

**TABLED COMMITTEE REPORTS  
6<sup>TH</sup> ADMINISTRATION MAY 2019 ONWARDS**

**SELECT COMMITTEE ON TRADE & INDUSTRY, ECONOMIC DEVELOPMENT, SMALL BUSINESS, TOURISM, EMPLOYMENT & LABOUR  
[FORMER SC ON TRADE AND INTERNATIONAL RELATIONS]**

<b>NO.</b>	<b>YEAR</b>	<b>TITLE</b>	<b>TABLED</b>	<b>REPORT / CONCLUSIONS</b>	<b>RECOMMENDATIONS</b>
1.	2019	Report of the Select Committee on Trade and Industry, Economic Development, Tourism, Employment and Labour on Budget Vote 25: Economic Development and Annual Performance Plan 2019/20 of Economic Development Department, dated 10 July 2019	ATC 190711	<p><b>Report</b></p> <p>Report of the Select Committee on Trade and Industry, Economic Development, Tourism, Employment and Labour on Budget Vote 25: Economic Development and Annual Performance Plan 2019/20 of Economic Development Department, dated 10 July 2019</p> <p>The Select Committee on Trade and Industry, Economic Development, Tourism, Employment and Labour, having considered Budget Vote 25: Economic Development and the Annual Performance Plan 2019/20 of Economic Development Department, reports that it has concluded its deliberations thereon.</p>	<p><b>Recommendation</b></p> <p>Report to be considered.</p>
2.	2019	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on (EPA) between (SACU) and Mozambique (together SACUM) and the United Kingdom, dated 5 November 2019	ATC 191105	<p><b>Report</b></p> <p>Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on the Economic Partnership Agreement (EPA) between the South African Customs Union (SACU) and Mozambique (together SACUM) and the United Kingdom, dated 5 November 2019:</p> <p>The Select Committee on Trade and Industry, Economic Development, Small Business</p>	<p><b>Recommendation</b></p> <p>Report to be considered.</p>

				Development, Tourism, Employment and Labour, having considered the Economic Partnership Agreement (EPA) between the South African Customs Union (SACU) and Mozambique (together SACUM) and the United Kingdom, referred to it, recommends that the Council, in terms of section 231(2) of the Constitution, approve the said Agreement.	
3.	2019	Report of the Select Committee on Trade & Industry, Economic Development, Small Business Development, Tourism, Employment and Labour West Rand District Municipality and Ekurhuleni Metropolitan Municipality in Gauteng Province, dated 27 November 2019	ATC 191204	<p><b>Purpose of the Visit</b></p> <p>The purpose of the joint visit by the two Select Committees was to receive performance reports from West Rand District Municipality and Ekurhuleni Metropolitan Municipality. The presentations covered achievements and implementation plans in relation to the local economic development programmes covering investments in areas such as Transport, Tourism, Special Economic Zones (SEZs) and other development programmes such as Expanded Public Works Programme (EPWP). The delegation also visited projects implemented by the Department of Public Works and Infrastructure Development (EPWP Agri-Park projects in Merafong and Tarlton, Mogale City), and the Department of Tourism (Cradle of Humankind World Heritage Site). The City of Ekurhuleni presented the implementation plan of its Integrated Rapid Transport Programme (IRTP), and the delegation visited construction site of the programme. Further the delegation visited Airport Company South Africa (ACSA) at its head office and received presentation in relation to ACSA's capital expansion programme.</p> <p>Further, the delegation visited Mayehlome Communications, a company that received financial support from the State Enterprise Financing Agency</p>	<p><b>Recommendations</b></p> <p>The delegation noted the role of government entities such as Small Enterprise Development Agency, Small Enterprise Finance Agency and National Empowerment Finance Agency play in supporting the growth of SMMEs. The delegation further noted the imbalance of allocation of resources between regions and within regions and the cumbersome process in assessing applications to finance SMMEs. The two Committees recommend that all government entities supporting SMMEs to streamline the application process to financing SMMEs, and one-stop centres should be rolled out nation-wide, and partnerships with municipalities and private sector should be established to broaden the reach of services to the SMMEs. This recommendation could be implemented <i>over the short-to-medium term, guided by the availability of the resources.</i></p> <p>The delegation noted economic opportunities that the Cradle of Humankind presented in the <i>West Rand</i>. The two Committees recommend that the national departments such as Tourism and of Environmental Affairs, including their development agencies and provincial departments (Economic Development), and the West Rand establish a partnership with private sector and higher education institutions</p>

			<p>(SEFA), including Busmark 2000 Pty Ltd, a company, which received financial support from the Industrial Development Corporation. In addition, the delegation visited BUSAMED private hospital) and Mohlalefi Engineering Company, which were partly financed by the National Empowerment Fund-NEF.</p> <p>The Department of Employment and Labour presented its Labour Activation Programme, which is a partnership programme with Unemployment and Insurance Fund. The programme is one of the initiatives of the Department of Employment and Labour efforts to create job opportunities for the unemployed people (beneficiaries of UIF) and the vulnerable people such as young people and women. The programme presents an opportunity to cover people with physical disabilities.</p>	<p>(particular with reference to the University of the Witwatersrand (WITS)) and the local community to mobilise and coordinate resources, and other bankable development initiatives to further develop the site for the benefit of the regional economy. This recommendation could be implemented <i>over the short, medium and long term.</i></p> <p>It was noted that the transport networks should incorporate all modes of public transport services. Government should explore the possibility of extending the Gautrain development initiative to reach the <i>West Rand</i>. This initiative has the potential to stimulate other economic activities in the West Rand. This recommendation could be implemented <i>over the medium-term period.</i></p> <p>National Treasury and the Department of Transport should pay special attention in the implementation of the <i>City of Ekurhuleni's</i> IRPTN. As stated in this report, many development projects in local municipalities were reported to be poorly planned, including poor design and construction that lead to cost over-runs. As a result, government has spent billions of rands on projects that are not completed within contractual timelines. The National Department of Transport and City of Ekurhuleni should provide the Select Committee on Transport, <i>Public Service and Administration, Public Works and Infrastructure</i>, and with oversight reports in terms of the implementation of the <i>City of Ekurhuleni's</i> IRPTN. The oversight reports should be submitted to the Committee <i>before the end of the 2019/20 financial year.</i></p> <p>The delegation noted the important work executed by the <i>Department of Employment and Labour</i> through</p>
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					<p>the <i>Labour Activation Programme</i> in partnership with the Unemployment Insurance Fund in an effort to create employment opportunities. With regard to the <i>Tembisa Training programme</i>, the Delegation noted poor management of the programme. This has led to late-payments or non-payment of the participants in this programme by the CETA. The delegation identified that that the UIF would transfer funds on time to the CETA in order the participants in the programme are paid according to agreed timeframes. The two Committee recommends that the <i>Department of Employment and Labour</i> in partnership with the UIF, and with the support of the Department of Higher Education and Training, investigate the conduct of the CETA in administering the payments in relation to the <i>Tembisa Training programme</i>, and any programme that funded through the <i>Labour Activation Programme</i> (which the CETA plays a role in transferring payments). The report should be submitted to the <i>Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour</i> by the end of the 2019/20 financial year.</p> <p>Report to be considered.</p>
4.	2020	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on Oversight Visit To Supported Employment Enterprises (SEE), Ndabeni, Western Cape, dated 11 March 2020	ATC 200319	<p><b>Background and Introduction</b></p> <p>In terms of section 42(4) of the Constitution, the National Council of Provinces (NCOP) is mandated to ensure effective cooperative governance and intergovernmental relations between the three spheres of government. This unique mandate of the NCOP further seeks to ensure that the provincial interests are taken into account in the national sphere of government. It is within this context that the Select Committees on Trade and Industry, Economic Development, Tourism, Small Business Development and Employment and Labour visited</p>	<p><b>Key observations</b></p> <p>The road freight and logistics labour conflict between local and foreign national truck drivers is a very complex problem, which require a multidisciplinary approach;</p> <p>The Department of Employment and Labour has an establishment of 1400 labour inspectors at a national level and this far below the required capacity for effectively enforcing compliance as required by the South African labour legislation regime;</p>

		<b>[tabled report of interest to the dtic]</b>		<p>the Supported Employment Enterprises factory (SEE) in Ndabeni, Western Cape.</p> <p><b>Purpose of the visit</b></p> <p>Briefing by the SEE on Annual Performance Plan and Budget for the 2019/20 financial year;  Presentation by Department of Employment and Labour on measures undertaken to deal with challenges in the Road Freight and Logistic Sector;  Walk about in the factory.</p>	<p>The National Road Freight Bargaining Council makes use of its own private agencies to enforce compliance of affiliated companies that it regulations;  Further, the Department is in the process of developing a labour migration policy to boost legislation and policy regime to effectively administer issues in the labour market;</p> <p>South African Development Community (SADC) and African Union (AU) have migration protocols in place that regulate labour migration and movement of goods and services which also find expression under the newly adopted Africa Free Trade Agreement;</p> <p>Key among the challenges in road freight and logistics industry is the preference of foreign national drivers over local truck drivers. Companies not affiliated to National Road Freight Bargaining Council prefer to employ foreign nationals, and in the process avoid compliance with the existing labour laws.</p> <p>The Committee recognised the complexity of the matter, and thus it needs a cross-sector approach to have a sustainable solution. It has resolved within six months after adoption of this report to convene a meeting in partnership with other relevant Parliamentary Committees to address labour immigration policy and legislation considerations.</p>
5.	2020	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development,	ATC 200610	<p><b>Issues Arising From Engagement</b></p> <p>1. It was noted that both domestic and global economic growth will register negative growth due to the COVID-19 pandemic impact. The International</p>	<p><b>Recommendations</b></p> <p>Following the engagements with the Department, the Committee proposed the following recommendations to the Minister:</p>

		<p>Tourism, Employment And Labour on Vote 39: Trade, Industry and Competition, and on Strategic Plan and the 2020/21 and Annual Performance Plan of the Department of trade, Industry and Competition, Dated 9 June 2020</p>	<p>Monetary Fund, have reduced South Africa's GDP growth prospects for 2020 to negative 5,8 per cent and to 4 per cent in 2021. The South African Reserve Bank according to the Monetary Policy Statement released in April 2020 also revised its growth projections down to negative 6,1 per cent in 2020, and anticipating 2,2 per cent economic growth in 2021. Whilst National Treasury suggest the economic growth will contract between 6 and 7 per cent in 2020.</p> <p>2. The Department indicated that the Re-Imagined Industrial Strategy is aligned to the objectives of preceding policies such as IPAP and NGP and further places greater emphasis on collaboration and partnerships with the private sector and labour in developing and implementing programmes to reposition the sectors.</p> <p>3. The Department acknowledged the trade deficit it has with BRICS member countries, but further emphasised that the industrial strategy adopted by government seeks to address some of the challenges that the country is experiencing. Hence it is important for South Africa to diversify the export basket to include greater share of higher value added manufactured products. Further, South Africa would pursue the global trade transactions guided by international trade and investment regime.</p> <p>4. Committee noted the importance of the <i>Industrial Parks Revitalisation Programme</i> in stimulating rural and township economies. Further, the Committee was concerned with inadequate funding that the programme is receiving. The Department indicated that discussions are under way with National</p>	<p>1. Over the medium term the Department working closer with subnational governments including the development agencies should develop action plan that outlines trade and investment opportunities presented by various International Trade Agreements. The action plan should be presented by the end of the 2020/21 financial year.</p> <p>2. Given the vital role of provinces, local government and private sector in small enterprise development, industrial development and innovation, it is critical that an effective multilevel governance in supporting growth and development of businesses (Big or Small) need to be promoted and enhanced. It is recommended that the Department should engage National Treasury to provide additional allocation to scale-up COVID-19 Relief Funding.</p> <p>3. Further, over the medium term the Department should engage National Treasury to offer funding to enhance the Manufacturing Competitiveness Enhancement Programme.</p> <p>4. Over the medium term the Department should accelerate the implementation of the Industrial Parks Revitalisation Programme. Working in partnership with other departments such as Small Business Development, and sub-national governments the Department need to provide incubation and business development support in the Parks, which include market linkage facilitation so that the industrial parks can attract, support and sustain new firms. Firms located in the Parks should be exposed to various government incentives schemes. The Department has several incentives schemes such as the</p>
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			<p>Treasury for a possible increase of the current funding support for industrial parks to stimulate investment in rural and township areas.</p> <p>5. Further, the Department submitted that it has also engaged other partners including other departments such as the <i>Department of Cooperative Governance and Traditional Affairs</i>; the <i>Provincial Government</i>; and the <i>Municipalities</i>, to participate and contribute towards the <i>Industrial Parks Revitalisation Programme</i>.</p> <p>6. The Committee expressed a need to invoke section 11 of the National Credit Act, 2005 (Act No. 34 of 2005) ('the NCA'), which deals with public interest credit agreements during the COVID-19 pandemic. The Department submitted that the proposal to invoke section 11 the National Credit Act, 2005.</p> <p>7. Further the Committee emphasised consistency should be applied in implementing transformative legislation such as the Broad-Based Black Economic Empowerment (B-BBEE) Codes when providing relief to distressed businesses, a reference a case was the tourism industry where the Minister of Tourism was involved in the court case instituted by the AfriForum and the trade union movement, Solidarity. The Department reported that it will ensure compliance to the B-BBEE Act and its Codes of Good Practice during the COVID-19 pandemic. It has established measures to strengthen compliance and redirect resources to where the greatest needs are.</p>	<p>manufacturing investment schemes, competitive investment scheme, service investment, industrial innovation investment cluster competitive investment, and infrastructure investment schemes. Coordination across levels of government is crucial, in order to allocate scarce resources better and provide support to businesses. Local government capacity and capability would need to be geared-up. What is vital is to have Parks that are aligned with growth opportunities within the region and its linkages to other regions.</p> <p>5. South Africa has high number of unemployment, and with surplus of unskilled labour. There is a growing concern that the Special Economic Zones should also priorities labour intensive sector. The Department should consider that some of the SEZ to focus on labour intensive firms.</p> <p>Report to be considered.</p>
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			<p>relaxation of production volume requirements and extending submission timelines for Automotive Investment Scheme (AIS) applications and claims. Further, the Department is in constant engagement with the industry in efforts to understand the COVID-19 impact to the industry in order to be able to develop appropriate responses.</p> <p>18. COVID-19 pandemic has also affected operations of the SEZs, including companies that are operation in SEZs. Various measures have been undertaken to offer relief to companies operating in SEZs. Construction works in the SEZs have also been affected by the implementation of the lockdown regulations. Various tenants operating in the SEZs are also involved in high impact projects directed to alleviate strain caused by the pandemic in surrounding communities.</p> <p>19. The Committee questioned the rational of South Africa for not pledging support to the efforts announced by some of the Members of the World Trade Organisation to secure and ensure the continued flow of medical supplies and other essential goods and services including maintaining the agricultural supply chain and securing food security during the pandemic. Some of the Member countries which signed a pledged to continue to provide trade stability during the COVID-19 are South Africa main trading partners.</p> <p>20. Further, the Committee wanted to understand the impact of the COVID-19 pandemic would be on the implementation of the <i>African Continental Free Trade Agreement</i> and on the out-of-cycle review of South Africa's continued participation in the <i>United</i></p>	
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			<p><i>States' African Growth and Opportunity Act (AGOA).</i> The Department submitted that the economic impact of COVID-19 has been devastating. Large parts of South Africa economy were closed, exports have ceased, and the country has witnessed capital flight and currency depreciation. Further Intra-African trade has been hit hard too with border closures and other lockdown measures being implemented across the continent. COVID-19 would severe damage African economies. As much trade initiative should be supported, it will be dependent on a broader agenda for financial support and debt relief across Africa. Further, the COVID-19 has disrupted vital meetings set to accelerate implementation of the AfCFTA. Including the postponement of the AU Extra-Ordinary Summit.</p> <p>21. With regard to the out-of-cycle review of South Africa's continued participation in the United States' African Growth and Opportunity Act (AGOA), the Department reported that South Africa remains eligible for tariff preferences under AGOA. The out-of-cycle provision allows any US lawmaker, at any time, to raise concerns on whether South Africa meets AGOA eligibility requirements. The Department indicate that at this stage no such concerns have been raised. Further, the Department submitted that on 13 May 2020 the US Government initiated an overall review of sub-Saharan African countries' eligibility for AGOA preferences.</p> <p>22. Further, the Department reported that US and South Africa has been severely impaired by the border measures taken by both side to address the health crisis brought on by COVID-19. These measures include lockdown in many sectors of the economy, restrictions on logistics and transport and</p>	
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			<p>border closures. It is anticipated that that trade will re-start as production and transport restart and as border measures and closures are scaled back.</p> <p>23. According to the Department, South Africa has been part of a US country review process under the US Generalised System of Preferences (GSP) since October 2019. The review was initiated by a petition from US stakeholders in respect to concerns they have with South Africa’s pending Copyright Amendment and the Performers Protection Amendment Bills. The Department indicated that government has participated in the review process and is in ongoing discussions with the United States Trade Representative (USTR) on the matter. According to the Department the review is mistimed and misdirected as these Bills are not law in South Africa. The President is assessing the constitutionality of the Bills and has not yet made the determination.</p> <p>24. The Department submitted that the Joint Statement was signed by 21 Members of the WTO, and the WTO comprises 165 Members. The Joint Statement was referring to measures that have already been put in place on exports of medical supplies and other essential goods and services. It was making a pledge to lift the measures as soon as possible. According to the Department the Joint Statement also contains a commitment “Not to impose agriculture export restrictions and refrain from implementing unjustified trade barriers on agriculture and agri-food products and key agricultural production inputs.” The Department further indicated that it is noteworthy that 141 countries have implemented trade measures. In addition, twelve of the sponsors of the Statement</p>	
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				<p>implemented export restrictions on medical products; and two of them implemented export restrictions on agricultural products. It should also be noted that trade, in general, has been interrupted in many countries not by trade measures per se but by lockdowns, disruption to logistics and transport, and by border closures all of which are the result of measures to address the COVID-19 pandemic.</p> <p>25. According to the Department, South Africa, along with most other Members, did not sponsor the Joint Statement as it is an undertaking that is inconsistent with existing WTO rules. Article XI of the General Agreement on Tariffs and Trade (GATT) on 'Export Restrictions' provides for the application of export prohibitions to prevent or relieve critical shortages of foodstuffs or other products essential. The Department indicated that proposal contained in the Joint Statement is the latest of ongoing efforts by many of the same WTO Members to completely prohibit export restrictions even for developmental objectives. Many of the same Members, which signed the Joint Statement to continue to distort agricultural trade in more significant ways through the provision of massive domestic support that undermines prospects for agricultural development in many developing countries, including in Africa. The Department submitted that it is important to leave open the possibility of resorting to export restrictions to promote food security or manage shortages of foodstuffs and other essential products.</p>	
6.	2020	Report of Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on	ATC 200721	<p><b>Issues Arising from Engagement</b></p> <p>1. The Committee noted that both domestic and global economic growth will record negative growth due to the <i>COVID-19</i> pandemic impact. The International Monetary Fund, South Africa Reserve</p>	<p><b>Recommendations</b></p> <p>The Committee noted that the COVID-19 pandemic has caused negative shock on the economy, South Africa like other nations, has lost economic activity that would have medium-term and long-term</p>

