications, 3 479 were approved, 2 377 were pending and 145 were closed. However, the bottleneck shifted from the technical assessment stage to the capturing and printing of LOAs with 1 397 of the approved applications needing to be printed.

- *Risk-based approach:* The pilot project has led to renewal applications being expedited. However, certain aspects are being manually implemented and the risk profiling of retailers for the self-compliance project was halted until the backlog is addressed. The NRCS undertook to undergo ICT modernisation to deal with challenges it faced in meeting the turnaround times for issuing LOAs, so that it can fully implement the risk-based approach. However, the ICT modernisation is still at its early stages and will take a while to finalise.

- *Wage bill and negotiations:* As part of the organisational challenges, management reported that the wage bill was relatively high in relation to total expenditure and revenue. Management reported that this was a

result of a historical wage agreement, which included the manner in which the career development program was implemented. The career development programme contributes to excessive increases in the wage bill as a result of automatic promotion of inspectors who undergo further training or improve their skills. Currently, wage negotiations were being conducted with the Union but this is being stalled by new proposals from labour regarding the inclusion of additional job families (administrative or support staff) in the career development programme. However, these proposals would have excessive cost implications for the wage bill.

In addition, the NRCS briefed the Committee on the latest developments regarding the recall of the Ford Kuga. The vehicle was approved based on the applicable technical regulation, VC 8022 for small passenger vehicles. However, the regulation excludes the vehicle cooling system, which was the cause of the reported vehicles igniting. The NRCS further reported that there are plans to review the technical regulations in this regard.

2.2. Discussion

The Committee deliberated on the presentation and raised the following concerns:

- *Backlogs of Electro-technical applications for LOAs:* The Committee asked what proportion of applications were completed within 120 calendar days. The NRCS replied that 27 per cent of applications (2 399 of 8 420 applications) were approved and issued within 120 calendar days between 1 April 2016 and 27 January 2017. Consistently, applications have been above 120 calendar days at the beginning of each month. At 27 January 2017, 2 716 applications of the 6 001 processed applications were above the 120 calendar days.

- *Backlogs for LOAs in other business units:* The Committee questioned whether there were backlogs in other business units. The NRCS informed the Committee that there were also backlogs in the chemicals, materials and mechanicals business unit. This is in relation to safety footwear, where the South African Bureau of Standards (SABS) was unable to perform full testing as per the requirements of the compulsory specification. Therefore, the test reports did not show full compliance with the applicable compulsory specification and processing could not be completed. Several meetings have been held with the SABS, the DTI, the affected industry and the NRCS to try resolve the impasse to no avail.
- *Misinterpretation of requirements by applicants:* The Committee enquired how applicants misinterpreted the requirements. The NRCS explained that there can be technical or administrative misinterpretations of the compulsory specification requirements for LOA applications, which leads to incorrect documentation being supplied at the time of application. Approximately 30 per cent of misinterpretation findings are technical in nature and the rest administrative; however, exact statistics will probably only be available with the full implementation of the risk-based approach. Technical misinterpretations could include not meeting the minimum safety and/or performance requirements when tested, testing against the wrong standards or versions thereof, or test reports not meeting requirements. Administrative misinterpretations include the submission of an incomplete application form, all supporting documentation not included, levies or fees not fully paid, use of expired test reports, not meeting requirements for classification of an application as a renewal, company not registered properly with the NRCS, or the testing facility not being appropriately accredited.
- *Alignment of remuneration with the Public Service Act (No. 103 of 1994):* The Committee was of the view that the NRCS' wage bill was too high in relation to its staff complement and total budget. The NRCS explained that its remuneration policy is different from that of the Public Sector Act in that salary bands are higher; as their employees are

remunerated in terms of the NRCS Act not the Public Service Act. Furthermore, the wage bill is influenced by NRCS policies including the career development policy, as all employees except management have progressed and received a remuneration benefit based on the career development program. Once, employees obtain their qualifications, they are automatically eligible for a promotion. This has resulted in the majority of staff being fairly senior in their fields and has thus led to burgeoning wage bill. The DTI added that Section 23 of the NRCS Act sets out how the chief executive officer appoints staff and determines the remuneration of such staff. This section will form part of the legislative review of the NRCS Act during the 2017/18 financial year to possibly strengthen it and better align it with the Public Service Act.

