**Report of the Portfolio Committee on Trade and Industry on Budget Vote 34: Trade and Industry, dated 19 April 2016**

The Portfolio Committee on Trade and Industry, having considered Budget Vote 34: Trade and Industry, reports as follows:

## 1. Introduction

This budget recognises the importance of manufacturing in the industrialisation drive of South Africa and also focusses on downstream and upstream productivity. The funded priorities of the budget are aimed at supporting our national goals of job creation and fighting poverty by acknowledging the downward pressure on high unemployment and extreme socio-economic inequity. Using allocative efficiency, it ensures South Africa will build an enabling environment employing the principle of higher value addition. Coupled with this developmental approach to growth, the incentive schemes together with other support measures are driving an inclusive, regionally integrated economy.

Highlighted in the 2016 State of the Nation Address was the need to accelerate the priorities as set out in the Nine-Point Plans which was to boost economic growth and job creation. Emphasis was placed on the revitalisation of the agricultural and agro-processing value-chain, and the effective implementation of the Industrial Policy Action Plan (IPAP). In line with the IPAP objectives, advancing mineral beneficiation, investing in the green and ocean economy, and leveraging public procurement is critical to mitigate against the current global economic challenge facing South Africa. The Department of Trade and Industry's (DTI) budget is informed by the National Development Plan which underlines the need to increase beneficiated exports, such as mining, agriculture and manufacturing, to shift from a commodity-driven economy. This is being done by broadening the export base to include targeted high growth markets such as BRICs, and Africa.  The DTI will continue to strengthen trade and investment linked with traditional trading partners, such as the European Union (EU) and the United States of America (USA) which has restored South Africa's inclusion the African Growth and Opportunity Act (AGOA). The intense negotiations over the past few years in Africa have borne fruit among them the Tri-partite Free Trade Agreement (TFTA). New negotiation with respect to the Continental Free Trade Agreement (CFTA) is also ongoing. However, the DTIs budget reflects the current fiscal constraints.

A productive and labour-intensive economy that creates not only unskilled and semi-skilled employment but also skilled jobs is being pursued. One of the most recent instruments to radically transform the economy is the Black Industrialists Programme as a vehicle to implement the Broad-based Black Economic Empowerment legislation. The Public-Private initiatives plus the incentive programmes has led to South Africa becoming the destination of choice for Mercedes, BMW, Volkswagen, Toyota and even Ford, which has recently boosted their investment by R2.5 billion. In addition, this has contribute to improvements in competitiveness within the clothing, textiles, leather and footwear sectors. Furthermore, the development of Special Economic Zones (SEZs) and the additional tax and other incentives allocated to it is expected to attract new investment and expansions in investment. The DTI will be spending about R1.3 billion on SEZs this financial year.

The regulatory framework, including the companies and consumer protection legislation, provide an enabling environment for both business and consumer. Furthermore, the technical infrastructure institutions, for example the National Regulator for Compulsory Specifications and the South African Bureau of Standards, provide a sound platform that ensures the compliance of products, goods and services.

### 1.1. Constitutional Mandate of the Committee

Portfolio committees exercise oversight over their respective departments and agencies in line with their Constitutional mandate set out in section 55(2) of the Constitution (No. 108 of 1996) and section 27(4) of the Public Finance Management Act (No. 1 of 1999). In addition, the Money Bills Amendment Procedure and Related Matters Act (No. 9 of 2009) also requires committees to consider and report on their department and entities' strategic plans. Portfolio committees may also advise the Standing Committee on Appropriations in the National Assembly regarding possible amendments within a budget vote for its consideration.

### 1.2. Purpose

The purpose of this report is for the Portfolio Committee on Trade and Industry to report on its deliberations and consideration, which is essentially the unpacking and scrutinising of the DTI's strategic plan, annual performance plan and its associated budget vote (Budget Vote 34). Furthermore, to make recommendations regarding the approval, amendment or rejection of Budget Vote 34 and any other recommendation regarding the implementation of the DTI's strategic plan.

### 1.3. Process

The committee's consideration of Vote 34 involved a robust engagement with the Minister of Trade and Industry, Dr R Davies, and the Director-General, Mr L October, on 8 March 2016, when they provided the context within which the DTI's Strategic Plan had been developed and presented its Annual Performance Plan. The DTI's plans were discussed in relation to its mandate, which covers five key intervention areas, namely[1]:

- Industrial development.
- Trade, investment and exports.
- Broadening participation.
- Regulation.
- Administration.

During this engagement, the budget was unpacked against the DTI's strategic plan and the priorities of the State of the Nation Address (SONA) within the prevailing economic climate. This required the committee to evaluate the alignment of incentives and other instruments of industrial and trade policy objectives to ensure that the stated objectives are met.