		<p>Adjustments Budget of the Department of Trade, Industry and Competition (39), dated 21 July 2020</p>	<p>including National Treasury have revised downwards South Africa's GDP growth prospects for 2020. Investment confidence remains low, currency remains volatile, unemployment posing a potential for social instability, and public finances are also at high risk coupled with challenges faced by critical state entities, which are directly linked to future the country's economy.</p> <p>2. Department re-assured the Committee that government efforts such as the R500 billion economic and social development package, industrial and development <i>Master Plans</i> for the automotive sector, poultry industry and retail (clothing, textiles, leather and footwear industries), including a special focus on the implementation of <i>the Integrated Resource Plan 2019</i>, are some of the interventions put together to drive considerable investments, particular in renewable energy give an impetus that the economy will recover.</p> <p>3. Further, the Department re-iterated that government in partnership with the private sector and civil society will ensure that investment projects announced at the second <i>Investment Conference in 2019</i> are fully realised. The <i>African Continental Free Trade Area (AfCFTA)</i> presents growth opportunities for South African companies.</p> <p>4. The Department acknowledged the trade deficit it has with BRICS member countries, but further emphasised that the industrial strategy adopted by government seeks to address some of the challenges that the country is experiencing. Hence it is important for South Africa to diversify the export basket to include greater share of higher value</p>	<p>economic effects. The pandemic has caused uncertainty, disrupted normal planning processes, and affected firms and governments operations.</p> <p>The Committee emphasised that it is crucial for government and its development agencies to allocate scarce resources better and provide support to businesses to preserve jobs and incomes of households. Further subnational governments' capacity and capability would need to be geared-up.</p> <p>Further, given the vital role of provinces, local government and private sector in small enterprise development, industrial development and innovation, it is critical that an effective multilevel governance in supporting growth and development of businesses, whether big or small need to be promoted and enhanced. In addition, industrial development initiatives such as <i>Special Economic Zones</i>, and Industrial Parks should be aligned with growth strategies of hosting regions.</p> <p>The Committee guided by the main budget report adopted, and the new information originating from the <i>Supplementary Adjustments Budget</i>, and the revised APP provided by the Department reiterates that the government will need to act fast to implement its spending plan priorities for jobs, preserve economic productive capacity, and attract investments. To this end, the Committee proposed the following recommendations to the <i>Minister of Trade, Industry and Competition</i>:</p> <p>1. Given the pivotal role of the functional policy areas such as the <i>Spatial Industrial Development and Economic Transformation, Industrial Competitiveness</i></p>
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			<p>added manufactured products. Further, South Africa would pursue the global trade transactions guided by international trade and investment regime.</p> <p>5. The Committee further noted that the budget cuts in relation to the some of the core policy areas such as the <i>Industrial Competitiveness and Growth and Industrial Financing</i> was a concern, and that has the potential to compromise economic growth and jobs' objectives. The Department agreed, however it stressed that government is committed to drive economic growth and jobs policy objectives. The Department believes that the suspended funds in respect of the <i>Industrial Competitiveness and Growth and Industrial Financing</i> policy areas would be restored in the 2021 budget allocations.</p> <p>6. In response to concerns raised regarding financing for SEZ and Industrial Parks, the Department indicated that whilst is providing support programmes it has a limited funding, hence it is requesting the Committee to support its effort in facilitating and mobilising provincial and local governments as hosts to the industrial and development platforms to contribute in funding and financing the SEZ and the Industrial Parks. The Department indicated that Ministers and Members of Executive Council (MINMEC) meetings are envisaged to find creative solutions to address the funding and financing requirements. The Department for instance proposes that the sub-national governments should use re-invest the rental funds generated in the industrial development platforms to propel growth and expansion of the industrial development platforms by investing in infrastructure development of the SEZ and Industrial Parks.</p>	<p><i>and Growth, Industrial Financing</i> contribution to the government's inclusive growth agenda, budget cuts in these functional policy areas is a concern. The Committee put it on record that in the 2021 medium term, the funds that were suspended in respect of the functional policy areas should be restored.</p> <p>2. The Committee noted that COVID-19 has negatively affected many firms in almost all industries in the economy. Industrial production capacity has been disrupted, and many jobs in the economy are set to be lost. The Committee welcomes that <i>the Industrial Financing</i> is expected to receive R500 million through the departmental reprioritisation exercise to support firms that are in distress as a result of the restrictions on economic activity. However, Committee recommends that the Department should engage National Treasury to provide additional funding over the 2021 medium term to upscale financing support directed to the companies in distress.</p> <p>3. Over the medium term the Department should accelerate the implementation of the <i>Industrial Parks Revitalisation Programme</i>. Working in partnership with other departments such as <i>Small Business Development</i>, and sub-national governments the Department need to provide incubation and business development support in the <i>Industrial Parks</i>, which include market linkage facilitation so that the <i>Industrial Parks</i> can attract, support and sustain new firms. Firms located in the <i>Industrial Parks</i> should be exposed to various government incentives schemes.</p> <p>4. The Department has several incentives schemes such as the manufacturing investment schemes,</p>
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			<p>7. The Committee emphasised that the success of the SEZ and Industrial Parks programme hinges on collaborative efforts by all spheres of government.</p> <p>8. The Department made an undertaking that it will address the issues related to governance that occurred at the <i>National Lotteries Board</i>. The Department submitted that it will certainly brief the Committee on the outcomes of the forensic investigation report.</p> <p>9. Localisation programme remains a priority, that Department reported. To this effect, the Department reported that it working with National Treasury to strengthen governance regime to ensure that local manufacturing capacity is supported. Further, enhance implementation of the <i>Black Industrialist Programme</i>.</p> <p>10. The Committee stressed that spatial distribution of development resources should be prioritised. The rural and urban gap should be addressed. Investment aimed to boost industrial development should take into account spatial development considerations.</p> <p>11. Further, the Committee stressed that government need to pace the implementation of the economic recovery plan to double efforts to address poverty, inequality and unemployment. Post-<i>COVID-19 efforts</i> should yield positive outcomes with regard to investments, growth and expansion of businesses in particular small enterprises both in urban and rural</p>	<p>competitive investment scheme, service investment, industrial innovation investment cluster competitive investment, and infrastructure investment schemes. The Committee urges the Department to improve coordination across levels of government to strengthen and enhance allocation of resources across industrial development programmes.</p> <p>5. South Africa has high number of unemployment, and with surplus of unskilled labour. There is a growing concern that the <i>Special Economic Zones</i> should also priorities labour intensive sector. The Department should consider that some of the SEZ to focus on labour intensive firms.</p> <p><i>Report to be considered.</i></p>
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				economies, and boost job creation in order to avoid socio-economic instability.	
7.	2021	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on the National Gambling Amendment Bill [B 27B - 2018], dated 16 February 2021	ATC 210216	<p><b>Conclusion</b></p> <p>The technical errors with regard to insertion of dates and signature in the final mandates should be forwarded to relevant provinces to be rectified.</p>	<p><b>Recommendation</b></p> <p>Report to be considered.</p>
8.	2021	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on a Virtual engagement with National, Provincial and Local Government On Special Economic Zones and Industrial Parks On Realizing Government Policy Outcomes in Respect of Investments, Economic Growth and Job Creation at Provincial and Local Government Level, Dated 18 May 2021	ATC 210519	<p><b>Key Issues Arising from Engagement</b></p> <ol style="list-style-type: none"> <li>1. Noted the importance of the SEZs and Industrial Parks in the overall economy, particular for the hosting regions, and municipalities.</li> <li>2. It was acknowledged the need to deep integration of the rural development strategy in the formulation and implementation of the SEZs and State Owned Industrial Parks including the City Industry Parks (initiative administered by National Treasury).</li> <li>3. Poor governance in managing SEZs and Industrial Parks needed to be tackled including scaling up efforts to eliminate high levels of crime and vandalism industrial assets such as State Owned Industrial Parks including industrial parks located in the cities.</li> <li>4. It was emphasised that high crime levels and poor governance hinder industrial development as</li> </ol>	<p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>1. Over the 2021 medium term, the Committee directs the Minister, through the <i>Department of Trade, Industry and Competition</i> in partnership with provincial government and local government to accelerate the implementation of the Industrial Park Revitalisation programme. Further, the Department should formulate and submit a strategy plan to increase participation of private sector to reset operations of the <i>State Owned Industrial Parks</i>.</li> <li>2. The Committee noted delays in approval and implementation SEZs in some of the provinces. Further, the Committee appreciated the establishment of the <i>SEZ Project Management Unit</i>. In addition to the establishment of the <i>Project Management Unit</i>, the Committee supported the partnership created by the Department with IDC and DBSA in an effort to support and accelerate implementation of the prioritised proposed and struggling SEZs. By the end of the of the 2021/20 financial year, the <i>Department of Trade, Industry and Competition</i> should submit to the Committee the</li> </ol>

			<p>they discourage investments needed to boost economic growth and employment. To this end, it was agreed that a multi-level approach led by law enforcement agencies (South African Police Services) should be developed to collaboratively address the criminal acts related to the industrial assets. Further, communities should be incorporated in the broader strategy to address vandalism and crime. Failure to do so will negate all the economic gains made, and envisaged socio-economic benefits anticipated in the implementation of the development initiatives.</p> <p>5. Members raised concerns regarding the massive under-investment in infrastructure as well as poor maintenance which inhibits industrial development, and compromise growth and jobs creation efforts. Partnerships needs to be developed in order to ensure that the responsibility of investment and maintenance of infrastructure is equitable shared amongst all three spheres of government.</p> <p>6. It was noted that the Nkomazi SEZ is strategically placed to facilitate cross industrialisation and cross border trade, it is further placed to strengthen regional integration. Due to serious delays over the past three years with the province and local development agency lack of urgency, Members raised concerns regarding the extent to which new approaches have been explored to strengthening the following: Establishment of operator of the SEZ; Planning and implementation of the development project; resource mobilisation including ensuring sufficiency of budget is allocated; to ensure that investors who initially made commitments are not lost due to delays, and</p>	<p>progress report relating to the implementation plan in relation to the prioritised proposed and struggling SEZs.</p> <p>3. Further, the Committee noted funding and financing challenges in implementing SEZs and Industrial Parks industrial development programme. Over the 2021 medium term, the Minister, through the <i>Department of Trade, Industry and Competition</i>, should collaborate with provincial and local government to submit alternative funding and financing strategy to support growth and sustainability of the SEZs and Industrial Parks industrial programme.</p> <p>Report to be considered.</p>
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			<p>attraction of new investors. Importantly, institutional and governance issues need to be urgently addressed.</p> <p>7. It was noted that due to the African Continental Free Trade Agreement (AfTCA) work needed to be done with the <i>Department of Agriculture and Rural Development including other relevant state departments and entities across spheres of government</i> in order to ensure that there is sufficient agricultural land available to ensure there is sufficient supply of goods needed for both domestic and global market and to take advantage of agricultural trade exports to the African continent.</p> <p>8. Members urged that plans need to be fast-tracked to halt urban migration and create more opportunities in peri-urban and rural areas. Both the SEZs and Industrial Parks Revitalisation programmes should be used as strategic instruments to break the urban and rural economy divide. Rural development should be strategic incorporated to the trade and industrial development plans. Investment opportunities must be identified even in peri-urban and rural areas. This does not under-estimate the potential of cities as significant growth contributors to the overall economy.</p> <p>9. It was reported that the Industrial Park Regeneration Programme was part of broader economic reconstruction and recovery initiative. Further, noted that urban areas are where the majority of the country's population resides, however there is work being done to establish development corridors cutting across rural areas. The role of</p>	
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			<p>provinces, and local government need no further emphasis.</p> <p>10. The Committee noted the need for a balanced approach to economic development in order to address the challenge of migration.</p> <p>11. It was noted that many companies have demonstrated willingness to operate in industrial parks than to SEZs. Low rental that industrial parks offer to companies particular to SMMEs play as an incentive for many companies to prefer industrial parks than SEZs. Industrial Parks still offer immediate benefit to the investors, particularly those focusing on the domestic market.</p> <p>12. It was noted that unreliable basic services such as the provision of reliable water and electricity supply hinders industrial development. It is one of the key challenges affecting the establishment of SEZs particularly in rural areas. Coordination across government needed to be accelerated to tackle energy, transport, water infrastructure in peri-urban-rural towns and cities. It was submitted that feasibility studies are being conducted to explore opportunities for the construction of a dam in those areas that have little access to water.</p> <p>13. All spheres of government have a responsibility to drive investment initiatives. Coordination in this regard was emphasised. National, provincial and local trade and investment promotion agencies need to work in a collaborative manner to attract investments. It was also reported that various SEZs have the capacity and capability to attract</p>	
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			<p>investments as they offer unique value propositions regarding the diverse industries they service.</p> <p><b>Observations</b></p> <ol style="list-style-type: none"> <li>1. Alignment of the SEZs including Industrial Parks with national, provincial and local government economic development strategies is essential.</li> <li>2. Location of SEZs including industrial parks should be based on economic advantages to ensure sustainability and attractiveness to investors. The locations should be strategic to facilitate backward and forward linkages with downstream and upstream industries while also having a pull effect for other locations in the rest of the economy.</li> <li>3. Coordination of resources, and inclusion of private sector including development finance institution to ensure that SEZs remain financial and economic sustainable.</li> <li>4. Noted that the outcomes of the SEZs seem more promising in account of the level of investment and the number of jobs created (see Table 1, section on national development perspective). South Africa has high number of unemployment, and with surplus of unskilled labour. There is a growing concern that the Special Economic Zones should also priorities labour intensive sector, advocates the Centre for Enterprise Development. Costs in Asia, especially China, are rising and there is much talk of millions of labour intensive firms looking for new regional locations.</li> </ol>	
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				<p>labour and private sector is crucial to the success of SEZs including the Industrial Parks.</p> <p>10. Infrastructure, including electricity, water, and access to roads/rail facilities are essential. Slow spending on capital budgets, poor infrastructure management and investment and governance in provincial and local government including SOEs has the potential to hamper the sustainability of SEZs and Industrial Parks initiative. Inadequate or lack of infrastructure discourage investors.</p> <p>11. Promotion of public-private development and management of SEZs (including Industrial Park Revitalisation platform) is essential. Taking into account that the fiscal purse is constrained. Alternative financing solutions should be found. As already stated the role of development finance institutions and private sector is critical.</p>	
9.	2021	Report of the Select Committee on Trade And Industry, Economic Development, Small Business Development, Tourism, Employment and Labour jointly with the Portfolio Committee on Small Business Development, Following a fact finding Visit to Kwazulu-Natal and Gauteng provinces, Dated 19 August 2021	ATC 210820	<p><b>Committee Observations</b></p> <p>Having conducted site visits to the provinces of KwaZulu-Natal and Gauteng, the Committees herewith register the following observations –</p> <p>It was evident, based on the magnitude of damage to property and business disruption that economic and financial costs of the unrest will run into billions of rands. The Committees welcome the government’s economic relief support to offset adversarial impacts of the unrest. Equally, they note that that a large portion of the financial aid will be by way of insurance claims through SASRIA, approximately R20 billion;</p>	<p><b>Committee Recommendations</b></p> <p>The recent events that happened in KwaZulu-Natal and Gauteng provinces have no doubt affected businesses and livelihoods in the affected areas. They had a great potential to undermine government’s <i>Economic Reconstruction and Recovery Plan</i>. The Committee makes the following recommendations to the Minister of Small Business Development, and the Minister of Trade, Industry and Competition:</p> <p>1. The <i>Minister of Trade, Industry and Competition and the Minister of Small Business Development</i> through their development agencies such Seda, Sefa, and NEF should work in a</p>