- *Dumping of sub-standard cement from Pakistan and China:* The Committee queried whether the NRCS had investigated industry allegations of sub-standard cement being dumped in South Africa from Pakistan and China. The NRCS replied that it had investigated such allegations in the 2011/12 financial year and again in 2015. However, it had found no non-compliance in terms of its technical regulations. PPC had subsequently taken the matter to court and the NRCS finding was upheld. To the NRCS' knowledge, the matter of the low pricing of imported cement has been referred to the International Trade Administration Commission of South Africa as the relevant entity to deal with cases of dumping but the NRCS was unaware of the status or outcome of that investigation.

Part B: Implementation of the Industrial Policy Action Plan and the incentive programmes

The DTI's industrial development interventions are guided by the Industrial Policy Action Plan. This plan includes a number of transversal and sectoral focus areas. This oversight visit focused on one of the key transversal focus areas, namely the leveraging of local public procurement to increase the demand for locally manufactured goods; and two sectoral focus areas, namely business process services, and metal fabrication, capital and rail

transport equipment. One of the DTI's main instruments to support companies in these areas is its incentive programmes. These incentive programmes simultaneously seek to promote other national imperatives, such as job creation and economic transformation.

3. Engagement with Conduent

3.1. Overview

Conduent (formerly known as Xerox) is the world's leading enterprise for business processing and document management. Conduent South Africa commenced its operations at its base in Fourways, Johannesburg in May 2016. It specialises in providing leading edge data, voice, print, pro-active management services and customer care.

Conduent South Africa is investing R100 million and the DTI approved R10.5 million under the Business Processing Service (BPS) incentive programme in the 2016/17 financial year on condition that Conduent creates 1 086 jobs. To date, R98 331 was paid for creating 128 jobs with 98 per cent of these being youth. Conduent is expected to be at full capacity by mid July 2017 and should create 1 604 jobs and earn R1.7 billion export revenue within five years.

Mr J Beattie and Mr S Schepens briefed the Committee. They provided an overview of the company, the reasons for locating in South Africa and the challenges the company was still faced with. The main challenge Conduent faced was the cost of training staff and then being able to retain these skills due to the office hours required, as they service international markets across a number of time zones. Furthermore, the way the DTI transfers incentives creates difficulty in securing new clients.

3.2. Discussion

The committee deliberated on the presentation and raised the following concerns:

- *Challenges to the industry:* The Committee enquired what challenges Conduent faced in terms of growing its local business in an efficient and effective manner. Conduent raised the following challenges:
 - Lack of strategic alignment between DTI's vision for the industry and existing capabilities, which affects the existing grant availability. A more appropriate approach would be the Philippines' 'top down' approach, which developed about 1.5 million agents in comparison to South Africa's 30 000 agents in the outsourced environment. Furthermore, senior government officials' buy-in and presence is essential to create a more comprehensive and inclusive strategic vision for the industry in general and the sector in particular. Support should include marketing, and promoting South Africa as a brand to attract and retain additional business.
 - There is a lack of transparent communication. There is a need for 'open forums' and transparent communications between the DTI and the BPO companies to align and work together towards common goals, and reduce the 'individualistic' approach that is currently in place. This would enhance the alignment of government incentives and programmes and create new and evolving initiatives for current and new market entrants.
 - As Conduent is an American based company and its financial accounting system is different to South Africa's, it is unable to accurately account for the operational expenditure based DTI Incentive scheme on its books. They suggested that the DTI should consider having separate contracts for the Incentive Scheme based on the geographic location of the parent company.

- A dispensation around Broad-based Black Economic Empowerment (BBBEE) levels for foreign owned businesses who are unable to comply with current previously disadvantaged ownership levels to attain a fairer BBBEE rating.

4. Engagement with Smith Capital Equipment

4.1. Overview

In 2015, the National Empowerment Fund (NEF)² approved R41 million to help Isipho Capital Engineering to acquire a 42-year old company that manufactures aerial platforms, namely Smith Capital Equipment. These platforms can be used to reach elevated structures such as street lights, as well as drilling rigs used in mining exploration and installation of pylons and street poles. The design, fabrication and product support of these aerial platforms are fully localised. Due to the NEF's funding, Smith Capital Equipment continued to support 75 employees, who also own shares in the business, and created an additional 20 jobs. Smith Capital Equipment has achieved a BBBEE Level 2 rating. It has also been identified as one of the black industrialists.

One of the challenges highlighted during the presentation was the limited space. This has inhibited or constrained its ability to expand its production and has resulted in approximately two hours loss in daily production time. Every day, they are required to remove vehicles coming for maintenance from their site in order to use the factory space and park these inside again at the end of the day for security reasons.

² The NEF was established by the National Empowerment Fund Act (No. 105 of 1998) to promote and facilitate black economic participation through financial and non-financial support to black owned and managed businesses.

4.2. Discussion

The Committee deliberated on the presentation and raised the following key concerns:

- *Insufficient workshop space leading to lower production levels:* The Committee enquired what the impact of insufficient space is on the business. Smith Capital Equipment informed the Committee that it loses a minimum of two hours of production time daily and damages to vehicles while shunting these in and out of the premises in the mornings and afternoons, as well as vandalism and theft. They had purchased the business with the understanding that there was an undertaking that the company could purchase the adjacent municipal property, but this was later withdrawn by the Ekurhuleni Municipality. They had unsuccessfully attempted to resolve the matter with officials.
- *Designation of Locally Produced Cherry Pickers/Aerial Platforms:* The Committee enquired whether Smith Capital's products were designated. Smith Capital informed the Committee that post-acquisition of the company, it had engaged the DTI regarding the possible designation of Cherry Pickers, as it is one of two companies that locally designs and manufactures Cherry Pickers, meets the necessary quality standards, has 90 per cent local content, and is able to service and maintain the equipment locally. Currently, it competes with imported products particularly from Europe and China.
- *Government Procurement System:* The Committee sought clarity on whether Smith Capital benefits from the local procurement drive for fleet. Smith Capital responded that government departments, and local government use two main strategies to tender for their fleet, namely direct or full maintenance lease (FML) procurement. Direct procurement involves the purchase of the Cherry Picker as an asset. Currently, only the City of Ekurhuleni buys only locally manufactured products. With

- FML procurement, a contract is awarded to a company to procure Cherry Pickers from manufacturers to be used by government. The latter does not require a public tender process and tends to mainly use imported products. It also alleged that locally manufactured products met higher quality standards than the imported products and offered a number of benefits such as machines being appropriately manufactured to suit local conditions, locally provided after sales service and training, price stability and predictability of supply.

5. Engagement with the Mining Equipment Manufacturers of South Africa (MEMSA)

5.1. Overview

Since democracy, the South African mining capital goods sector has not received targeted state support but has displayed both growth and resilience historically but has recently suffered a loss in competitiveness and market share in domestic and regional markets. This has been as a result of a dramatic decline in national research and development capacity, a decline in artisan/technician skilling and the recent slump in mineral prices and the demand for mining inputs.

As a result of this and the Mining Phakisa initiative a group of mining equipment manufacturing companies established an industrial cluster to rebuild the sector's global competitiveness in order to grow its value addition, exports, employment and transformation, as well as address imports displacement. In addition, the DTI's Cluster Development Programme (CDP) was created with the purpose of enhancing the competitiveness of enterprises within value chains through defined collaborative projects that address production, productivity and marketing. It initiated a "proto-CDP" for local mining equipment manufacturers in 2015 and facilitated the initial meetings. The MEMSA Cluster was established in 2016 and has 23 members (of a potential 100+ domestic

manufacturers) producing capital goods, sub-assembled units, components and wear parts to the mining industry. This cluster initiative seeks to employ programmes in manufacturing excellence, technology development, lean production, export markets identification, supply chain upgrading, and shared infrastructure.

5.2. Discussion

The Committee deliberated on the presentation and raised the following key concerns:

- *BBEEE requirements for the MEMSA Clusters:* The Committee enquired about the ownership profile of companies that are part of the cluster. MEMSA informed the committee that all companies must be BBBEE compliant and a fifth of the companies must be black owned.
- *The impact of the mechanisation of mining:* The Committee enquired whether the use of more machinery in the mining sector would have an adverse impact on jobs in the sector. MEMSA was of the view that although the mechanisation of mines may result in mining job losses, this will be offset by growing manufacturing.
- *Protection against imported capital goods:* The Committee enquired why mining goods were imported into the country duty free. MEMSA responded that South Africa is the only country in the world where mining goods can be imported duty free. This was agreed to and passed into legislation in December 1983 before the democratic government. Local mining equipment manufacturing requires protection of the Original Equipment Manufacturers (OEMs). The DTI together with MEMSA had submitted a motivation for this to be changed to Parliament.
- *Impact of declining mining production on the manufacturing of capital goods:* The Committee enquired about the opportunities for growth in

capital goods when the mining sector is showing a decline in contribution to GDP. MEMSA replied that local manufacturing of capital goods could still increase as it can displace imported mining capital goods, allow for deeper mining where it is unsafe for humans and replace labour in the ultra-low profile gold mining environment.