				<p>Small businesses not covered by SASRIA will be allocated R2.3 billion which when juxtaposed to the level destruction and number of displaced small business concerns, may fall short to kick-start the economy that has suffered double-whammy of the pandemic and civil unrest. The allocation will be sourced via reprioritisation and reallocation of existing baselines. Committees also note and welcome the Department of Trade, Industry and Competition (the “dtic”) relief package of R4 billion (R2 billion from dtic, R1.5 billion from Industrial Development Corporation and R250 from National Empowerment Fund) with R100 million matching grant facility to support affected small and informal businesses in townships, rural areas and small towns impacted by the unrest;</p> <p>The Committees noted that the Department, through its agencies, has initiated the process to consider applications with closing date being set for 20 August 2021. But what the Committees detected, throughout the site visits, Sefa and Seda were not present on the ground, Parliament Committees would coincidentally be first on the scene. The agencies are barely known and their products and services are almost not known nor accessible especially by informal traders. On interrogating the Business Recovery Support application form, Members have reservations that it is not only strenuous and complex but some of the information or required documentation, may not be attainable within a short space of time considering that the country is still under level 3 lockdown, and therefore, many employees still work remotely;</p>	<p>coordinated manner with SASRIA to intensify financial literacy and empowerment campaigns targeting small businesses and informal traders. Such programmes should find expression in the expenditure plans of the respective departments and development agencies including expenditure plans of SASRIA. The financial literacy and empowerment initiative should get the necessary support from the National Treasury.</p> <p>2. The Committee further recommends that provincial and local government departments responsible for growth and development of SMMEs should support and promote the financial literacy and empowerment initiative. Across the spheres of government, development agencies responsible for the growth and expansion of SMMEs should promote and support small enterprises to uptake SASRIA insurance.</p> <p>3. Further, over the 2021 medium term SASRIA should accelerate the rollout of insurance products that would service underserved communities.</p> <p>4. Based on the evidence or information Committees gathered on the ground, magnitude of destruction to property, scope of business disruption and number of displaced informal traders, the allocation of R2.3 billion is welcomed but not adequate. There is a need for the <i>Ministers of Trade, Industry and Competition and Small Business Development</i> to engage the <i>Minister of Finance</i> to provide within the fiscal framework additional funding to support affected SMMEs and small traders or to find alternative financing and funding to assist the affected SMMEs (particular the uninsured enterprises).</p>
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			<p>When the Committees hit the ground in Durban, for example, neither Sefa nor Seda had initiated any effort to assist the victims of looting, and some of the trader's properties and documents, as witnessed at Isipingo, had been burnt almost beyond recognition. Owing to the nature of their trade, most informal traders are most likely to miss the deadline;</p> <p>One of the noticeable trend observed by Committees in KwaZulu-Natal were incidents of arson that were much more prevalent than Gauteng. Consequently, recovery period in KwaZulu-Natal is likely to take longer than Gauteng. From the Committees point of view, this may necessitate differential but not blanket approaches in terms of application deadlines;</p> <p>Parliament's Committees engaged extensively with informal traders and learned of antithetic yet interdependent relationship between traders and malls. In all the sites visited, Committee observed that informal traders use services such as water, shelter, sanitation and sometimes storage facilities provided by the malls. Moreover, street traders benefit from the foot traffic generated by the malls. Nonetheless, the general perspective that retail nodes destroy and hinder business opportunities for informal traders in complementary and contradictory ways remain. Some supermarkets are accused of consciously displacing informal traders through direct competition;</p> <p>In other areas, shopping malls are suspected of deliberately alienating informal traders from participating in the retail opportunity, with the traders having to occupy sites on the periphery of these developments in conditions that are not ideal for</p>	<p>5. Working with provincial and local government, both the <i>Minister of Trade, Industry and Competition</i> and the <i>Minister of Small Business Development</i> should accelerate and streamline payment processes.</p> <p>6. Over the 2021 medium term, all spheres of government should tackle regulatory constraints that are hindering the operations and expansion of small traders.</p> <p>7. The <i>Minister of Small Business Development</i> working closer with other spheres of government should concretise and lead measures to improve relationships between the shopping centres, supermarkets and informal traders. Large-scale supermarkets have sought to make inroads into the township economy to capture a share of the food market which was historically served by micro-enterprises and informal street traders. The district development model provides a useful framework for such relationships to be forged, while the use of Public-Private Partnership (PPP) may also be considered. Shopping malls must be seen to be adding value to the communities in which they operate not just in terms of employment but also in terms of access to market and reduced market competition.</p> <p>8. Further, the Minister of Small Business Development through the Department should give a serious consideration to the reinstatement of the Shared Economic Infrastructure Facility (SEIF) which may address a number of infrastructure related</p>
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			<p>conducting business. Thus, sentiment of ownership of the mall by informal traders or a feeling of being part of the shopping mall ecosystem is either limited or does not exist;</p> <p>In terms of the trading spaces that traders occupy e.g. outside Mayfield Square in Daveyton, Committees learned that informal traders are considered illegal since the spaces have not been set aside for trade by Ekurhuleni Municipality These spaces have no cover or shelters, no ablution or sanitation facilities, no storage, no refuse removal by the municipalities, no lights which ideally would enable informal traders to trade until late. The trading of commodities such as fruits, vegetables and clothes are negatively affected by unpleasant environmental conditions, resulting in loss of earnings to the traders;</p> <p>Furthermore, informal traders are subject to many challenges which can be addressed through collective efforts from a variety of sectors such as the government and formal businesses. In Soweto, Jabulani Mall, such invitation was extended by Dr Nkuna for the City of Joburg to consider Public-public partnership (PPP) with mall developers and owners;</p> <p>In conclusion, street vendors and informal traders have been noted to be perhaps the most regulated and the least protected, who trade unlawfully due to a lack of recognition and licenses. The Committees heard of challenges facing traders outside Pan Africa Mall, including serious allegations that foreigners are also permit holders yet it takes in excess of 12 months for South Africans to obtain</p>	<p>complaints by informal traders e.g. ablution facilities, restrooms and storage facilities.</p> <p>9. In addition, the Committee encourages the <i>Department of Small Business Development</i> to work in a collaborative manner with the <i>Department of Public Works and Infrastructure</i> to rollout working assets for small enterprises and informal enterprises.</p> <p>10. The Minister of Small Business Development should accelerate the process of reviewing the Small Business Act (1991). Over the 2021 medium term, the <i>Minister of Small Business Development</i> through the <i>Department</i> should introduce a new bill to Parliament that would address the regulatory impediments affecting small enterprises.</p> <p>11. The Minister of Small Business Development and the Minister of Trade, Industry and Competition should convene a meeting with the Chamber of Businesses and informal trader associations at the City of Ekurhuleni (CoE) to deal with contentious issues obstructing business growth, and sustainability. Both Ministers should submit the report detailing the outcomes of the meeting to the relevant Parliamentary Committees.</p> <p>Report to be considered.</p>
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				trading permits. In most cases vendors are not issued with any identification showing that they have a legitimate right to sell their goods in urban streets, which further exposes them to harassment, including the confiscation of goods, assault and demands for bribes as Members of Parliament heard in Alexandra and other sites visited in Durban, Daveyton and Katlehong.	
10.	2021	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, dated 7 December 2021	ATC 211207	<p><b>Purpose of the visit</b></p> <p>The purpose of the visit by the joint Select Committees was to receive economic growth and development performance reports from the <i>City of Cape Town and West Coast District Municipality</i>. The presentations covered achievements and implementation plans in relation to the local economic development programmes covering investments in areas such as <i>Transport, Tourism, Special Economic Zones (SEZs)</i> and the status report on the taxi violence in the <i>City of Cape Town</i>. The delegation also visited projects implemented by the Department of Public Works and Infrastructure Development (<i>Integrated Facilities Management – South African Police Service (SAPS) Forensic Science Laboratory</i>), Department of Transport (<i>Public Transport Interchange – DuNoon</i>), Department of Small Business and Development (<i>Honest Chocolate</i>), Department of Employment and Labour (Bellville Labour Centre) and Department of Trade and Industry and Competition (<i>Sigma International, Blue Sapphire Pearls</i>), and the Department of Tourism (<i>West Coast National Park</i>). Further, the delegation visited the <i>Saldanha Bay Industrial Development Zone SOC Ltd (SBIDZ)</i>.</p>	<p><b>Recommendations</b></p> <p>The oversight visit was mounted on the theme: Resetting the Economy to Boost Economic Growth, Attract Investments and Create Jobs in regional and local economies. The Select Committees took the following recommendations:</p> <ol style="list-style-type: none"> <li>1. Over the 2021 medium term the Minister of Transport, the provincial Minister responsible for transport, and the City of Cape Town should develop detailed plans to tackle current challenges on the public transport, especially rail. The deterioration of the rail service in City of Cape Town, with its resultant sharp increase in road usage needs to be addressed. The most pressing challenge facing the City of Cape Town's transport network and by extension its economic growth potential, is the decline of rail.</li> <li>2. Minister of Transport, and the provincial Minister responsible for transport together with City of Cape Town should improve coordination in terms of regulating the taxi industry. Evidence shows that most South Africans use a taxi to travel to school and work. Modernisation of the taxi industry should be accelerated.</li> </ol>

					<p>3. Over the 2021 medium term, national, provincial and local government should scale-up coherency for land development and planning, as spatial mismatch with disconnections between people, skills, jobs and investment hold back social and economic progress.</p> <p>4. Over the 2021 medium term, both the City of Cape Town and the West Coast District Municipality should accelerate the implementation of the township economy strategies.</p> <p>5. Shared working spaces for entrepreneurs, and small enterprises, including small traders, remain an essential priority. The Minister of Small Business Development and the Minister of Public Works and Infrastructure, including provincial ministers responsible for Enterprise Development and Public Works, the City of Cape Town and the West Coast District Municipality in partnership with the private sector should establish shared working spaces to support growth and expansion of SMMEs and small traders.</p> <p>6. The City of Cape Town and the West Coast District Municipality should, over the 2021 medium term, devise strategies and plans to tackle regulatory constraints that are hindering the operations and expansion of small traders.</p> <p>7. The Minister of Trade, Industry and Competition and the Minister of Small Business Development through their development agencies such as Seda, Sefa and NEF should work in a coordinated manner with SASRIA to intensify financial literacy and empowerment campaigns targeting small businesses</p>
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					<p>and informal traders. Such programmes should find expression in the expenditure plans of the respective departments and development agencies including expenditure plans of SASRIA. The financial literacy and empowerment initiative should get the necessary support from National Treasury.</p> <p>8. The City of Cape Town and the West Coast District Municipality should through their enterprise development agencies or business components design outreach campaigns to encourage small businesses, including informal enterprises, to take-up business insurance cover.</p> <p>9. There is a need for SASRIA to accelerate the rollout of insurance products that would cover the underserved communities. Hence the Minister of Finance should ensure that SASRIA designs implementation plans that would enable the underserved communities to take insurance cover.</p> <p>10. Over the 2021 medium term, the Minister of Employment and Labour, the City of Cape Town and the West Coast District Municipality in partnership with the institutions of higher education and training and industry players should establish and solidify job placement opportunity initiatives, including skills and training initiatives to tackle unemployment and to close the skills gap.</p> <p>11. Over the 2021 medium term, the Minister of Tourism and the Minister of Finance in partnership with the provincial and local governments (including development agencies) and in partnership with the private sector (Banks) should develop innovative</p>
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					<p>financing mechanisms that would meaningfully support the recovery and growth of the tourism industry.</p> <p>12. Over the 2021 medium term, the Minister of Finance should reconsider the re-introduction of the <i>12J Venture Capital</i> incentive to broaden the base of capital as an alternative instrument to finance SMMEs. The tourism industry has been severely affected by Covid-19. Many jobs and businesses have been lost in the economy. Innovative solutions in terms of financing businesses, both formal and informal, should be found.</p> <p>13. Crime remains one of the risks that deters the growth and expansion of the tourism industry. The City of Cape Town, including the West Coast District Municipality, working closer with the South African Police Service and local communities, should devise measures to tackle crime.</p> <p>14. The Minister of Tourism and the Minister of Environment, Forestry and Fisheries should continue to work in a collaborative manner with the provincial government, the City of Cape Town and the West Coast District Municipality to improve public infrastructure and attract private investment to support growth of tourism, and enhance the alignment of environment tourism products. Access to tourism platforms for local communities should be prioritised.</p> <p>15. The West Coast District Municipality together with the Western Cape Department of Agriculture, including the national departments of Agriculture, Land Reform and Rural Development; Forestry,</p>
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				<p>Fisheries and the Environment; as well as development finance agencies (such as the Land Bank) need to form development initiatives in collaboration with industry players to restore investment and business confidence in the agricultural industry, and further support growth of SMMEs in the industries such as agriculture and fisheries.</p> <p>16. The West Coast District Municipality is one of the fastest growing economic regions in the Western Cape. As such higher levels of economic activity, which would result in an increase in business and job opportunities would certainly cause a growth in the population and increased pressure on the provision of physical, social, economic and environmental infrastructure. To this end, over the 2021 medium term the national and provincial ministries responsible for spatial and development planning should support the District to improve spatial and development planning to improve alignment in terms of investment in infrastructure in areas such as transport, energy, water and sanitation, environment including housing.</p> <p>17. The SBIDZ could only succeed if it continues to cement relations with key strategic partners such as the Western Cape Department of Economic Development and Tourism (DEDAT), the Ministry of Trade, Industry, and Competition, the Ministry of Public Enterprises (Transnet, TNPA), Small Business Development, including Ministry of Higher Education, Training and Innovation, Saldanha Bay Municipality, local businesses and the community including the Western Cape Government's departments of Transport and Public Works, Environmental Affairs and Development Planning, and Health, national</p>
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					<p>Ministry of Finance (including SARS), Employment and Labour, and financial development institutions (such as IDC, DBSA). Over the 2021 medium term, the strategic partners mentioned in this section should support SBIDZ to sustain its operations, and build capacity and capability by unlocking barriers so that the SBIDZ gain much needed financial and policy capital in order to realise its strategic priorities.</p> <p>Report to be considered.</p>
11.	2021	<p>Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour Virtual Engagement With National, Provincial, Local And Provincial Development Agencies on Strategies to Boost Economic Growth, Attract Investments and Boost Job Creation in the Eastern Cape Province and Buffalo City Metropolitan Municipality, Dated 7 December 2021</p>	ATC 211217	<p><b>Background</b></p> <p>The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour (Committee), having convened a virtual meeting on 9 November 2021 and having invited the departments of Trade, Industry and Competition (Dtic) and of Public Enterprises (DPE); the Passenger Rail Agency of South Africa (Prasa), Transnet SOC Ltd (Transnet), the Eastern Cape Department of Economic Development, Environmental Affairs and Tourism (sent an apology); the Eastern Cape Development Corporation (ECDC); the Buffalo City Metropolitan Municipality (BCMM), and the Buffalo City Metropolitan Development Agency (BCMDA) to discuss their policy and development programmes' contribution to the Economic Reconstruction and Recovery Plan (ERRP) in their respective jurisdictional areas, reports as follows:</p> <p>The presentations from Dtic, ECDC and BCMM, including BCMDA, have acknowledged that the COVID19 pandemic has had major effects on both</p>	<p><b>Recommendations</b></p> <ol style="list-style-type: none"> <li>1. The Committee noted that the deteriorating logistics network and infrastructure could derail government's ERRP, hence it is important to invest in the ports, rail and energy, including water and sanitation infrastructure. To this end, the Committee recommends that the Minister of Public Enterprises should submit to the Committee before the end of the 2022/23 financial year, the feasibility study which is expected to determine whether it is feasible to increase the capacity of the of the East London Port, including the initiative to expand the automotive terminal.</li> <li>2. The Committee recommends that over the 2022 medium term, the Minister of Transport, the Member of Executive Council responsible for transport, and the BCMM with the support of the National and Provincial treasuries should formulate a plan that should also entail financing and funding mechanism to accelerate the implementation of the public transport development programme in the BCMM.</li> </ol>

			<p>the global and South Africa's economic performance, and social and health systems. Small businesses were more likely to be in industries hit hard by the lockdown restrictions put in place to stop the spread of the virus. These measures warranted state support to many SMMEs and Cooperatives.</p> <p>The government support to some degree prevented the collapse of firms and in some cases the entire industry, and saved jobs. Some industries have been able to continue operating during the lockdown – notably online retailers – and as a result have seen massive increases in sales, whilst businesses based on tourism or hospitality had been closed for months. Many jobs in the most affected sectors and industries were lost. This put many households' livelihoods at risk.</p> <p>The Province and BCMM's economies mirror the national economy. Before Covid-19, South Africa and the Province's economies, had been characterised by low investment and economic growth, weak business and consumer sentiment. Energy supply remained a risk to growth. The energy supply crisis had the potential to deter investment and had a direct effect on production capacity, and frustrated South Africa's employment creation initiatives. It was noted that the cost of doing business in the Province contributed to investors taking their businesses to other provinces.</p> <p>Support of SMMEs and Cooperatives remains a challenge. The Eastern Cape Province needed to tackle the inadequacy of business acumen/entrepreneurship. According to the ECDC, in the 2021 Corporate Plan nearly 80 per cent of SMMEs in the Province were survivalist. It was noted</p>	<p>3. The Member of the Provincial Executive Council responsible for Economic Development, Environment Affairs, and Tourism should engage the Provincial Treasury to consider funding the InvestSA: EC OSS to improve its organisational capacity and capability in order to fulfil its policy obligations. Funding should be set aside in the 2022 medium term, and the funds should be earmarked.</p> <p>4. The Ministers responsible for transport, energy, water and sanitation, public enterprises and ICT should develop in a collaborative approach with the Eastern Cape Provincial Government and the affected district municipalities an integrated plan for the investment and development of the "Eastern Side Region" of the Eastern Cape Province. The plan should be submitted to the Committee before the end of the 2023/24 financial year.</p> <p>5. BCMM and BCMDA should submit to the Committee the plan that will cover all development projects within the region. The plan should be submitted by the end of the 2021/22 financial year.</p> <p>6. The Select Committee on Public Enterprises and Communications and the Select Committee on Security and Justice should convene a joint meeting by inviting the Ministers of Police, Justice and Correctional Services to address the slow pace of finalising investigation, and prosecution of the alleged acts of corruption and maladministration relating to SOEs.</p>
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			<p>that resources should also be directed to initiatives that supported the growth and expansion of SMMMEs and Cooperatives.</p> <p>Taking into consideration that the fiscus was constrained, the formation of development partnerships with the private sector, development finance institutions, commercial banks, institutions of higher education and civil society was essential to mobilise resources to support the growth and development of SMMEs and Cooperatives, including the informal enterprises.</p> <p>Growth and expansion of SMMEs relied more on government spending. There was a need for the Province to develop and deepen private sector participation in the economy to drive inclusive economic growth. The automotive industry, agriculture and the services sector were the main drivers of the provincial economy. High unemployment and inequality, in particular for the youth and women, remained the major risks. Most of those who had lost their jobs because of the pandemic might lack the skills and training needed to obtain one of the newly created jobs.</p> <p>The economy of the Eastern Cape, including that of the BCMM, needed to improve the level of diversification of economic sectors with related industries. According to the Eastern Cape Government's Socio Economic Outlook (2020), the province boasted manufacturing multinationals such as Volkswagen, Mercedes Benz South Africa, Ford, Johnson and Johnson, Nestlé, Defy and Aspen in its secondary sector which is dominated by vehicles, nuclear reactors, wool and animal hair, precious</p>	<p>Report to be considered.</p>
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			<p>stones, fruits and nuts and locomotives. Despite low levels of investment confidence, and deteriorating infrastructure, it was reported that Mercedes Benz South Africa and Nestlé have shown interest to continue to invest in the Eastern Cape Province, in particular in the BCMM region. In June 2021, Mercedes Benz launched the new C-class model made in East London, which was one of only three locations globally (Germany, China and South Africa). In October 2021, the launch Start of Africa's first Covid-19 vaccine production at Aspen plant in Nelson Mandela Bay (J&amp;J vaccine).</p> <p>It was emphasised by the BCMM and the BCMDA that it was critical that investment in ports, rail and road infrastructure be realised. Investments in ports (East London Port), rail (Linking East London and King Williams Town-Qonce) should be prioritised. Investment in public transport should receive top priority.</p> <p>The BCMM and BCMDA urged the national government, in particular the Department of Transport (and its entities such as Prasa, and Sanral) and the Department of Public Enterprises (including the entities reporting to it, such as Transnet) to also prioritise the Eastern Cape province, with more emphasis on the BCMM when they considered investment decisions.</p> <p>Recently, government had been championing the need to build domestic capacity to build dynamic firms and local industry capabilities as suppliers to domestic, regional and global markets. The localisation drive was seen by government as an opportunity to drive industrialisation that would</p>	
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				<p>benefit regional economies and boost employment. Forty two products were identified across sectors, including agro-processing, health care, basic consumer goods, capital goods, construction-driven value-chains, and transport rolling stock, as key products that could be manufactured locally. It was reported that the Chief Executive Officer champions from the private sector have been identified to drive implementation for localisation across the 42 products identified. Further, the Industry masterplans would further support efforts to industrialise key sectors. Some of the industry experts have argued that the drive to push localisation 'bluntly' would inhibit economic growth and dampen efforts to create needed jobs.</p> <p>The following sections will cover the inputs made by the ECDC, BCMM, BCMMDA, Dtic, Prasa, DPE, and Transnet. Further, the report will cover a policy discussion section. It will conclude with recommendations.</p>	
12.	2022	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment & Labour On Budget Vote 39	ATC 220518	<p><b>Issues Arising from Engagement</b></p> <p>The following are the key issues raised by Members and responses from the Department during deliberations:</p> <p>1. The Committee welcomes the Department's alignment with the SONA priorities as it relates to climate change. In this respect, Members raised concerns regarding the feasibility of electric cars given the current crisis in relation to the energy supply in the country.</p>	<p><b>Recommendations</b></p> <p>Following the engagements with the Department, the Committee proposed the following recommendations to the Minister to be implemented over the 2022 medium term:</p> <p>1. The Committee has identified the over concentration of economic activities and employment opportunities in three provinces such as Gauteng, Western Cape and KwaZulu-Natal. To this end, the Committee proposes the creation of the National Regional Economic Development Fund to support regions (districts) that are lagging behind in terms of economic development.</p>