6. Engagement with AARD Mining Equipment

6.1. Overview

AARD is a member of the MEMSA Cluster and participates in the Mining Phakisa. It designs, manufactures, markets and services underground mobile mining machines, with sales throughout South Africa and Sub-Saharan Africa and export limited quantities of equipment into Canada, United States of America, Europe and Russia. The equipment includes drill rigs, roof bolters, load haul and dump machines, dump trucks and vehicles, with a current local content of 65 per cent. AARD has over 1 000 machines currently operating in Southern Africa.

The business originally formed part of the Board Longyear group of companies (Anglo American) up to 2008. The current shareholder is a consortium comprising Nedbank Capital Private Equity and Matasis (a BBBEE group). The company is 62.5 per cent black-owned, of which 23.5 per cent is black women-owned, and has achieved a BBBEE level 5 rating.

Over the past 18 months, the company has created 110 jobs. It implements a skills development programme with 16 apprentices, and its 12 MERSETA accredited trainers provide artisan and operator training on all 35 mines that AARD services.

At this stage, AARD has not requested any funding from the DTI or any other government department.

6.2. Discussion

The Committee deliberated on the presentation and raised the following key concerns:

- *Transformation*: The Committee asked what the company's ownership profile was. AARD responded that it is 65 per cent black-owned. Black ownership from Matasis is 95 per cent black owned and Nedbank 33 per cent. When the company was bought from Board Longyear in 2008, Matasis funded its own shares of 40 per cent in the company. Senior management of AARD is 50 per cent Black. There is a formal transformation committee of which the chief executive officer of Matasis is the chairman.
- *Skills development*: The Committee enquired what the company's employment profile and skills development initiatives were. AARD replied that it continually has 16 full-time apprentices, of which 80 per cent is black and between 20 to 30 per cent are black women.
- *Assistance to support AARD and MEMSA*: The Committee enquired which areas AARD and MEMSA required additional assistance in to boost local manufacturing. AARD and MEMSA raised the following areas where assistance was required to improve local manufacturing:
 - Legislative changes regarding tariffs and duties.
 - Changes to the Mining Charter to promote local manufacturing.
 - Creation of grants to do research and development projects.
 - Allocation of funding for infrastructure development.

7. Engagement with Naledi Inhlanganiso

7.1. Overview

The Naledi Inhlanganiso Group is a 100 per cent black owned South African industrial group established in 2013 consisting of Naledi Foundry

(formerly Guestro Castings) and Naledi Forging. Naledi Foundry is the largest black owned foundry in South Africa. It moulds grey iron, SG iron (spheroidal graphite iron or ductile iron) and steel for applications in the automotive, transport, railway, mining, energy and valves. It employs about 320 people. Naledi Forging is a licensed distributor of MG Valdunes and supplies railway wheel and wheelset requirements. In 2015, Naledi Forging was awarded a 7-year contract by Transnet for supply of forge train wheels to replace imports. Naledi forging has a staff complement of 5 with the potential to increase to 260 once the wheel forging and machining capacity is localised.

To date, Naledi Inhlanganiso received the following government support:

- Naledi Foundry received R34 million under the Automotive Incentive Scheme to support further investment in plant and equipment.
- Naledi Forging received a R900 million 12I tax incentive to support capital investments to be made for the forging and machining of forged wheels. The tax allowance will be realized through tax deductions over eight years.
- Equity, loans and working capital provided by the Industrial Development Corporation (IDC).
- A range of interventions from the National Foundry Technology Network (NFTN) and the National Cleaner Production Centre (NCPC) from 2014 to 2016 to the value of approximately R1.64 million and R85 000 respectively.

During its presentation, Naledi Inhlanganiso raised the following key challenges it faced:

- It has a contract with Transnet for wheels; however, there have only been orders for 1 000 sample wheels during the first 28 months and no clear forecast of future orders. It had also been shortlisted in final negotiations during the bogie tender but this was awarded to a company that had not been shortlisted even though it had no local production

capabilities. Furthermore, for the China South Rail (CSR) component development, it had 17 approved parts at a cost of R3 million to develop these. Subsequently, CSR had not placed any orders for these and had stopped the localisation project. This trend impacts negatively on operations and the ability to maintain its staff complement.

- In terms of Eskom, the contract for grinding media supply was delayed internally while large orders were placed upfront and there has been limited assistance to address working capital challenges. Subsequently, power stations have been disinterested in procuring from a new black supplier and have attempted to discredit Naledi with claims of non-conformances in quality.
- Operational challenges included the high cost of municipal electricity; workforce stability and skills shortages; the impact of imports and dumping of steel products; and the cost and availability of scrap metal.
- In terms of funding, it listed constraints as the high deposit requirements for the IDC and the DTI's long turnaround time in paying claims. Furthermore, there was an allegation that the South African Revenue Service had not paid its value-added tax (VAT) refunds of R15 million over 12 months.

The company also highlighted that it had engaged relevant government departments to attempt to resolve some of the abovementioned constraints it faced.

7.2. Discussion

The Committee deliberated on the presentation. It enquired what the DTI's role was in supporting companies that it had given incentives to, particularly challenges with regards to steel, local procurement and contracts with SOEs.

The DTI highlighted the key challenges experienced in the Transnet Rail Procurement Programme. These were:

- Delays and changes in the delivery schedules due to the impact of declining mining activities on the aggregate demand for the movement of freight, as well as project delays in the Transnet (the locomotive, wagon, and maintenance build programmes) and the Passenger Rail Agency of South Africa (PRASA) rail recapitalisation programme. Some of the project delays are linked to technical challenges between Transnet and the OEMs, particularly Bombardier, which need to be resolved so that suppliers can continue production. This situation has been exacerbated by the lack of communication between Transnet and the OEMs, so that suppliers were unable to amend their production plans to accommodate these disruptions and lessen the impact. Therefore, many suppliers have had to implement drastic measure such as reduction of production, staff short-time and/or retrenchments to maintain production capacity.
- Inconsistent application of local content requirements by the four OEMs. Each OEM has adopted a different strategy towards localisation, which is enabled by the main contracts with Transnet Freight Rail. Thus far, General Electric and Bombardier have shown a level of commitment to localisation based on the investments made. However, the promised investments to be made by Chinese OEMs are yet to be confirmed. The level of engagements between OEMs and industry varies resulting in vast mistrust between Transnet, OEMs and local suppliers with the potential to undermine the industrialisation agenda.
- Transnet's procurement strategy for rail has not been used effectively to ensure that all rail procurement contracts support the building of a robust local supply chain. Transnet's procurement planning has not resulted in the consolidation of orders across a number of commodities. OEMs and suppliers partaking in various contracts are unable to meet the local content requirements due to low volumes and the "as-and-when" clause contained in their contracting documentation. Without the requisite minimum volumes, no manufacturer can expeditiously and viably set-up a manufacturing line.
- High import content in the rail programme. It appears based on trade statistics that imports are growing exponentially despite the prescribed

minimum local content thresholds. With respect to the 1064 locomotive tender alone, 66 fully built locomotives were imported from China (60 units) and USA (6 units), locomotives complete knockdown kits (CKDs) and other parts (mainly high-value components) will continue to be imported as the projects unfold.

The DTI also reported on the actions it has taken to address these implementation challenges. It has undergone intensive and on-going discussions with Transnet, OEMs and the local industry to seek improvements in the policy interventions. Thus far, the following improvements have been implemented:

- During 2016, the DTI amended the National Treasury Instruction Note on Rail Rolling Stock of 2012. The purpose of the amendments was to emphasise the use and support of existing industrial capacity and capability in the manufacturing of rail related components for use in the assembly of the locomotives and coaches as procured by State Owned Companies.
- There is an on-going policy dialogue with Transnet to improve their procurement planning as well as to assess commodities (e.g. draw gears; valves; hardware; wheels; etc.) that can be aggregated to enable the implementation of sustainable localisation programmes.
- The contract management issues summarised above and the overall application of the designation requirements in the rail programme have been escalated to both the Director-General October and the Minister Davies. In January 2017, the Minister has written to the Minister of Public Enterprises requesting a strategic bilateral to deliberate on implementation challenges in rail procurement and areas that require close collaboration between the two departments for the purpose of deepening the industrial development effort.