			<p>2. In terms of the R366.8 billion pledged in relation to investment, Members queried the extent to which these had been turned into actual investment.</p> <p>3. In terms of the operationalising investment pledges, the Department submitted that the aim was to finalise specific commitments by June 2022, after having negotiated specific commitments and after having undergone the formal approval process.</p> <p>4. Following concerns raised by Members regarding the delay with social compacts the Department noted the concern and acknowledged that the pace needs to be increased that so that these can be finalised. The Department further indicated that progress was slow due to the low trust levels which needs to be addressed.</p> <p>5. Members raised serious concerns regarding the lack of progress regarding SEZs and Industrial Parks, in particular, the Nkomazi SEZ in Mpumalanga which has seen little progress to date.</p> <p>6. In respect of the Nkomazi SEZ, the Department submitted that this has highlighted the weaknesses in the SEZ model. The Department is currently working on a new model for SEZ's and Industrial Park's which it intends to table during the course of the 2022/23 financial year.</p> <p>Currently, spatial industrial development interventions are a provincial responsibility with limited managerial input from national government; this approach has not yielded the desired results. In addressing this, the Department introduced a new</p>	<p>Over the 2022 medium term the Minister should engage the Minister of Finance on the establishment of the National Regional Economic Development Fund to support economic growth, investment, enterprise development and employment in other 6 provinces.</p> <p>2. Given the vital role of the Department in implementation, and coordination of the Re-imagined Industrial Strategy, which complements the ERRP including the National Development Plan it is critical that the capacity and capability of the Department is strengthened and enhanced.</p> <p>Over the medium term, the Minister through the Department should ensure that critical positions in the core functional programmes are filled. Further, if a need arises for the creation of new positions aligned to the need to accelerate the implementation of the Re-imagined Industrial Strategy, such positions should be urgently filled.</p> <p>3. Over the medium term the Minister through the Department should accelerate the implementation of the Industrial Parks Revitalisation Programme. Further, a joint initiative together with the Minister of Finance through the National Treasuring's City Industrial Parks Programme should be formed, which should include other spheres of government to enhance the implementation of Industrial Parks Revitalisation Programme.</p> <p>4. South Africa has high numbers of unemployment, and with surplus of unskilled labour. There is a growing concern that the Special Economic Zones should also prioritise labour intensive sector. Over the</p>
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			<p>approach, which includes the creation of the Special Economic Zone Unit within the Industrial Development Corporation which is headed by the former Director General of the Department. Further changes include reforms and changes to the SEZ and Industrial Park model. These will be complemented by a wider effort to map out and improve the impact of the Department measures in all 52 district municipalities and metros.</p> <p>Delays in progress at the Nkomazi SEZ relate to lack of capacity and coordination with the province. The Department has deployed the SEZ Project Management Unit (PMU) which falls under the IDC. The primary challenge in respect of Nkomazi SEZ related to the capacity to implement and with the assistance of the Department the SEZ has been able to establish a company and deployed the former Deputy Director General of the Department who is chairing the board, which consist of all three spheres of government. Further assistance involves working with the Mpumalanga Provincial Government to assist with infrastructure, and R64 million has been allocated for the current financial year for operating costs associated with the Nkomazi SEZ. The PMU deployed by the Department have been instructed to operationalise some of the investments which have been attracted for the project which includes a logistics firm from Dubai which is planning to establish operations at the Nkomazi SEZ and intend to utilise own funds for infrastructure. Further challenges relate to the location of the Nkomazi SEZ, as the Department noted the need to be closer to the railway line. This presented challenges in respect of Environmental Impact Assessments (EIA's).</p> <p>The Department noted challenges with the application to the South African National Roads Agency (SANRAL), in which the agency anticipated</p>	<p>medium term, the Minister should explore opportunities that could enable the Coega SEZ to also cover textile, clothing and leather industry to support exports.</p> <p>5. The Minister should over the medium term ensure that all planned SEZs in other provinces are operational. To this end, the Committee would expect the Minister to submit each year a mid-term progress report in relation to the implementation of the SEZs.</p> <p>6. Research and Development (R&amp;D) remains a pivotal element in efforts to boost productivity and competitiveness of the economy. Over the medium term the Minister, working jointly with the Minister responsible for Science and Innovation, should develop an action plan with necessary funding requirements to invest in R&amp;D in the provinces, in particular those which are lagging in terms of economic development. The Committee is expecting to receive the report by the end of the 2022/23 financial year.</p> <p>Report to be considered.</p>
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			<p>high traffic congestion and declined the application. A traffic engineer has since been appointed to work with SANRAL to resolve this issue.</p> <p>7. Members raised concerns regarding the ongoing changes to the organisational structure of the Department and the high potential for anxiety this can create for personnel.</p> <p>8. Members noted the 25 percent procurement target in respect of women and queried why this differed from the President's SONA target of 40 percent.</p> <p>9. The Department submitted that it was working towards the 40 percent target for procurement for women and indicated that this would be done incrementally, it noted that the work was being done with the Department of Women, Children, Youth and Persons with Disabilities and National Treasury as to how best this could be implemented.</p> <p>10. The Department submitted that measures in place to assist small businesses in respect of red tape include the improving of productivity and investment in ICT infrastructure to assist the Department in improving turnaround times. Further improvements include changes to the legislative and policy areas.</p> <p>11. In respect of economic diplomacy, the Department submitted that the Department of International Relations and Cooperation launched a mechanism for economic diplomacy particularly in the African continent to ensure that the whole of</p>	
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			<p>government coordinates to attract more foreign direct investment. The Department acknowledged that it does need increase its footprint across South African Missions and further acknowledge the need for appropriate personnel with the requisite skills to attract investment and to open markets for exports and is working with the Department of International Relations and Cooperation in this regard.</p> <p>12. In response to concerns raised regarding the delay in finalising the Companies Amendment Bill which has been ongoing since 2019. The Department submitted that to date there several areas of disagreement. This resulted in further consultation with stakeholders which highlighted substantive issues which relate to issues of disclosure; the inclusion of workers on board structures; red tape and modalities of board governance. The revised amendment bill was published in 2021 and the Department intends to introduce the legislation to Cabinet by the end of the 2022/23 financial year.</p> <p>13. In respect of the Liquor Amendment Bill, the Department submitted that the pandemic highlighted serious challenges in respect of liquor within the country. The legislation is therefore under review taking into consideration lessons learnt and a coordinated approach across government. The Department is considering putting measures in place in a more comprehensive and sustainable manner and have begun engagements with other departments in this regard with a view to strengthening measures in a holistic manner.</p>	
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13.	2022	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour, Jointly with Select Committee on Public Service and Administration and Public Works and Infrastructure on Oversight Visit to The Northern Cape 16-19 August 2022, Dated 30 November 2022	ATC 221201	<p><b>Purpose of the visit</b></p> <p>The purpose of the visit by the joint Select Committees was to receive briefings from national, provincial and local government with respect to assessing the progress made in various sectors of the economy to jumpstart the economic recovery plan in the Northern Cape after the devastating impact of the Covid-19 pandemic. Further to examine progress made in relation to the implementation of the Economic Reconstruction and Recovery Plan (ERRP), and the Re-Imagined Industrial Strategy including the implementation of high impact infrastructure development projects. The Committees visited two district municipalities,</p>	<p><b>Recommendations</b></p> <p>1. Over the 2023 medium term, the National Ministers responsible for transport, roads, public enterprises, energy, water and sanitation including trade, investment, infrastructure and small businesses working together with the Member of the Executive Council responsible for economic development, transport and roads including the John Taolo Gaetsewe district municipality need to develop an integrated plan to operationalise the Strategic Integrated Project 5 (SIP5, Saldanha–Northern Cape Development Corridor including Khathu Industrial Park. The plan should be submitted to the Select Committees on Trade, Economic Development,</p>

			<p>namely the John Taolo Gaetsewe and the Frances Baard District Municipalities.</p>	<p>Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration, by the end of the 2023/24 financial year.</p> <p>2. Further, over the 2023 medium term, the Ministers for Cooperative Governance and Traditional Affairs and Trade, Industry, and Competition should engage the Minister of Finance to consider of establishing Regional Economic Development Fund to support local government authorities to fund and finance local economic development initiatives, and establish capacity and capability to manage local economic development.</p> <p>3. Over the 2023 medium the Minister of Tourism, and the Minister of Tourism and Arts, Culture, Sport and Environmental Affairs must develop integrated plan to support local government to fund development programmes that seek to spur growth of the creative economy, tourism (nature based tourism) and sport. The Ministers responsible for these sectors must engage the Minister of Finance to consider funding for these development initiatives. Local government authorities need to prioritise and fund tourism development initiatives.</p> <p>4. Tourism industry remains a critical strategic industry that needs cross sector support ranging from roads infrastructure investment including water and sanitation, energy, transport, information and technology. Over the 2023 medium term, the Minister of Tourism must engage all relevant Ministers responsible for transport, roads, public enterprises, energy, water and sanitation including trade, investment, infrastructure and small businesses</p>
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					<p>working together with the Member of the Executive Council responsible for economic development, transport and roads including the John Taolo Gaetsewe and Frances Baard districts to develop a plan that will support tourism development initiatives, and submit such a plan to the to the Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration, by the end of the 2023/24 financial year.</p> <p>5. The John Taolo Gaetsewe District Municipality should submit its road and transport plan for the district to the Committees of Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration before the end of the end of the 2022/23 financial year.</p> <p>6. The Sol Plaatjie Local Municipality should appear before a joint meeting of the Select Committees on Trade, Economic Development, Employment and Labour, Small Business and Tourism and Transport, Public Works and Infrastructure and Public Service and Administration the Committee in 2023 in order to provide an update on its interventions in respect to the storm water, leaking water pipes and faulty sewage pump stations that flow into the Platfontein pan and flooding the R31 road.</p> <p>Report to be considered</p>
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14.	2023	Report by the Select Committee on Trade, Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on the public hearings and responses from the Department of Trade, Industry and Competition on the Performers Protection Amendment Bill [B24D-2016] (Sec76) and the Copyright Amendment Bill [B13D-2017] (Sec76) thereon, dated 25 April 2023	ATC 230425	<p><b>Introduction</b></p> <p>As a result of a section 79(1) (Constitution) referral from the President, the two Bills were tagged as Section 76 Bills. From 1-27 January 2023, the Committee placed adverts for public comment in newspapers to advertise for public comment. The closing date for written submissions was 27 January 2023.</p> <p>The report will attempt to provide an overview of submissions canvassed by interested stakeholders in relation to the two Bills. Further, the report will outline the responses from the Department of Trade, Industry and Competition in respect of the issues raised.</p> <p><b>Legislative Intention of the Bills</b></p> <p>The purpose of the Performers Protection Amendment Bill [B24D-2016], is to amend the Performers' Protection Act, 1967, so as to insert, delete or substitute certain definitions; to provide for performers' economic rights; to extend moral rights to performers in audiovisual fixations; to provide for the transfer of rights where a performer consents to fixation of a performance; to provide for the protection of rights of producers of sound recordings; to broaden the restrictions on the use of performances; to extend the application of restrictions on the use of performances to audiovisual fixations; to provide for royalties or equitable remuneration to be payable when a performance is sold or rented out; to provide for recordal and reporting of certain acts and to provide for an offence in relation thereto; to extend exceptions from prohibitions to audiovisual fixation and sound recordings and include exceptions provided for in the Copyright Act, 1978.</p>	<p><b>Recommendation</b></p> <p>Report to be considered.</p>
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**Responses from the Department of Trade, Industry and Competition to issues raised during public hearings**

<b>COPYRIGHT AMENDMENT BILL</b>	
<b>Definitions</b>	
<b>Public Comment</b>	<b>DTIC response</b>
<ul style="list-style-type: none"> <li>• The proposed amendment to the definition of “broadcast” in the Bills is vague and could create uncertainty for the creative sector, (NAB).</li> <li>• Until the Draft White Paper process has been finalised, and the necessary legislative amendments have been effected, the current definition of “broadcast” in the Copyright Act, 1978 should be retained. -NAB</li> <li>• There is no recognition of the relationship between the definitions of “broadcast” and that of “programme-carrying signals (Anton Mostert),</li> </ul>	<ul style="list-style-type: none"> <li>• The definition of broadcast was deliberated and consideration was made to the white paper process underway for the Electronic Communications Act of 2005 and the international treaty processes where discussions on broadcasting are still on-going. There were concerns noted with unintended consequences of the proposed changes.</li> <li>• There was a discussion on the alignment to the international treaties and implications on wire and wireless means of broadcasting.</li> </ul>

				<p>Prof Owen Dean, Anton Mostert</p> <ul style="list-style-type: none"> <li>• The new definition reduces the scope of 'broadcast' and the protection afforded under copyright law. (Multi Choice)</li> <li>• The current definition of "broadcast" in the Bills is not fit for purpose in several respects.- (eMedia)</li> <li>• The definition of "broadcast" in the Copyright Bill and PPA Bill has also introduced features of the Beijing Treaty definition such as "partially or wholly" that are unclear.</li> </ul>	<ul style="list-style-type: none"> <li>• The current definition in the Bill was retained and it was recommended that when future policy direction changes, the definition can be considered.</li> <li>• The definition as it stands intended to incorporate the programme carrying signal particularly the transmission by satellite. If that is unclear, it can be reviewed.</li> <li>• It is recommended to retain the definition in the Act.</li> </ul>	
				<ul style="list-style-type: none"> <li>• The definition of broadcast was deliberated and consideration was made to the white paper process underway for the Electronic Communications Act of 2005 and the international treaty processes where discussions on broadcasting are</li> </ul>	<ul style="list-style-type: none"> <li>• The definition of accessible format copy was aligned to the language in the treaty. It is widened on the form of disability to include other forms of disabilities.</li> <li>• The definition of beneficiary person has been widened to address all</li> </ul>	



				<p>still on-going. There were concerns noted with unintended consequences of the proposed changes.</p> <ul style="list-style-type: none"> <li>• There was a discussion on the alignment to the international treaties and implications on wire and wireless means of broadcasting.</li> <li>• The current definition in the Bill was retained and it was recommended that when future policy direction changes, the definition can be considered.</li> <li>• The definition as it stands intended to incorporate the programme carrying signal particularly the transmission by satellite. If that is unclear, it can be reviewed.</li> <li>• It is recommended to retain the definition in the Act.</li> </ul>	<p>forms of disabilities in line with the Constitution. This is to ensure no discrimination.</p> <ul style="list-style-type: none"> <li>• It is recommended that the definitions be retained as they are in the Bill.</li> <li>• The uniformity of international rights is noted. The Bill provides more rights in line with the Constitution. In our reading, the Marrakesh treaty is not that explicit on national treatment. It gives the national governments the guidance on ensuring support through legal systems and practice, economic situation, social and cultural needs, to persons with disability and ensuring availability of accessible format copies as well as other rights.</li> </ul>	
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				<ul style="list-style-type: none"> <li>• A further opportunity which was overlooked is that CAB was the opportunity to provide clarity on who is viewed as a “producer” by adding a definition for this term. - Writers Guild of South Africa</li> <li>• The definition of “producer” should add “or the entity which” after the phrase “the person who”, to align fully with the definition used in the WPPT and seeing that generally producers are corporate entities (record companies) rather than natural persons. -Copyright Coalition SA</li> <li>• Although the Copyright Act does in fact define “dramatic work”, and CAB does seek to introduce a definition for “audiovisual work,” there lacks an appropriate and clear distinction</li> </ul>	<ul style="list-style-type: none"> <li>• The definition of producer was raised and deliberated before. It is provided in the Performers’ Protection Amendment Bill.</li> <li>• On the entity related to the definition of producer, in legal terms person can include natural or juristic person.</li> <li>• It is recommended the definition of dramatic work can be reviewed. The proposed definition is as follows: “<b>dramatic work</b>” means any piece for recitation, choreographic work or mime, the scenic arrangement or acting form of which is fixed in writing or otherwise and any compilation of dramatic works.</li> <li>• The definition in the current Act is as follows:</li> </ul>	
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				<p>between these works. It may be misconstrued that dramatic work would fall under audiovisual work, at least to some extent, and as such it is imperative to note that although all audiovisual work may be dramatic work, not all dramatic work is necessarily audiovisual work. Furthermore, the flawed inclusion of “dramatic work” under the definition of “literary work” as it currently stands in the Copyright Act is also an outdated approach which does not accurately depict the complexity of such works.- Writers Guild of South Africa</p>	<p><b>“dramatic work”</b> includes a choreographic work or entertainment in dumb show, if reduced to the material form in which the work or entertainment is to be presented, but does not include a cinematograph film as distinct from a scenario or script for a cinematograph film.</p>	
			<ul style="list-style-type: none"> <li>• The definition of “authorized entity” refers to “the government”. If the intention is to refer to all three spheres of government then</li> </ul>	<ul style="list-style-type: none"> <li>• The definition of authorized entity is aligned to the Marrakesh treaty. It does not categorise</li> </ul>		

				<p>it is submitted that the wording can be improved by referring to "...any sphere of government". If the intention is to only refer to national government then a definition needs to be inserted. -MEC Wengner, WC</p> <ul style="list-style-type: none"> <li>• The definition of "authorized entity" refers to "non-profit organization". It is submitted that a definition needs to be inserted referring to the legislation in terms of which non-profit organizations are registered. - MEC Wengner, WC</li> <li>• This definition of 'audiovisual work' is identical in effect to the current definition of 'cinematograph film'. The term is simply nothing more than a synonym for 'cinematograph film' as defined in the Act. The current definition of 'cinematograph film' has a very broad</li> </ul>	<p>spheres of government.</p> <ul style="list-style-type: none"> <li>• The definition does not distinguish forms of NGOs, aligned to the treaty.</li> <li>• The definition of audiovisual works has been drafted in a manner that includes the cinematograph film. The audiovisual works was considered in order to take into account the treaty language. The view is that the term commonly utilized now is audiovisual works. An example of use is in the US copyright Act.</li> </ul>	
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				<p>meaning and has been interpreted by the court.-Professor Own Dean</p> <ul style="list-style-type: none"> <li>• The term as defined is largely synonymous with “cinematograph film” as defined. However, the definition creates a new genus of work of which “cinematograph film” is a species. The term “cinematograph film” as currently used in the Act can now have two possible meanings. it is probably better to stay with the existing terminology and delete this definition or possibly have it indicate that it means “cinematograph film”, in which case no further changes are necessary. - Professor Owen Dean</li> <li>• The effect of this definition and the use of the term in the Bill is to create</li> </ul>		
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				<p>a new category of work eligible for copyright, with no corresponding change to section 2 of the Copyright Act, which lists the eligible works. The term as defined is largely synonymous with “cinematograph film” as defined. However, the definition creates a new genus of work of which “cinematograph film” is a species. The term “cinematograph film” as currently used in the Act can now have two possible meanings. The term indicating the equivalent of the new genus must be changed to “audiovisual work” while the one denoting the species must remain unchanged.- Anton Mostert Chair of IP</p> <ul style="list-style-type: none"> <li>• The use of audiovisual works as opposed to</li> </ul>		
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				<p>cinematograph as a work eligible for copyright does not have a rationale because it is derived from the performers treaty and not copyright.- SAIPL</p>		
				<ul style="list-style-type: none"> <li>• The definitions of 'technological protection measure' and 'technological protection measure circumvention device' are incorporated by reference from the Copyright Act, and PASA suggests a loose-standing set of definitions in the PPAB.-PASA, SAIPL</li> <li>• The definitions of "technological protection measure" and "technological protection measure circumvention device and service" are not compatible with the WPPT's requirement to provide "adequate legal protection and effective legal remedies against</li> </ul>	<ul style="list-style-type: none"> <li>• The definitions are in both Bills.</li> <li>• The definitions were deliberated in the PC and the definitions provide adequate legal protection and effective legal remedies. The implications of adding stronger TPMs was found to have serious negative implications on areas such as competition and consumer protection.</li> <li>• The definition of artistic visual works and resale royalty rights comment is noted. The reference to section 37 of the Berne Convention in the RRR can be</li> </ul>	

				<p>the circumvention of effective technological measures”.-PASA</p> <ul style="list-style-type: none"> <li>• The definition of visual artistic works and resale royalty rights to be recast in a new chapter.- SAIPL</li> <li>• Definition of Commission be provided for.- Professor Owen Dean, MultiChoice</li> <li>• Clause 1(k)-This provision provides for the insertion of a definition for “technological protection measure circumvention device or service”. The last line in this proposed definition – “protection measure;” – needs to be underlined in its entirety to indicate the insertion.-MEC Wengner, WC</li> </ul>	<p>reviewed to amend the section.</p> <ul style="list-style-type: none"> <li>• The Commission is defined in the Intellectual Property Laws Amendment Act. The transitional provision provides clarity on the definition of the Commission.</li> <li>• The drafting suggestion is noted.</li> </ul>	
			<ul style="list-style-type: none"> <li>• Since this Bill intends to bring the copyright law into the 21st century, it is important to define common</li> </ul>	<ul style="list-style-type: none"> <li>• The comments are noted. The wording is commonly used and aspects of it can be found in</li> </ul>		



				<p>words in the digital space, such as 'data', 'digital', 'digital rights', 'digitisation', 'digital curation' and 'digital or e-licences' and '(digital) preservation'. – Creative Commons</p> <ul style="list-style-type: none"> <li>• Wire and wireless are not defined in the CAB in sections 6A, 7A, 8A. It is noted in the Memorandum on the Objects of the Copyright Amendment Bill, that the proposed amendment to section 9 of the CAB provides for the distribution of a sound recording to the public "by wire or wireless means, including internet access".-</li> <li>• The definition of open licences, but are concerned that this is not sufficiently specific about what the acts that may be undertaken are- International Federation of</li> </ul>	<p>the dictionary. They do not have to be defined in the legislation.</p> <ul style="list-style-type: none"> <li>• Some of the terms are not in the Bill, such as digital curation, e-licences, digitization and will not be advisable to define them without specific reference in the Bill.</li> <li>• Wire and wireless is treaty language. They are not defined in the Treaty, but used to distinguish such platforms as the internet or online access.</li> <li>• The definitions of open license and orphan works clarifies what they mean.</li> </ul>	
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				<p>Library Associations and Institutions</p> <ul style="list-style-type: none"> <li>The definition of orphan works be extended to include works in which related rights subsist also, in order to avoid a situation where copyrights can be cleared, but that related rights are still an issue.- International Federation of Library Associations and Institutions</li> </ul>		
				<b>Local Organisation</b>		
				<b>Public Comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>Local organisation provision in section 22 be withdrawn. Giving arbitrary powers to Minister.- SAIPL</li> <li>This proposed amendment should be rejected by the NCOP as it is open to potential abuse and does not appear to serve any other purpose. -</li> </ul>	<ul style="list-style-type: none"> <li>The copyright vested in local organization will operate similarly to the state and international organization that were already in the Copyright Act.</li> <li>There is copyright that can be generated by a local organization and not infringe</li> </ul>	

				Independent Producers Organisation (IPO), the Independent Black Filmmakers Collective (IBFC) and Animation SA (ASA)	copyright of an author.	
<b>Sections 6A, 7A and 8A</b>						
				<b>Public Comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The way in which the new statutory royalty entitlements under Sections 6A – 8A were conceptualized and hastily drafted by the National Assembly' Portfolio Committee introduces so much legal uncertainty on how royalty rates could be determined, payable and shared, that it would likely not provide substantial practical benefits for the intended beneficiaries. - Independent Producers Organisation (IPO), the Independent Black Filmmakers</li> </ul>	<ul style="list-style-type: none"> <li>The royalty regime is in the copyright Act although limited in scope (sound recordings, performers), the royalty sharing, the language, assignments, contracts are in those provisions, this was not arbitrary but included to create more certainty and strengthen provisions for the copyright based industries.</li> <li>The provisions in section 6A, 7A and 8A provide a royalty regime. These provisions will provide more protection for</li> </ul>	

				<p>Collective (IBFC) and Animation SA (ASA)</p> <ul style="list-style-type: none"> <li>• Section 6A – 8A of the Copyright Amendment Bill. If the provisions are to be proceeded with, the advertising industry should be excluded from its operation. - Association for Communication &amp; Advertising (ACA) and Commercial Producers Association (CPA)</li> <li>• The proposed Sections 6A, 7A and 8A of the Copyright Act be rejected by the NCOP Select Committee, or at least that the restrictive sections of CAB be amended to cater for contractual freedom through the introduction of the proposed phrase where relevant.-Writers Guild of SA</li> <li>• The fundamental difficulty with sections 6A and 8A</li> </ul>	<p>authors and copyright owners as they aim to create an enabling environment.</p> <ul style="list-style-type: none"> <li>• The legislation provides a framework but contracting parties have the freedom to arrange how they make arrangements. The recommendation to exclude a sector is noted.</li> <li>• The contractual provisions in the royalties are meant to assist authors and other rightholders with guidelines on how to approach their rights in the contracting.</li> <li>• <b><i>The remuneration model is noted. It is recommended that the amendment be effected by including equitable remuneration or royalties in</i></b></li> </ul>	
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				<p>of the Copyright Act and section 3A of the Performers' Bill are that they contemplate a single remuneration model across all forms of copyright works, namely the payment of a percentage of royalties.- Multichoice, Baker and McKenzie, Spotify,</p>	<p><b>section 8A to take into account other modes of remuneration.</b></p>	
				<ul style="list-style-type: none"> <li>The Copyright Bill accordingly eliminates the parties' ability to contract on mutually beneficial terms by narrowly referring to a "share of the royalty". The proposed new s6A and 8A are accordingly so narrow and inflexible that they are unworkable. Concerned that it will be extremely difficult to implement and extremely disruptive to contracting workflows and</li> </ul>	<ul style="list-style-type: none"> <li>The current Copyright Act has the 'share of royalties' and agreement.</li> <li>The royalty provisions should be viewed as measures to create clarity on the royalty regime and not an imposition on contractual freedom. They will create an enabling environment and level the playing field.</li> <li>The decision to include the performers in the</li> </ul>	

				<p>schedules.- Multichoice</p> <ul style="list-style-type: none"> <li>• Suggests that Section 8A be struck from the CAB. The point remains: section 8A of the CAB should be removed, and performers' rights left to be regulated by the Performers' Act.-eMedia</li> <li>• In this context, it is incongruent and confusing to refer to a "royalty received for the execution of any of the acts contemplated in section 6". They propose that the reference in s6A to the "execution" of the work be deleted, and that the section refer to the royalty received for the authorisation of any of the acts contemplated in s6 and s8 if it is not deleted.- MultiChoice</li> </ul>	<p>copyright was to create a link between the two bills and to ensure a stronger protection for performers.</p> <ul style="list-style-type: none"> <li>• The Copyright Act is linked to the performers and the royalty provisions were in the Act as far back as 2002. The definition of performance was incorporated in 1992.</li> <li>• Related rights" refer to the category of rights granted to performers, phonogram producers and broadcasters. In some countries, such as the United States of America and the United Kingdom, these rights are simply incorporated under copyright.</li> <li>• Other countries, such as Germany and France, protect these</li> </ul>	
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					<p>rights under the separate category called “neighbouring rights.”</p> <ul style="list-style-type: none"> <li>• In South Africa, related rights are incorporated under copyright and protected under the Copyright Act 98 of 1978 and the Performers Protection Act 11 of 1976.</li> <li>• On the word execution in section 6A, authorization is already in the provision. The execution or carrying out of certain actions refers to actions to be taken. The words are sufficient as they are.</li> <li>• <b>It is recommended that section 8A be retained in the Copyright Amendment Bill.</b></li> </ul>	
				<ul style="list-style-type: none"> <li>• For this reason, firmly support the</li> </ul>	<ul style="list-style-type: none"> <li>• The royalties that are retrospective</li> </ul>	

				<p>work of creation by artists even as they have moved on with their lives from it, they should be compensated where needed retrospectively to recognise their dignity, ensure equity and enable justice.-Gender Equity Unit- University of Western Cape</p>	<p>in nature were in the Bill. They were raised as part of the reservations by the President on the basis of their Constitutionality.</p> <ul style="list-style-type: none"> <li>• The retrospective sections in 6A, 7A, 8A were removed from the Bill.</li> </ul>	
				<p>In section 6A, 'Author' is the incorrect term to use in this context. It should be substituted by a term that is correct in law'. There are a number of circumstances in which the author of work does not hold (and never has held) rights of copyright in a work and is thus not in a position to grant any authority as envisaged. In general, the author, as such is not in a position to grant any rights. It is only when he is at the same time the copyright owner that he has this power to do so. It is accordingly wrong and misleading to suggest that he has any such</p>	<ul style="list-style-type: none"> <li>• It is agreed that the author and the copyright owner are not synonymous terms.</li> <li>• There are instances where the author is the copyright owner. And instances where the author is only an author and not a copyright owner.</li> <li>• The copyright owner is the one who can exploit the rights provided economically by section 6A or the work.</li> <li>• For this provision, the author when he/she is the copyright owner, is not the one who authorizes but a</li> </ul>	



				<p>power simply by reason of being the author of a work. It must be appreciated that the author of a work and the copyright owner/ right holder are two different concepts and must not be confused with one another. The terms are by no means synonymous. The word should be substituted by the term 'copyright holder'. All references in the section to 'author' should be similarly substituted. -Professor Owen Dean</p>	<p>person doing such acts on behalf of the author who is also copyright owner.</p> <ul style="list-style-type: none"> <li>• The clause and other similar ones (S7A) in our view are clear.</li> <li>• However, it is recommended the wording can be amended to make this distinction clearer.</li> </ul>	
				<b>Rights of distribution and rental</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• Comments made in regard to the revised Section 6 of the Act above on the question of the distribution on the original version of the work. Those comments apply equally to the rental of the original version. This version is covered by the normal</li> </ul>	<ul style="list-style-type: none"> <li>• The comments are noted.</li> <li>• The provisions related to digital rights are derived from the international treaties. The text was used to ensure alignment with the treaties. An example below is from the WCT.</li> </ul>	

				<p>principles of the law relating to ownership of physical property and is not a copyright issue.- Prof Owen Dean</p> <ul style="list-style-type: none"> <li>• Comment includes section 7, 8</li> <li>• it should immediately be noted that “original” is a technical term in copyright law, whereas it is clearly being used here in its lay sense, which is problematic. Is the issue not that it is the unauthorised disclosure of the “original” that is sought to be prohibited? Third, in relation to paragraph (d), it is not clear how, factually, an “original” published edition could be distributed (as there should presumably only be one such item). “Distribution” suggests that there are</li> </ul>	<p>Wipo Copyright Treaty (WCT)</p> <ul style="list-style-type: none"> <li>• Agreed statement concerning Articles 6 and 7: As used in these Articles, the expressions “copies” and “original and copies,” being subject to the right of distribution and the right of rental under the said Articles, refer exclusively to fixed copies that can be put into circulation as tangible objects.</li> <li>• Article 6 -Right of Distribution</li> <li>• (1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing the making available to the public of the original and copies of their works through sale or other transfer of ownership.</li> </ul>	
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				multiple copies of something.-Anton Mostert		
				<b>Reporting requirements (Sections 8A and 9A)</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The requirement of registration and reporting of all commercial uses of every work would be, if enacted, administratively burdensome and unworkable, and imposes unnecessarily excessive penalties for non-compliance. –Amazon</li> <li>To compound the potential negative impacts of Section 8A, it also seeks to criminalize the non-reporting of all commercial uses that may be made of audiovisual works, including television commercials. Section 8A(5) purports to introduce a mandatory reporting obligation that would require of all</li> </ul>	<ul style="list-style-type: none"> <li>The non- reporting is a serious issue that has impacted on many performers whose works is played on radio or television or any medium for commercial purposes without any compensation. There are series played repeatedly on television and actors have indicated that they are not paid for those works.</li> <li><i>The CRC found: music usage information (music log sheets)- It was noted that music log sheets are kept mainly by broadcasters, and that general music users tend not to retain any log sheets. Collecting societies are,</i></li> </ul>	

				<p>users of audiovisual works, including copyright owners and their licensees, to register each act of commercialization and to submit a 'complete, true and accurate report' to each performer that may appear in an audiovisual work, even to every 'extra' or background performer appearing.- Association for Communication &amp; Advertising (ACA) and Commercial Producers Association (CPA)</p> <ul style="list-style-type: none"> <li>• Further, the registration and reporting requirements in the CAB or PPAB are too prescriptive, and presume an ongoing administrative relationship that may not be appropriate for the specific use or creative work.- Spotify</li> </ul>	<p><i>therefore, not able accurately to distribute royalties based on music usage. In cases where there are no log sheets, collecting societies use the available usage information as a mechanism for distributing unlogged royalties. For essential music users, the CRC believes that the legislation should be amended to make it compulsory for them to retain music usage information records</i></p> <ul style="list-style-type: none"> <li>• The reporting requirements are necessary to provide certainty on payments of royalties for commercial usage.</li> <li>• The reporting provisions have a rationale and they address the challenges with</li> </ul>	
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					<p>royalties. This impacts the music and audiovisual sector.</p> <ul style="list-style-type: none"> <li>The reporting and recordal of commercial uses was introduced to address the policy gap of lack of royalty payments and no mechanism to ensure the use of works of performances for commercial purposes are addressed.</li> </ul>	
					<b>Section 12A- Fair use</b>	
					<b>Public comment</b>	<b>DTIC response</b>
					<ul style="list-style-type: none"> <li>Clause 15 (Relating to Section 12A)- Suggest that, in the bullet points listing potential purposes covered, that the following be included as a point a(viii) and a(ix): • repair and the sharing of repair information •</li> </ul>	<ul style="list-style-type: none"> <li>Because of 'such as' repair and the sharing of repair information does not have to be added to the list. Several stakeholders raised concern with the longer list of examples in fair use exception</li> </ul>