8. Engagement with Unique Engineering

8.1. Overview

Unique Engineering was established in 1978 and is a diversified engineering company which designs, manufactures, and produces pantographs, double diagram, pumps, blast barricade electromagnetic sheet metal folding machines for the mining industry and rail sector. It was acquired by Pamodzi Investment Holdings in August 2014 using R23 million of funding from the NEF.

The chief executive officer of the NEF briefed the Committee on the financial and non-financial support it had offered to Unique Engineering, while the chief financial officer of Unique Engineering provided the Committee with an overview of the structure, including the employment profile, of the company. Unique Engineering is now 100 per cent black owned, managed and controlled with 39 per cent black female ownership and Staff and Management Trust participation of 15 per cent equity. The transaction retained 153 jobs, of which 70 per cent are black and extensive training has been provided to black operational staff.

8.2. Discussion

The Committee deliberated on the presentation and raised the following key concerns:

- *NEF's service delivery*: The Committee enquired about Unique Engineering's experience regarding the NEF's support and possible areas of improvement. Unique Engineering responded that the NEF team were very co-operative, innovative and timeline driven, which assisted in meeting the tight timelines of the transaction. It was of the view that there was room for improvement in terms of repayment terms. Ideally, there should be a 3 to 6 months holiday before the first instalment kicked in and the raising fee should also be part of the

instalment as opposed to an upfront fee. This would necessitate that the NEF's funding limitations be resolved.

- *Implementation of local procurement:* The Committee referred to a statement by the Chairman of Unique Engineering regarding contract work from state owned entities being awarded to entities supplying imports that were more expensive than locally procured products and asked for more information. Unique Engineering referred to three programmes, namely the Transnet Locomotive Renewal Programme, PRASA and Gibela Renewal Programme and existing business with PRASA.

In terms of the Transnet Locomotive Renewal Programme, its market share on the existing/old fleet of locomotives was approximately 85 per cent. All potential bidders for the project had visited the factory and interacted with Unique Engineering. It had been successful in its negotiations with Bombardier and were awarded the contract for the supply of pantographs and control panels for 240 locomotives. However, other bidders including the CSIR had not contracted with it. Unique Engineering has raised its concern regarding the local content issue and the negative impact on its business. Transnet (Transnet Freight Rail) had indicated that around June 2016 they would test Unique Engineering's pantographs on the first China South Rail (CSR) locomotives that come out of warranty; however, this has not materialised yet. It was of the view that in comparison to competitors, its price is still the most affordable. With our Spring Operated pantographs, it is on estimate 75 per cent cheaper than CSR's Bellow Operated pantographs, which can be locally manufactured at an estimated 25 per cent less than what the Chinese suppliers are selling for. Quality and service levels have never been an issue, as it has supplied global tier 1 clients such as Caterpillar, Bombardier, Liebherr Hitachi and locally Sasol and Impala Platinum Mine.

In terms of the PRASA/Gibela Renewal Programme, it estimated its market share at about 80 per cent on the old or existing electrical motorcoach units. It was not considered as a pantograph and insulator supplier for the first phase of this project. The reason given was that its pantograph on offer at the time did not meet the technical specification of 180km/h. It has corrected this by capacitating the production to meet this requirement (Bellow Operated) and would be ready to take part in the second phase of this programme. It must also be noted that the pantograph of Brecknell Willis that was approved for this project had not been produced in South Africa, even though it had been reported that it would be.

In terms of the existing business with PRASA, the current Request for Quote system sometimes bypasses the OEM of pantographs and are issued to several companies and individuals. Those individuals/middlemen or companies will then approach the manufacturer to supply the pantographs for PRASA and charge a higher price than if it was purchased directly. There have also been several cases where the intermediaries retain the proceeds without paying Unique Engineering for the components.

The NEF informed the Committee that these challenges are not unique to this business. There are ongoing engagements with other development finance institutions and state-owned entities to try to deal with this challenge and government is aware of the issue and is seeking lasting, workable and mutually beneficial solution to the challenges that face South African manufacturing industries. Commercial competition between South Africa and China continues to be an area where business interests may not align. China's competitively priced manufactured goods have continued to adversely affect local manufacturers, particularly in the textile and automotive industries. However, it had not been aware of Unique Engineering's specific challenge.

- *Recapitalisation of the NEF*: The Committee was once again raised the need to resolve the issue of the recapitalisation of the NEF. On 14 February 2017, the Ministers of Economic Development and Trade and Industry recently announced that the NEF would become a wholly-owned subsidiary of the IDC to meet the considerable demand for funding by black entrepreneurs.