				<p>provision of access to orphan works.- International Federation of Library Associations and Institutions</p> <ul style="list-style-type: none"> <li>• Recommend that: (i) the over-broad fair use doctrine is revised, (ii) that the words “such as” are struck, (iii) that the provision be narrowed down to the words not in the US law.-Dalro</li> <li>• An aggravating factor regarding the fair use provision introduced under section 12A in the CAB is the fact the words “such as” in the phrase “for purposes such as the following” were inserted by the previous Portfolio Committee at-the-last-minute, at the instigation of the proponents of the fair use exception, without affording stakeholders the opportunity to debate the matter.- Copyright Coalition of South Africa</li> </ul>	<p>citing that they are more than the US examples. It is recommended the existing purposes can be retained as are.</p> <ul style="list-style-type: none"> <li>• The expression ‘such as’ was subject to public consultation. It contributes to the fair use to be future proof. It is not necessary to make a lengthy list of examples, as ‘such as’ covers many activities.</li> <li>• South African judges have already been applying the four factor U.S. fair use test in their fair dealing jurisprudence.</li> <li>• The fair use has factors that guides in terms of what constitutes fair usage. This point is made regarding the fair use criteria.</li> </ul> <p>Subsection (b) in section 12A</p>	
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				<ul style="list-style-type: none"> <li>• The expression “such as” must be removed, as it extends the application of this already open-ended exception to an undeterminable remit of uses, instead of being restricted to certain special cases only.- International Publishers Association (IPA), Dalro</li> <li>• The 4th factor is incompatible with the three-step test, as it conditions the concept of normal exploitation of the work to an artificial substitution effect. – IPA</li> <li>• Provide guidance/criteria to courts in introducing new future uses. Maintain the United States’ fair use criteria as requested by some of the entities that object to the modified factors in the CAB. Effectively, abandon in</li> </ul>	<ul style="list-style-type: none"> <li>• (b) In determining whether an act done in relation to a work constitutes fair use, all relevant factors shall be taken into account, including but not limited to— <ul style="list-style-type: none"> <li>• (i) the nature of the work in question;</li> <li>• (ii) the amount and substantiality of the part of the work affected by the act in relation to the whole of the work;</li> <li>• (iii) the purpose and character of the use, including whether— <ul style="list-style-type: none"> <li>• (aa) such use serves a purpose different from that of the work affected; and</li> </ul> </li> </ul> </li> </ul>	
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				<p>particular s12A(b)(iii)(bb) and s12A(b)(iv). –Prof Forere</p>	<p>(bb) it is of a commercial nature or for non-profit research, library or educational purposes; and</p> <ul style="list-style-type: none"> <li>• (iv) the substitution effect of the act upon the potential market for the work in question.</li> <li>• It is recommended that section 12A(b) (iv) be removed or reference to ‘substitution’ be deleted. In the US is factor 4, ‘(4) the effect of the use upon the potential market for or value of the copyrighted work.’</li> <li>• Section 12A was reopened for further deliberations. The four factors and purposes of fair use were</li> </ul>	
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					discussed in the parliamentary consultative processes.	
				<b>Socio-economic impact assessment</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• A material procedural oversight during the development of the Copyright Amendment Bill is the absence of a meaningful economic impact assessment that should have informed the drafting of the Bill.- MEC Wengner</li> <li>• Widespread public consultation process and a proper economic impact assessment be conducted to assess for the first time the impact of the amendments on the various copyright sectors.- Dalro <ul style="list-style-type: none"> <li>• Lack of a proper Socio-Economic Impact</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• The Department conducted a regulatory impact assessment study finalised in 2014. The study was not published to the public. The requirement for legislation is not a regulatory impact assessment study. The study mentions fair use and other issues considered in the Bill.</li> <li>• The Socio Economic Impact Assessment System was developed by the Department of Performance and Monitoring and Evaluation in the Presidency. This one is the legislative requirement.</li> </ul>	

				<p>Assessment System (SEIAS)- Copyright Coalition, MEC Wengner, PASA</p> <ul style="list-style-type: none"> <li>Stakeholders have raised a concern that the fair use was not assessed, analysed or impact assessment conducted on it.</li> </ul>	<ul style="list-style-type: none"> <li>In February 2015, Cabinet approved the SEIAS in line with the Medium Term Strategic Framework (MTSF) to improve policy development and create a more efficient and robust legislation and regulations. Cabinet adopted a resolution on the establishment of the SEIAS Unit in the Presidency to facilitate and provide guidance to national departments on the application of SEIAS to the design of policies, legislation and regulations.</li> <li>According to Cabinet Resolution, all policies, bills and regulations were to be subjected to SEIAS, to assess their impacts and contribution to the National Development Plan priorities before</li> </ul>	
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					<p>their approval. The CAB was subjected to a SEIAS.</p> <ul style="list-style-type: none"> <li>• The department conducted various studies that informed the Bill, the Copyright Review Commission report is one of such studies.</li> <li>• The Bill evolved and was informed by various stages of public participation and some provisions were amended, this means the study would have to be conducted each time there are new recommendations.</li> </ul>	
				<b>25 years reversion right</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• This provision to be added to the current provisions relating to the formalities of assignments, simply states that every assignment of copyright in a literary or musical</li> </ul>	<ul style="list-style-type: none"> <li>• The reversion period is 25 years informed by the Copyright Review Commission (CRC) report. The period of reversion is informed by a</li> </ul>	

				<p>work shall only be valid for 25 years, and not potentially the current 50 years after the death of the author. –PASA</p> <ul style="list-style-type: none"> <li>An unwaivable 25-year limitation on assignment terms of literary and musical works would mean that a producer can only guarantee the risk-free commercialization of a film for that period, which is half the time currently allowed in terms of the Act (50 years) and about a third of the time afforded under US and UK law (75 and 70 years respectively). -Independent Producers Organisation (IPO), the Independent Black Filmmakers Collective (IBFC) and Animation SA (ASA)</li> <li>The Copyright Amendment Bill proposes an unwaivable 25-year limitation on all</li> </ul>	<p>study. In the US it is 35 years, in view of the fact that the period of copyright protection in the US is much longer than in South Africa (i.e 70 years).</p> <ul style="list-style-type: none"> <li>The 25 years reversionary right is informed by the Copyright Review Commission report recommendations. This right is not unique to SA. Some countries have the reversionary rights.</li> <li>The reversion clause can be expanded more in the Regulations.</li> <li>The parties can renegotiate their agreements.</li> <li>“The CRC believes that the Copyright Act must be amended to provide for the reversion of assigned rights to royalties 25 years after the</li> </ul>	
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				<p>assignments of rights in literary and musical works that would pose great challenges to a producer's ability to secure rights clearances and consolidate all rights in an audiovisual work. Consolidation of rights in the producer is a fundamental requirement in the film and television industries. – Association for Communication &amp; Advertising (ACA) and Commercial Producers Association (CPA)</p> <ul style="list-style-type: none"> <li>• The prevention of certain authors and performers from licensing or assigning their rights for longer than 25 years, which would reduce incentives for producers to invest in content in the territory, likely reduce the worth of content if there are conflicting interests</li> </ul>	<p>assignment of such rights. Such an amendment will help relieve the plight of composers whose works still earn large sums of money, which are going to the assignees of the composers' rights long after the assignees (or their predecessors) have recouped their initial investment and made substantial profits, in excess of those anticipated when the original assignment was taken. Page 5 of the CRC Report".</p>	
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				<p>of multiple parties, and require the needless renewal of many transfers, even when all parties are satisfied with the original deal struck. - Amazon</p> <ul style="list-style-type: none"> <li>The proposed 25 year reversion clause will allow actors an opportunity to address exploitative contracts they may have entered in the past, so the abuse does not continue into the FUTURE. - SAGA</li> </ul>		
				<b>Compulsory and standard contractual terms</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>Reject all provisions of contract regulations-SAIPL</li> <li>The proposed Sections 6A, 7A and 8A of the Copyright Act be rejected by the NCOP Select Committee, or at least that the restrictive sections</li> </ul>	<ul style="list-style-type: none"> <li><i>“the dti should develop a standardised template for contracts between performers and recording companies that will deal with all the above-mentioned loopholes and</i></li> </ul>	

				<p>of CAB be amended to cater for contractual freedom-Writers Guild of SA</p> <ul style="list-style-type: none"> <li>• The Minister of Trade and Industry is empowered to set compulsory and standard contractual terms to be included in private agreements between parties, including between “the method and period within which any royalty or equitable remuneration must be paid by the relevant producer, broadcaster or user, to the performer” – Spotify</li> <li>• Unfair contract terms and unenforceable contract terms (currently dealt with in the proposed s39(cG) and 39B of the Act respectively) should rather be dealt with by the Tribunal.- MultiChoice</li> <li>• Overall comments were made about</li> </ul>	<p><i>should encourage performers and recording companies to use this contract.”</i></p> <p>CRC Recommendation.</p> <ul style="list-style-type: none"> <li>• This recommendation was focusing on the music industry, however, through developments in the industry, practices, consultations and studies, it was found that unfair contracts cuts across in the creative sector hence the standard contract provisions were developed.</li> <li>• The powers of the Minister are meant to create an enabling environment. The Minister will not interfere in private contracts but will create a framework to guide contracting parties when they</li> </ul>	
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				<p>freedom to contract and powers of the Minister to interfere in private contracts. i.e</p> <ul style="list-style-type: none"> <li>Minister's powers to prescribe compulsory and standard contractual terms (clause 35(b) of the Copyright Bill).</li> <li>Unenforceable contract provision to be removed.- SAIPL</li> <li>We submit that, rather than giving the Minister wide, vague and unfettered powers to regulate contractual terms - which would be both impractical and susceptible to legal challenge - the Tribunal should be empowered to set aside contractual terms that are manifestly unjust and unreasonable (rendering them null and void).- MultiChoice</li> </ul>	<p>carry out contracts.</p> <ul style="list-style-type: none"> <li>The provisions on unenforceable contracts are aimed at ensuring adherence to the Act. Where the rights provided in the Act are violated, the contract becomes unenforceable. This is additional protection provided.</li> <li>The policy objective applies to sections 6A, 7A, 8A and the regulations on the contractual terms.</li> <li>The Tribunal will play an important role in terms of disputes that arise from the agreements.</li> <li>There is example of government globally that set the framework in copyright contracts to address challenges in contractual issues.</li> </ul>	
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				<b>Contractual terms</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• Prescribing royalty rates or tariffs for various forms of use, particularly Resale Royalty Rights. SAIPL</li> <li>• Section 39(CI) be reworded to specify Minister will set royalty rates for resale royalty rights.-SAIPL</li> </ul>	<ul style="list-style-type: none"> <li>• The royalty rates are not legislated. There has been challenges with the setting of the rates and these have resulted in court intervention before.</li> <li>• The Resale Royalty Rights is a specific type of royalty involving virtual artistic works. Governments are allowed to determine matters of collections and amounts how they regulate this form of right in terms of the Berne Convention (Article 14'ter.</li> <li>• It is recommended the provision in section 39 (CI) can be focused on the resale royalty rights and the royalty for other uses be left amongst contractual parties to determine. It is</li> </ul>	

					recommended that section 39(CI) be amended.	
				<b>Commissioned works – Section 21</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The proposed changes will likely result in legal uncertainty on key issues relating to the commissioning of works that do not currently exist in the Copyright Act, and we submit that these proposed changes should be rejected by the NCOP. -Association for Communication &amp; Advertising (ACA) and Commercial Producers Association (CPA)</li> <li>The proposed amendments to section 21 should be removed in their entirety.-e Media</li> <li>The inclusion of a requirement to enter into an agreement for commissioned works and the potential limitation thereof could create</li> </ul>	<ul style="list-style-type: none"> <li>The challenges arise where work is commissioned. One of the challenges is where the copyright owner who commissioned the work, utilizes the work for purposes other than that which was commissioned for or where he fails to utilize the work at all and the work lies dormant. Section 21 of the Act must be amended to give the author of the copyright the right to apply before the Tribunal for a license to use the work where the person who commissioned the work has not exploited the work within a</li> </ul>	

				<p>confusion for parties in respect of such agreements and such limitations. The NAB therefore opposes the proposed amendment of section 21(1)(c) and recommends keeping section 21 as it is currently in the Copyright Act.- NAB</p> <ul style="list-style-type: none"> <li>The value chain in the film industry is complex and the investment that goes in the production is massive yet certain sections such as ownership on commissioned works in the film industry are unusual and can be a deterrent. -Prof Forere</li> </ul>	<p>reasonable time and where he is using the work for purposes other than what is commissioned for.</p> <ul style="list-style-type: none"> <li>The commissioned works provisions were informed by challenges with the practices on these works.</li> <li>The Commissioned works was deliberated extensively in the PC at the time. Measures were added for more protection and certainty in different scenarios wherein the author did not have recourse before.</li> </ul>	
				<b>Section 12B-D</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>Concerns were raised regarding section 12B(6), regarding its alignment to the</li> </ul>	<ul style="list-style-type: none"> <li>TRIPS article 6 allows exhaustion of rights and for the country to choose which</li> </ul>	

				<p>Wipo Copyright Treaty, the alignment with the current provision in the Act in section 23(2), conditions of distribution versus importation. It was recommended that the expression “or outside the Republic” be deleted from the provision.- International Publishers Association (IPA), PASA, Amandla Omnotho, SAIPL</p> <ul style="list-style-type: none"> <li>• Section 12C -This section should be reviewed to (i) apply only to temporary copies and not adaptations, given that adaptation is a copyright law concept that goes beyond the formatting of a text for example. –IPA, SAIPL</li> <li>• The format shifting in section 12C(b) is suitable for personal use as recommended by the CRC.-SAIPL</li> </ul>	<p>system of exhaustion which then determines how the parallel import will work. The term exhaustion refers to the principle in IP law to the principle that a right holder cannot prevent the further distribution or resale of the goods after consenting to the first sale also known as the first sale doctrine. Once the good has been put on the market by or with the consent of the right holder further circulation cannot be controlled. Parallel imports refer to the original products sold by the right holder or with his consent in another market and then imported through a channel “parallel” to that authorized by the right holder.</p>	
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				<ul style="list-style-type: none"> <li>• Section 12B, sub-section 3, is unclear and seemingly empties the right of adaptation, by giving a blank permission to produce adaptations, without any requirements or conditions of use. It should be deleted. –International Publishers Association (IPA)</li> <li>• Section 12B(1)(c) should be amended to remove the obligation to delete any broadcast that includes ephemeral works after six months. The current drafting only allows a broadcaster to retain a broadcast after six months if the broadcast is of “an exceptional documentary nature”. Whether a broadcast meets this standard at the point at which the broadcast is meant to be deleted is a vague question. –e Media</li> </ul>	<p>Parallel imports are not counterfeit or pirated goods and they do not infringe Intellectual Property Rights in the country of Origin.</p> <ul style="list-style-type: none"> <li>• Parallel importation would allow distributors and booksellers to choose from a range of world markets as opposed to the South African market, which could lead to a more equitable pricing structure. Parallel importation would open access to cheaper copyright works abroad. A relative lack of competition in the marketplace is an important factor. The lack of competition is evident from price of the books. National copyright legislation should therefore follow the rule of</li> </ul>	
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				<ul style="list-style-type: none"> <li>• It is therefore submitted that proposed section 12B needs to be reassessed.-MEC Wengner</li> <li>• Personal Use - The scope of the personal use provisions in section 12B(h) is too wide and there is a missed opportunity to introduce private copying remuneration for authors. -the International Federation of Reproduction Rights Organisations.</li> <li>• Section 12B(1)(a) sets out an exception for quotation, which is unduly broad. In respect of sound recordings, there is no need for a quotation exception. -RISA</li> <li>• Reject section 12B on translations as it violates three step test and Berne Convention-SAIPL</li> </ul>	<p>international exhaustion rather than the rule of national exhaustion.</p> <ul style="list-style-type: none"> <li>• It is recommended that section 12B(6) be reviewed and possibly removed to ensure better clarity. Section 23(2) to be reviewed to ensure policy objective is addressed.</li> <li>• The personal use provisions were reviewed. The private copy levy is a system that was raised. In other countries implementing it, there are challenges with its application. More work and research is needed to look into it.</li> <li>• It is recommended that the adaptation in section 12C can be reviewed, in line with the EU Directive and the UK copyright law.</li> </ul>	
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				<ul style="list-style-type: none"> <li>We submit that the NCOP should reject sections 12B – 12D-Copyright Coalition</li> <li>Sections 12C and 12D are not labelled as exceptions and may be better termed limitations.-Joint academic opinion <ul style="list-style-type: none"> <li>It is not clear what constitutes a reasonable price or reasonable terms and conditions. These provisions can be interpreted very broadly and abused.- MEC Wengner</li> </ul> </li> </ul>	<p>Adaptation in section 12C can be recommended for removal.</p> <ul style="list-style-type: none"> <li>Sections 12C and 12D are general exceptions and are labelled as such.</li> <li>The ephemeral right was deliberated and it was found that the timelines in South Africa are in accordance with best practice. It was resolved to retain the draft Bill in its current form on the subsection.</li> <li>The quotation exception was considered in the parliamentary process. It includes all works. Control measures were incorporated in the quotation exception to tighten it.</li> </ul>	
				<b>Freedom of Panorama- Section 15</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The adoption of Freedom of Panorama, as</li> </ul>	<ul style="list-style-type: none"> <li>The section 15(1) substitutes the section in the</li> </ul>	

				<p>outlined in section 14 (ii) which amendments section 15 of the original act, will allow South Africans to freely celebrate our recent history. It will allow the people to share photographs of public monuments and works of art over the internet to celebrate our struggle against apartheid.- Wikipedia, Poly Haven</p> <ul style="list-style-type: none"> <li>• Delete section 15(1) as it allows unlimited use of re-uses of artistic works in public places. The one in the Act is not repealed-SAIPL</li> </ul>	<p>current Act. The section 15 (1) does not have to be repealed.</p> <ul style="list-style-type: none"> <li>• General exceptions from protection of artistic works:</li> </ul> <p><b>The Act</b></p> <ul style="list-style-type: none"> <li>• (1) The copyright in an artistic work shall not be infringed by its inclusion in a cinematograph film or a television broadcast or transmission in a diffusion service, if such inclusion is merely by way of background, or incidental, to the principal matters represented in the film, broadcast or Transmission.</li> </ul> <p><b>CAB</b></p> <p>16. Section 15 of the principal Act is hereby amended <b>by the substitution</b> for subsection (1) of the following subsection: “(1) (a) The copyright in an artistic work shall not be infringed by its [inclusion] use in [a cinematograph film</p>	
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				<p>or a television broadcast or transmission in a diffusion service] another work, if—</p> <p>(i) such [inclusion] use is merely by way of background, or incidental, to the principal matters represented in [the film, broadcast or transmission] that other work; or</p> <p>(ii) the artistic work so used, is situated in a public place.</p> <p>(b) The copyright in an artistic work shall not be infringed by the issue to the public of copies, or the communication to the public of anything, whose making was by virtue of this subsection not an infringement of the copyright.”.</p>	
<b>Section 19C</b>					
		<b>Public comment</b>	<b>DTIC response</b>		
		<ul style="list-style-type: none"> <li>Some words are not mentioned at all, such as ‘digitisation’ or ‘digital curation’, which are missing from</li> </ul>	<ul style="list-style-type: none"> <li>The comment is noted. Introducing the downloads of works and recordings in an</li> </ul>		

				<p>Section 19C.- Creative Commons</p> <ul style="list-style-type: none"> <li>• In s19D in the Copyright Bill there has been an attempt to put in place a government managed regime to authorize persons to make copies for persons with disabilities without first obtaining the permission of the owner of the works. A similar provision should be considered for s19C. –MultiChoice</li> <li>• Recommend that this exception be expanded to cater for the temporary downloads of work and recordings for use in the educational and academic sectors.- Google</li> <li>• Proposed section 19C(3) provides for a library, archive, museum and gallery to provide “temporary access” to a copyright work to a user or another library. It is not clear from this what is</li> </ul>	<p>environment of concerns of free use and exploitation of rights may open the Bill to challenges.</p> <ul style="list-style-type: none"> <li>• The words recommended are not in the Bill. Section 19C is comprehensive and provides for the exceptions for libraries, museums and archives and how they can be applied. Issues of technology are embedded in some of the provisions.</li> <li>• The words digital, format shifting are used in section 19C addressing issues of the digital content.</li> <li>• The government managed regime in section 19C is not applicable in terms of the library provisions.</li> </ul>	
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				meant by “access”.- MEC Wenger	
				<b>Section 19D</b>	
				<b>Public comment</b>	<b>DTIC response</b>
				<ul style="list-style-type: none"> <li>Section 19D as a whole -We propose, to avoid further litigation on the grounds of unfair disability discrimination that the scope of s 19D remains extended to persons with disabilities across the spectrum. – Joint academic opinion, BlindSA</li> <li>The first sentence of s 19D(1) was interpreted by the Court to require regulations for its operationalisation. Delete the phrase “as may be prescribed and” from s 19D(1). - Joint Academic Opinion</li> <li>Section 19D(2)(a) restricts the scope of its application to those activities that are a result of the operation of s 19D(1). This means</li> </ul>	<ul style="list-style-type: none"> <li>The recommendations supported for further consideration.</li> <li>It is recommended that the policy on all works, all forms of disabilities be retained.</li> <li>The prescribed in the Bill is different to the court judgment, the copyright Act had to be effective immediately to activate the rights and subjecting it to regulations was going to delay the rights. In the Bill, it is important recommended that the prescribed in the Bill is retained.</li> <li>The recommendation to delete section 28P(2) is supported.</li> </ul>

				<p>that persons with disabilities are permitted to only use accessible format copies made under s 19D(1). Delete the phrase “as a result of an activity under subsection (1)”.</p> <ul style="list-style-type: none"> <li>• We propose that s 28P(2) be deleted as it replicates the requirement of authorisation by the copyright owner that renders accessible format shifting near impossible. –Joint Academic Opinion, Recreate</li> <li>• Minor amendments to be effected to s 19D(2)(a) and 19D(3) to ensure that these provisions do not unintentionally prevent the making and sharing of accessible format copies between Blind SA and the people whom we serve-BlindSA</li> </ul>	<ul style="list-style-type: none"> <li>• Reference to sub section 1 in section 19D(3) is recommended to be removed as it restrict the rights provided in the provision and not in the spirit of the court judgement. Also, other minor amendments to ease the provision can be considered.</li> </ul>	
<b>Orphan works</b>						

				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• The obligations imposed by this section on the licensees of orphan works are unjustifiably onerous for producers and content distributors who wish to licence the copyright in a work whose author cannot be identified or is identified, but cannot be located.- Baker and McKenzie Incorporated</li> <li>• The use of most orphan works would be covered under Section 12A, except in some circumstances, where Section 22A may apply. Section 22A is a lengthy and expensive process so would probably not be applied as much as fair use.-Library and Information Association of South Africa (LIASA)</li> <li>• Section 22A is impractical and fails</li> </ul>	<ul style="list-style-type: none"> <li>• This is an important procedure that will enable works to be located. It is used in countries such as the UK. The provisions are comprehensive in sections 116A-116D.</li> <li>• The resale royalty rights comment to be reviewed.</li> </ul>	

				<p>to provide a practical way of dealing with orphan works, especially anonymous works. - Durban University of Technology</p> <ul style="list-style-type: none"><li>• A further weakness is the proposal to oblige the payment of licences with no guarantee that the money will be paid out. As has been shown through research into potentially orphan works in the United Kingdom, in the vast majority of cases the immediate reaction of creators of works previously considered as being orphan was in fact happiness at having their expression shared, and not a desire to claim money. A far preferable approach would be to avoid the moral hazard that such a fund can create, and rather give a confirmed rightholder, once</li></ul>		
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				<p>identified, the right to stop any use of orphan works (outside of those permitted under exceptions), and then negotiate.- International Federation of Library Associations and Institutions</p> <ul style="list-style-type: none"> <li>The statutory licence for orphan works does not apply to resale royalty rights.- SAIPL</li> </ul>		
				<b>Penalties and sanctions</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The penalties for failing to register or omitting to submit a report, set out in section 8A(5) of the CAB, are excessive (up to a minimum of 10% of annual turnover). It is unclear why such onerous penalties are needed for failing to fulfil what are essentially administrative requirements. - NAB</li> </ul>	<ul style="list-style-type: none"> <li>It is recommended that section 28P(2) be deleted.</li> <li>The PC was concerned that the issue of reporting has impacted the payment of royalties and this had serious consequences for the performers. It was for this reason; strong penalties were imposed. These provisions were</li> </ul>	

				<ul style="list-style-type: none"> <li>• The requirement of registration and reporting of all commercial uses of every work would be, if enacted, administratively burdensome and unworkable, and imposes unnecessarily excessive penalties for non-compliance. –Amazon</li> <li>• Replace criminalisation of circumvention with civil penalties including damages and interdicts for circumvention of technical protection measures. This requires that ss 27(5B) and 28O be deleted from the Bill and replaced by a provision deeming circumvention and trafficking in anti-circumvention devices to be an infringement of copyright. -Joint Academic opinion</li> <li>• In sub-section (5C)(b) of Section 27 of the CAB, the offence for</li> </ul>	<p>deliberated at length given their significance.</p> <ul style="list-style-type: none"> <li>• In international discussions on copyright related matters, the intellectual property legislative regime of South Africa has been questioned in terms of the strong legal measures to deal with infringements related to the digital environment.</li> <li>• The view is that the matters are serious such that the penalties should be stronger. The criminal penalties will send a message that deters these infringements. This aspect can be reviewed.</li> </ul>	
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				<p>exploiting works where management information attached to those works has been modified or removed, must, like sub-section (5A), only constitute an offence where the infringing party knows that it is infringing copyright. In this regard, broadcasters often receive content from third parties and may not have direct knowledge about whether they are infringing copyright or not.-Etv eMedia</p> <ul style="list-style-type: none"> <li>• The provisions in the exception clause, Section 28P(2), are problematic, in that it legitimises uses of measures by means of circumvention devices simply by notice to the copyright owner.- PASA</li> </ul>		
<b>Intellectual Property Laws Amendment Act</b>						

				Public comment	DTIC response	
				<ul style="list-style-type: none"> <li>This section (and point 3.36 of the Memorandum to the Bill) refers to the impractical 'Intellectual Property Laws Amendment Act 28 of 2013' (IPLA Act) (not yet operational after 10 years!). There is a more practical and appropriate piece of legislation which is outside copyright law. It is the "sui generis" 'Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019', that addresses IK and TK but conflicts with the IPLA Act. - Denise Nicholson</li> <li>This comment applies to references to IPLAA throughout the Bill and assumptions made in certain places that it is in operation, and includes in particular to the</li> </ul>	<ul style="list-style-type: none"> <li>The comments are noted.</li> <li>IPLAA is an Act of Parliament in the statute books. It has to be referenced in the law.</li> </ul>	

				<p>numbering of some of the new sections sought to be introduced into the Copyright Act by the Bill. This will lead to considerable confusion and is editorially irrational and unsound. – Professor Owen Dean.</p> <ul style="list-style-type: none"> <li>• The repeal of IPLAA will have implications for the copyright and performers' protection amendment bills transitional provisions. -SAIPL</li> </ul>		
				<b>Other amendments</b>		
				<b>Public comment</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>• Should the Committee be steadfast in the need to introduce the Fair Use doctrine into South African law, there would be even more of a need for the introduction of</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum consultation term is 30 days, if extended to 45 days. The regulations involve public participation.</li> <li>• The AI recommendation is noted and shed</li> </ul>	

				<p>the Statutory Damages-Capasso</p> <ul style="list-style-type: none"> <li>• Insert a sub-section that states: 2A (3) (a) Copyright extends only to the products of a natural person's skill, effort and creativity. - Research ICT Africa (RIA)</li> <li>• Propose that a minimum consultation period of 60 days for any regulations prescribed under the Act is necessary. We further propose that any regulations prescribed should be informed by a thorough consultation on the underlying policy and practical considerations and a comprehensive socio-economic impact assessment.- Multichoice</li> <li>• Oppose the Commission's proposed enforcement function</li> </ul>	<p>light on the role of technology in copyright however this is a new amendment that have not been consulted upon. It will be considered for further discussions and future amendments.</p> <ul style="list-style-type: none"> <li>• The comment about statutory damages is noted. It is an area that can be reviewed further before placing in a legislation.</li> <li>• On the reciprocity, the collecting societies as a point of departure must make a finding and a determination that the rights under it administration are enjoying protection usually through a treaty such as WPPT. Once that has been determined, a collecting society must then find out if the rights of its</li> </ul>	
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				<p>contemplated in the new s28Q of the Act or the proposal that the Commission should deal with "any other matter referred to the Commission by any person, Tribunal or any other regulatory authority".</p> <ul style="list-style-type: none"> <li>• Section 22C(3)(c) provides that a collecting society may "only make payment of royalties to a collecting society outside the Republic, if there is a reciprocal agreement regarding royalties in place between that country and the Republic."-Dalro</li> <li>• It is submitted that this section introduces reciprocity requirements that are at odds with the national treatment and minimum rights principles embodied in the TRIPs Agreement and the Berne Convention.- Dalro</li> </ul>	<p>members (under the administration) are indeed consumed in the jurisdiction in question (e.g US). If such rights are indeed consumed then it therefore expedient and/or desirable for a collecting society to enter into a reciprocal agreements to ensure that the citizens (right holders from the two jurisdictions are equalled in terms of receiving royalty) receive royalty from the usages. Secondly, the treaty itself creates obligations for all contracting members and when that is taken down to the level of operations in the collecting societies, it basically translates to reciprocal arrangements.</p>	
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					<ul style="list-style-type: none"> <li>Collecting societies are not forced to conclude reciprocal agreements, they only do so when it is expedient and/or desirable to do so with a treaty supporting the protection of the rights under administration.</li> </ul>	
				<ul style="list-style-type: none"> <li>Propose that the law of succession should apply to the performers rights, where the next of kin is/are not prejudiced from getting royalties/ remuneration/merits upon the death of the creator.-Mr Vusumuzi Moyakhe, NW film Commission</li> <li>s29H(c) empowers the Tribunal to impose a fine under s175 of the Companies Act. The Tribunal is not the appropriate forum to impose such fines. More generally, it is unclear what the</li> </ul>	<ul style="list-style-type: none"> <li>Tribunals can impose fines. The Tribunal can make orders that benefit the parties not only government. There are Tribunals currently that carry similar functions.</li> <li>Turnover based fines can be imposed on juristic persons. This will not be unique to the Act and intellectual property.</li> <li>There is a Copyright Tribunal currently with limited jurisdiction. In terms of adjusting and strengthening the</li> </ul>	

				<p>rationale is for empowering the Tribunal to make an order for an administrative fine. If reparation in the form of a monetary award is required, it must take the form of a damages award made in favour of the successful party before the Tribunal (the copyright owner, author, licensee etc.). The State has no interest in the disputes that will be heard by the Tribunal, and there is no justification for it benefitting from them.-MultiChoice</p> <ul style="list-style-type: none"> <li>• The NCOP to determine whether the Tribunal provisions of 29A to 29H comply with section 3 of the Superior Courts Act of 2013.-SAIIPP</li> <li>• We submit that a turnover-based fine is not appropriate in the context of intellectual property rights penalties.</li> </ul>	<p>powers of the Tribunal, the necessary legislation will be applied.</p>	
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				<p>This should also be borne in mind in the context of fines under s27(6) of the Act, as proposed to be amended by clause 29(b) of the Bill.</p> <ul style="list-style-type: none"><li>• M-Net and MultiChoice propose that the Copyright Act should be amended to include provisions for a streamlined and fast-track process for removal, takedown and site blocking by ISPs upon notification by verified rights holders without the need to approach the court, as the process to obtain an interdict can be costly and time consuming and may well end up being too little too late in the majority of cases.</li><li>• Absence of effective legal remedies to combat online infringement remains a material oversight in the Bill,</li></ul>		
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				<p>i.e website-blocking remedy.-SAIPL</p>		
				<ul style="list-style-type: none"> <li>• These actions would not fall under the current prohibition of circumvention of TPMs. M-Net and MultiChoice therefore propose that this conduct be dealt with by way of a provision in the Copyright Bill that serves to criminalise the making and selling of equipment and software used for purposes of signal piracy.</li> <li>• M-Net and MultiChoice therefore propose an amendment to the Copyright Bill that will effectively criminalise the making available (on a website or an app) of copyright content for downloading or streaming by members of the public. The following provision</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed amendments have not been part of the Bill and will require a separate process and further review. They are noted.</li> <li>• Comment on unpublished works and future work is noted.</li> <li>• The drafting suggestion is noted for consideration.</li> </ul>	

				<p>be inserted in Bill as a new s27(4B).</p> <ul style="list-style-type: none"> <li>• In addition, we recommend the introduction of a new criminal provision dealing with digital sharing. -MultiChoice</li> <li>• Unpublished works' copyright term – this is not an important issue at this stage, so we are not too concerned that it hasn't been included. However, we believe that research should be done to investigate applying the copyright term to unpublished works sometime in the future-LIASA</li> <li>• Resale royalty right is not a copyright, recommend a separate chapter in Bill.-SAIPL</li> <li>• The words by 'art market professional' be added after 7B(1)(a)-SAIPL</li> <li>• Clause 10(b)-This provision provides for It is submitted that proposed</li> </ul>		
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				<p>paragraph (f) should end in a semi colon, not a full stop. The insertion of three proposed paragraphs – (f), (g) and (h) in section 9 of the Act. –MEC Wengner</p>		
<b>PERFORMERS PROTECTION AMENDMENT BILL</b>						
<b>Definitions</b>						
			<b>Public comment</b>	<b>DTIC response</b>		
			<ul style="list-style-type: none"> <li>The definition of “broadcast” in respect of the CAB. and reiterate that the Draft White Paper process has been finalised, the current definition of “broadcast” in the Performers’ Protection Act, 1967 should be retained in the PPAB.-NAB, MultiChoice</li> <li>In respect of the definitions of “performer” and “producer”, the NAB submits that these definitions are vague, and should be reframed to</li> </ul>	<ul style="list-style-type: none"> <li>The definition was deliberated in parliament. The various policy considerations around it were noted. It is recommended the current definition in the Act be retained.</li> <li>The language in the definition of performer and producer is in line with the language of the treaty.</li> <li>The definition proposal to address the extras, is not necessary because extras</li> </ul>		

				<p>ensure that there is clarity for the creative industry.</p> <ul style="list-style-type: none"> <li>• Amend the definition of "producer" to read as follows: "producer means the person who takes responsibility for the first fixation of a sound recording or an audiovisual fixation"- MultiChoice</li> <li>• Amend the definition of "performer" to read as follows: "'performer' means an actor, singer, musician, dancer or other person who acts, sings, delivers, declaims, plays in or otherwise viewed in context, performs literary, musical or artistic works as contemplated in the Copyright Act, but does not include extras, ancillary participants or incidental participants"- MultiChoice</li> </ul>	<p>are not entitled to royalties. The treaty definition does not include the extras. However, the recommendation to clarify in the law can be considered as proposed.</p>	
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				<ul style="list-style-type: none"> <li>The definition of performer is broad. The NAB respectfully submits that a distinction must be made between a performer for purposes of the statutory rights and obligations, and incidental participants (such as extras) who would not, in context of literary, musical or artistic works, be considered a performer or “member of the cast”. This distinction is especially crucial as only performers have a statutory right to receive a royalty or equitable remuneration.-NAB</li> </ul>		
				<b>Reversionary clause</b>		
				<b>Public comments</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>The bill needs to be explicit as to what happens to rights of performers have transferred to the owner of the</li> </ul>	<ul style="list-style-type: none"> <li>The objective is for the rights to revert back to the performer after 25 years.</li> </ul>	

				<p>recording after 25 years. do those rights revert back to the performer or what really becomes of those rights after the expiry period?-Mr Vusumuzi Moyakhe, North West Film Commission</p> <ul style="list-style-type: none"> <li>Propose that the law of succession should apply to the performers rights, where the next of kin is/are not prejudiced from getting royalties/ remuneration/merits upon the death of the creator-Mr Vusumuzi Moyakhe, North West Film Commission</li> </ul>	<ul style="list-style-type: none"> <li>The law of succession comment is noted.</li> </ul>	
				<b>Clause 2, 3, 4 and 5</b>		
				<b>Public comments</b>	<b>DTIC response</b>	
				<ul style="list-style-type: none"> <li>Throughout the PPAB there is a lumping of what would be exclusive rights (i.e. rights requiring the prior authorization of the rights-holder) and remuneration rights (i.e. rights only</li> </ul>	<ul style="list-style-type: none"> <li>The structure of the Bill is aligned to the Performers' Protection Act.</li> <li>The remuneration structure in the PPAB was amended and aligned to the treaties during the</li> </ul>	