Part E: Conclusions, Acknowledgements and Recommendations

9. Findings/Concluding remarks

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

- 9.1. The Committee is satisfied with the progress made with regard to backlogs of electro-technical letters of authority. However, there is a need to reconsider how the National Regulator for Compulsory Specifications reports on progress made in this regard, as there is no clarity on how they define a backlog versus the perception of this in the market.
- 9.2. A concern for the Committee was the increase in the backlogs for the chemicals, materials and mechanical business unit due to testing issues with the South African Bureau of Standards.
- 9.3. The Committee must play a strong oversight role to ensure that the National Regulator for Compulsory Specifications develops its ICT capacity and adheres to the agreed timeframe of implementation by December 2017 to enable electronic processing of letters of authority letters of authority including the monitoring of the process and communication with applicants.
- 9.4. The review of the National Regulator for Compulsory Specifications Act should ensure the alignment with the Public Service Act to address skewed pay scales and increases facing the institution.
- 9.5. The Committee welcomed the contribution of Conduent to the business processing sector. The Committee was highly impressed with their business model and the jobs created in the country. It

would like to encourage the expansion of Conduent's business in South Africa.

- 9.6. The Committee would like to request that the Department of Trade and Industry considers the possibility of separating its incentives contracts to allow for differences related to the financial accounting systems of parent companies, to allow for the appropriate accounting of operational expenditure related incentives.
- 9.7. The Committee welcomed the AARD's skills development initiatives.
- 9.8. The Committee welcomed the support of National Empowerment Fund to black industrialists such as Smith Capital Equipment and Unique Engineering.
- 9.9. The lack of space at the premises of Smith Capital Equipment contributed to significant production time losses. The Committee encourages engagement with the Ekurhuleni Municipality to enable purchasing of the adjacent land to resolve this challenge.
- 9.10. The Committee was concerned that government and public entities have not been fully complying with the procurement of designated products, which undermines the localisation drive and job creation. Furthermore, existing government procurement plans created uncertainty about the timelines within which local companies were expected to deliver orders. This was raised by a number of black-owned companies visited, namely Unique Engineering and Naledi Inhlanganiso, which has placed them in a position, where the capacity they have developed is not being utilised and they are at financial risk.
- 9.11. In this regard, the Committee would like to encourage the Office of the Auditor-General of South Africa to develop guideline for auditing compliance with local procurement requirements.
- 9.12. South Africa has the capability to locally produce cherry-pickers, which is currently not designated. The Committee urges the Department of Trade and Industry to investigate the possibility of designating these.

- 9.13. The Committee was concerned at the lack of urgency the National Empowerment Fund had in bringing issues of non-co-operation to the department's or committee's attention. As substantial government funds are given to support black industrialists to create capacity to meet local public procurement requirements, and subsequently, this capacity is not being utilised by some government entities. The Committee was of the view that the Department of Trade and Industry and its entities should holistically support companies that receive funding or incentives from them.
- 9.14. The Committee acknowledged the role that the Department of Trade and Industry has been playing to resolve the procurement implementation challenges with Transnet, but implores the Department of Trade and Industry to bring all challenges to the attention of the committee should they fail to be resolved.
- 9.15. The Committee has taken a decision to undertake a further investigation into these challenges with state-owned enterprises on local procurement. This will include engagements with Transnet, Eskom, Passenger Rail Agency of South Africa, Department of Public Enterprises, the Department of Transport, the Department of Trade and Industry, Naledi Inhlanganiso, Unique Engineering, and Smith Capital Equipment on 24 March 2017.

10. Acknowledgements

The Committee would like to thank the Department, the National Regulator for Compulsory Specifications, the companies and their respective management, for their cooperation and transparency during our oversight visit.

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conscientious commitment and dedication to their work. The Chairperson wishes 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.

11. Recommendations

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

- 11.1. Addressing the disparities in testing requirements among the technical infrastructure institutions.
- 11.2. Expediting the legislative review of the National Regulator for Compulsory Specifications Act to address the human resource challenges, among others.
- 11.3. Monitoring the development of the National Regulator for Compulsory Specifications' ICT programme to ensure the full implementation of the Risk Based Management system by December 2017.
- 11.4. In conjunction with the relevant Minister(s), enforcing mechanisms of local procurement policies by all government departments, provincial and local government spheres, as well as public entities.

Report to be considered.