				<p>requiring that payment must be made for usage but which do not prohibit the usage itself). Currently in respect of performances, the “needle-time rights” system contemplated in section 5(1)(b) of the PPA is an example of a remuneration rights system. The provisions in clauses 2, 3, and 4 (in particular the proposed section 3(4)(g) in clause 2; the proposed section 5(1)(a)(vi) in clause 4; the proposed revision of section 5(1)(b) in clause 4; and the proposed amendment to section 5(4)(a) in clause 4) all need to be revisited to make a clear distinction between exclusive rights and equitable remuneration rights.  –Copyright Coalition SA.</p>	<p>parliamentary process.</p>	
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				<ul style="list-style-type: none"> <li>The legislation cannot create a “royalties or equitable remuneration” regime, as it will create uncertainty. In respect of performances embodied in sound recordings, it is clear from the provisions of the Rome Convention and the WPPT that the system has to be that of equitable remuneration. In respect of performances embodied in audio-visual works, it can either be a royalties system or an equitable remuneration system.-Copyright Coalition SA</li> </ul>		
				<ul style="list-style-type: none"> <li>Reject the definition of communication to the public in 1(d) <ul style="list-style-type: none"> <li>New section in 3(4) in clause 2</li> <li>New section 5(1)(a)(i),</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>The comments are noted.</li> <li>Section 3(4) provides exclusive rights for performers. The other clauses provide for other rights and exceptions. It is</li> </ul>	



				<p>1(b)(iv) to (vii), 1A, 2, 4 and 5 in clause 4</p> <ul style="list-style-type: none"> <li>• New section 8(2)(f) in clause 5(a)</li> <li>• Amendment of section 8(3) (a) by clause 5(b), because they are in some places incorrect or in conflict with the WPPT and the Beijing treaty.</li> <li>• Section 8F and 8H not compliant with the treaties and not provide adequate legal protection-SAIPL</li> </ul>	unclear why they are recommended to be rejected.	
15.	2023	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on Budget Vote 39, Strategic Plan, 2023/2024 Annual Performance Plan of the Department of Trade,	ATC 230524	<p><b>Issues Arising from Engagement</b></p> <p>The following are the key issues raised by Members and responses from the Department during deliberations:</p> <ol style="list-style-type: none"> <li>1. The Committee welcomes the Department's new approach and revised APP, particularly how it translates to outputs.</li> </ol>	<p><b>Recommendations</b></p> <p>Following the engagements with the Department, the Committee proposed the following recommendations to the Minister to be implemented <i>over the 2023 medium term</i>:</p> <ol style="list-style-type: none"> <li>1. Committee emphasised that organisational health and capability is critical in the execution of government strategic economic</li> </ol>	

		<p>Industry and Competition, 23 May 2023</p>		<p>2. In response to concerns by Members that the focus on outputs would compromise audit compliance, the Minister indicated that previously, in order to meet audit targets the outputs were simplified (SMART targets) and focussed on factors that were within the control of the Department. This was done at the expense of output which are impacted by external factors. The revised way of work takes some degree of risk, however, it was noted that there is a strong connection between what is happening in the economy and the work of the Department. Outputs could no longer only focus factors within the control of the Department and its internal environment just meet performance targets. This old way of working usually compromised impact for the attainment of targets. However, the Minister expressed confidence that this better framework would enhance impact and performance whilst not compromising audit compliance.</p> <p>3. Members raised concerns regarding the high number of acting positions, particularly in senior administration.</p> <p>4. Members raised concerns that the temporary ban on scrap metal exports had no impact on reducing theft and vandalism of public infrastructure and queried the interventions the Department had in place to address this. In response to concerns raised by Members regarding the impact of the temporary scrap metal ban, it was reported that the Department is constantly monitoring its effectiveness however noted that export</p>	<p>policies. By the end of the 2023 financial year, the Minister through the Department, should design and execute a plan that would ensure that critical posts are filled.</p> <p>2. Over the 2023 medium term, the Committee urged the Minister with the support of Minister of Finance in collaboration with the Minister Cooperative and Traditional Affairs, that it should establish the <i>National Regional Economic Development Fund</i> to support economic growth, investment, enterprise development and employment in provinces that lag behind in terms of economic development.</p> <p>3. The Minister should over the medium term ensure that all planned SEZs in other provinces are operational. To this end, the Committee would expect the Minister to submit annually a mid-term progress report in relation to the implementation of the SEZs.</p> <p>4. Over the 2023 medium term, the Minister in collaboration with other spheres of government must design strategy and action plans that would spur regional economic growth by creating investment-friendly conditions and streamlining regulations to accelerate investments.</p> <p>5. The Committee reiterate that <i>Research, Development and Innovation</i> remains a pivotal element in efforts to boost productivity and competitiveness of the economy. Over</p>
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				<p>permits granted prior to the application of the ban were not cancelled.</p> <p>5. Members raised concerns that with 12 months left in the Sixth Administration, the degree to which the new framework of working and revised APP would be carried forward by the next administration.</p> <p>6. In response to concerns from Members regarding interventions with the European Union (EU) stringent regulations on citrus imported from South Africa and the Department's interventions in this regard. It was reported that the new measures require South African farmers to apply extreme cold treatment to all Europe-bound oranges and to keep fruits at temperatures of 2 degrees or lower for 25 days. This has damaging implications for cold storage costs for citrus farmers and is meant to address phyto-sanitary and new plant health and safety requirements. South Africa has continuously argued that regulation is inappropriately applied and unjustifiable. The Department highlighted the success of South African citrus exports which has grown to be the second largest global exporter of citrus, of which approximately 40 percent is destined for the EU. The Department reported that South African's government approach for a resolution on the matter is to intensify bilateral engagements with the EU at various levels:</p> <ul style="list-style-type: none"> <li>○ Political: The President met with the EU Council President in July 2022 and with the Spanish Prime Minister</li> </ul>	<p>the medium term, the Minister, working jointly with the Minister responsible for Science and Innovation, should develop an action plan with necessary funding requirements to boost investment in research, development and innovation in the provinces, in particular those which are lagging in terms of economic development. The Committee expects the receipt of the report by the end of the 2023/24 financial year.</p> <p>Report to be considered.</p>
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				<p>in October 2022. DTIC and DALRRD Ministers also raised it with their EU counterparts, including at the 15th SA-EU Ministerial Political Dialogue Partnership held in January 2023.</p> <ul style="list-style-type: none"> <li>○ Legal: A WTO dispute settlement process was initiated in July 2022 by way of a letter to the EU requesting formal WTO consultations. Formal WTO Consultations were held in September 2022. The next step is a request by South Africa for the establishment of a dispute settlement panel in the WTO if an amicable solution can't be found.</li> <li>○ Technical: Meetings during 2022 and 2023 of SA-EU agriculture and trade technical officials.</li> </ul> <p>7. Members raised serious concerns regarding the lack of progress regarding SEZs and Industrial Parks, in particular, the Nkomazi SEZ in Mpumalanga which has seen little progress to date.</p> <p>8. In respect of the SEZ's, the Department submitted that this has highlighted the weaknesses in the SEZ model. Currently, spatial industrial development interventions are a provincial responsibility with limited managerial input from national government. This approach has not yielded the desired results. In addressing this, the Department introduced a new approach wherein business plans for SEZ's are rechecked, proper governance arrangements are put in</p>	
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				<p>place and there is more is being done by provinces and municipalities to co-fund the SEZ's as well as investment by the private sector. Announcements will be made by the Minister in the coming weeks regarding the SEZ's that will be prioritized for the 2023/24 financial year.</p> <p>9. In response to queries from Members regarding the Energy Action Plan, the Department responded that its work would support that of the Energy Minister and Output 23 (Investor Facilitation) was aligned to the energy initiatives and the 2023 State of the Nation Address policy priorities. Work is being done to unlock opportunity for job creation and localizing job opportunities as the country builds new energy infrastructure. Furthermore, the Department is working towards facilitating investment in energy and is working towards the creation of a one-stop-shop for private energy producers to assist them in managing regulatory challenges and improving energy efficiency.</p> <p>10. Members raised concerns regarding the ongoing changes to the organisational structure of the Department and the high potential for anxiety this can create for personnel.</p> <p>11. The Department submitted that measures in place to assist small businesses in respect of red tape and are working in conjunction with the Department of Small Business</p>	
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				<p>Development in this regard and working with vulnerable small businesses- criteria in this regard will be announced shortly.</p> <p>12. In respect of economic diplomacy and navigating the complexities of a polarizing world, particularly in relation to the Russia-Ukraine conflict, it was highlighted that South Africa remains committed to the non-alignment global affairs mission. Further, AfCTA present trade opportunities within the African region.</p> <p>13. The Department reported that the <i>Companies Amendment Bill</i> will be processed for Cabinet, and focussed on ease of doing business, indicators on wage differentials and where necessary, measures to combat money laundering and terrorism. The amendments will further give effect to the President's Zondo Commission Report:</p> <p><i>“The recommendation to amend the Companies Act so as to permit applications for a director to be declared delinquent to be brought after two years is accepted and will form part of the review of the Companies Act”</i></p> <p>xv. The Department reported that as part of the <i>Re-Imagined Industrial Strategy</i>, localisation is key and must be rooted in building dynamic firms and an inclusive economy. A localisation social compact was reached at NEDLAC that identified a number of key value chains, where opportunities exist. Sector Master Plans developed and implemented in</p>	
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			<p>partnership with business and unions contain details on how actions plans will be executed.</p> <ol style="list-style-type: none"> <li>1. In relation to AGOA, the Department reported that South Africa remains a beneficiary country under African Growth and Opportunities Act (AGOA) and also under the Generalised System of Preferences (GSP). The two programs provide duty-free quota-free access into the US market. South Africa, together with other AGOA-eligible countries are lobbying US Congress to consider renewing AGOA beyond 2025 for another 10 years. South Africa will be hosting the AGOA Forum later this year. The Forum will bring together Ministers from Africa AGOA-beneficiary countries, the US Trade Representative and other high-level US Administration officials, Members of US Congress, private sector, civil society and organised labour. The programme will include, among others, a “Made in Africa” trade exhibition aimed at showcasing the industrial capacity of countries in the continent to major US buyers.</li> <li>2. South Africa’s exports enter the United States market under three regimes: most favoured nation (MFN) clause of the World Trade Organisation (WTO), AGOA and GSP: <ul style="list-style-type: none"> <li>• South Africa’s AGOA exports equalled US\$2 billion in 2021, up from US\$1.2 billion in 2020 and US\$1.2 billion in 2019. The share of AGOA exports in total SA exports to the US experienced a downward trend: 31</li> </ul> </li> </ol>	
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				<p>percent in 2013; 16 percent in 2019; 10 percent in 2020, and then increased to 13 percent in 2021.</p> <ul style="list-style-type: none"> <li>• South Africa's GSP exports equalled US\$625 billion in 2021, down from US\$714 billion in 2020 and US\$755 billion in 2019. The share of GSP exports in total SA exports to the US also experienced a downward trend: 13 percent in 2013; 10 percent in 2019; 6 percent in 2020 and 4 percent in 2021.</li> <li>• South Africa's MFN exports enter the US under terms no more favourable than those accorded by the US to all other WTO members. These exports from SA equalled US\$12.7 billion in 2021, up from US\$9.3 billion in 2020 and US\$5.6 billion in 2019. The share of MFN exports in total SA exports to the US enjoyed an upward trend: 56 percent in 2013; 74 percent in 2019; and remained at 83 percent in 2020 and in 2021.</li> </ul>	
16.	2023	Report on the Joint Study Tour to Germany by the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour together with the Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure from 3 to 7 July 2023, dated 1 August 2023	ATC 230804	<p><b>GERMANY TRADE AND INVEST</b></p> <p><b>Observations</b></p> <p>Germany is signatory to more than 140 international bilateral or multilateral investment treaties. There is however a move towards abolishing such treaties in favour of treaties where the European Union is a signatory. The GTAI has confirmed the Country's continued participation in the European Union given the advantages it provides to Germany that is strategically located within the European market.</p> <p>In February 2023 the GTAI led an outbound delegation to Johannesburg, South Africa, which was focused on the hydrogen sector. The investor</p>	<p><b>Recommendations</b></p> <p>The Department of Trade, Industry and Competition Invest SA investment promotion agency should be guided by a strategic focus of attracting business opportunities that increase the resilience of local market by complementing, reinforcing and strengthening local markets and local value chains.</p> <p>In respect of the outbound delegation identified for South Africa in 2024, the GTAI should be encouraged to extend the visit to include delegation visits to former coal-mining areas to identify areas of mutual interest in respect of economic transition for such areas, including possible transition to hydrogen generation and provision.</p>



			<p>events were attended by experts across the hydrogen generation and provision value chain. Other participants included representatives from automotive and aerospace associations. A further outbound delegation has been identified for Cape Town, South Africa, in 20224 although the industry focus has not yet been identified.</p> <p>It was confirmed that German import of coal has for the current period increased. This was attributed to the fact that during the transition to phasing out coal, expensive but stable fossil fuel energy sources are being replaced with fluctuating renewable sources which must still be supplemented. Furthermore, countries like Germany assists other European Union countries during periods of energy shortages. Germany provided such assistance when power plants in France were recently not operating.</p> <p>Independent Power Producers (IPP's) contribute significantly to energy production in the Country. At present, renewable sources account for at 60% of energy production in Germany with the energy reliability factor in the Country being close to 100%. IPP's are incentivised through feed - in tariffs, VAT rebates and support from Public Investment Bank loans.</p> <p>France and Germany have extended €600 million in financing to support South Africa's transition from coal as part of its Just Transition Plan. The two countries have signed loan agreements to each extend €300 million in concessional financing to South Africa.</p> <p>A strong system of vocational training is necessary to complement reskilling of a workforce who are impacted when areas experiencing structural challenges transition to new industries.</p>	<p>The GTAI cautioned the Select Committee that studies undertaken by the United Nations have shown that in developing countries, the Special Economic Zones (SEZ) model has been shown to exacerbate market and socio - economic inequality. The parliamentary research section is to be requested to prepare a research paper on international experiences of SEZ's in developing countries.</p>
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17.	2023	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on the Performers' Protection Amendment Bill [B24F- 2016] (National Assembly – Section 76), dated 5 September 2023	ATC 230908	<p><b>Purpose of the Bill</b></p> <ul style="list-style-type: none"> <li>• To amend the Performers' Protection Act, 1967, so as to insert, delete or substitute certain definitions;</li> <li>• To provide for performers' economic rights;</li> <li>• To extend moral rights to performers in audiovisual fixations;</li> <li>• To provide for the transfer of rights where a performer consents to fixation of a performance;</li> <li>• Further to provide for the protection of rights of producers of sound recordings;</li> <li>• In addition to broaden the restrictions on the use of performances;</li> <li>• To extend the application of restrictions on the use of performances to audiovisual fixations;</li> <li>• Further to provide for royalties or equitable remuneration to be payable when a performance is sold or rented out;</li> <li>• To provide for recordal and reporting of certain acts and to provide for an offence in relation thereto;</li> <li>• Further to extend exceptions from prohibitions to audiovisual fixation and sound recordings and include exceptions provided for in the Copyright Act, 1978;</li> <li>• To provide for the Minister to prescribe compulsory and standard contractual terms as well as guidelines for a performer to grant consent under this Act;</li> <li>• In addition to provide for prohibited conduct and exceptions in respect of technological protection measures and copyright management information respectively;</li> <li>• To provide for further offences and penalties;</li> <li>• Further to substitute certain expressions;</li> <li>• To provide for transitional provisions; and</li> <li>• Finally, to provide for matters connected therewith.</li> </ul>	<p><b>Consideration of Final Mandates</b></p> <p>All provinces submitted Final Mandates which were considered on the 5 September 2023. The Final Mandates were submitted as follows:</p> <p><b>Provinces Status</b></p> <p>Eastern Cape Voted in favour of the Bill Free State Voted in favour of the Bill Gauteng Voted in favour of the Bill KwaZulu-Natal Abstained from voting Limpopo Voted in favour of the Bill Mpumalanga Voted in favour of the Bill Northern Cape Voted in favour of the Bill North-West Voted in favour of the Bill Western Cape Voted not in favour of the Bill</p> <p><b>Outcome of Committee's consideration of the Bill</b></p> <p>The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour having deliberated on and considered the subject of the <b>Performers' Protection Amendment Bill [B24F - 2016]</b>, referred to it and classified by the JTM as a section 76 Bill, reports that it has agreed to an amended Bill [B24F – 2016].</p> <p>Report to be Considered.</p>
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18.	2023	Report of the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour on the Copyright Amendment Bill [B13F- 2017] (National Assembly – Section 76), dated 5 September 2023	ATC 20230908	<p><b>Purpose of the Bill</b></p> <ul style="list-style-type: none"> <li>• To amend the Copyright Act, 1978, so as to define certain words and expressions;</li> <li>• To allow for further limitations and exceptions regarding the reproduction of copyright works;</li> <li>• In addition to provide for equitable remuneration or the sharing of royalties in copyright works;</li> <li>• To provide for the payment of equitable remuneration or royalties in respect of literary, musical, artistic and audiovisual works;</li> <li>• Further to provide for resale royalty rights;</li> <li>• To provide for recordal and reporting of certain acts;</li> <li>• Further to provide for accreditation of collecting societies;</li> <li>• To provide for a mechanism for settlement of disputes;</li> <li>• In addition, to provide for access to copyright works by persons with disabilities;</li> <li>• Further to provide for the licensing of orphan works;</li> <li>• To strengthen the powers and functions of the Copyright Tribunal;</li> <li>• Further to provide for prohibited conduct in respect of technological protection measures;</li> <li>• To provide for prohibited conduct in respect of copyright management information;</li> <li>• In addition to provide for the protection of digital rights;</li> <li>• To provide for certain new offences; and</li> <li>• Finally, to provide for matters connected therewith.</li> </ul>	<p><b>Consideration of Final Mandates</b></p> <p>All provinces submitted Final Mandates which were considered on the 5 September 2023. The Final Mandates were submitted as follows:</p> <p><b>Provinces Status</b></p> <p>Eastern Cape Voted in favour of the Bill  Free State Voted in favour of the Bill  Gauteng Voted in favour of the Bill  KwaZulu-Natal Abstained from voting  Limpopo Voted in favour of the Bill  Mpumalanga Voted in favour of the Bill  Northern Cape Voted in favour of the Bill  North-West Voted in favour of the Bill  Western Cape Voted not in favour of the Bill</p> <p><b>Outcome of Committee’s consideration of the Bill</b>  The Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour having deliberated on and considered the subject of the <b>Copyright Amendment Bill [B13F - 2017]</b>, referred to it and classified by the JTM as a section 76 Bill, reports that it has agreed to an amended Bill [B13F – 2017].</p> <p>Report to be Considered.</p>
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