The committee also considered the following entities' strategic and annual performance plans on 9 and 15 March 2016 and 5 April 2016:

- Companies Tribunal.
- National Consumer Tribunal (NCT).
- National Gambling Board (NGB).

## 2. Budget Vote 34: Department of Trade and Industry

### 2.1. Strategic Plan 2016/2021

The DTI is the custodian of the country's industrial policy, its strategic goals and programmes support the achievement of the country's goals as articulated in the National Development Plan (NDP), particularly the creation of employment. This is done through the facilitation of industrialisation and economic development that results in the promotion of trade.

The strategic goals of the DTI are to:

- "Facilitate transformation of the economy to promote industrial development, investment, competitiveness and employment creation;
- Build mutually beneficial regional and global relations to advance South Africa's trade, industrial policy and economic development objectives;
- Facilitate broad-based economic participation through targeted interventions to achieve more inclusive growth;
- Create a fair regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner; and
- Promote a professional, ethical, dynamic, competitive and customer-focused working environment that ensures effective and efficient service delivery."[2]

---

[1] DTI (2014a)
[2] Department of Trade and Industry (2015)

The DTI's programmes changed in the 2014/15 financial year. This stemmed from the establishment of the Department of Small Business Development, which is mandated to promote and develop small businesses and cooperatives through economic and legislative drivers that stimulate entrepreneurship to contribute to economic transformation in the country. This led to the transfer of a number of the DTI's activities, hence the reconfiguring and renaming of programme 3 from the Broadening Participation Programme to the Special Economic Zones and Economic Transformation programme. This programme is targeted at Special Economic Zones, which are an intervention of the IPAP, and the Black Industrialists initiative, which is an intervention to broaden economic participation in line with the DTI's strategic objective to facilitate broad-based economic participation[3].

Furthermore, programme 7, Trade and Investment South Africa, was divided in this financial year to create the new programme 7, Trade Export South Africa, and programme 8, Investment South Africa.

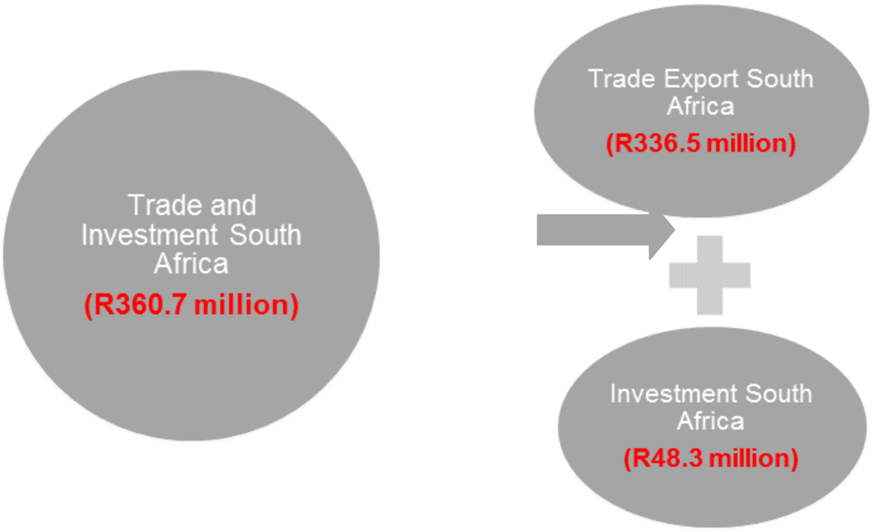



**Figure 1: Division of former Programme 7: Trade and Investment South Africa**[4]

Therefore, the DTI now has the following 8 programmes responsible for implementing its mandate:

- Programme 1: Administration
- Programme 2: International Trade and Economic Development
- Programme 3: Special Economic Zones and Economic Transformation
- Programme 4: Industrial Development
- Programme 5:Consumer and Corporate Regulation
- Programme 6: Incentive Administration and Development
- Programme 7: Trade Export South Africa
- Programme 8: Investment South Africa

### 2.2. Policy Priorities for 2016/17

South Africa's policy priorities are economic growth, economic participation and social development. According to the NDP, the 2015 Medium Term Budget Policy Statement (MTBPS) and the 2014-19 Medium Term Strategic Framework (MTSF), for economic growth to be achieved and jobs to be created, the following conditions have to be met:[5]

- "Sustained high levels of public investment and increasing private investment, consumption so that a greater share of investment can be financed from domestic savings", and
- "Supported rapid growth in exports, and maintaining a competitive real exchange rate to boost economic output and job creation".

The 2015 MTBPS emphasised "building infrastructure, investment promotion and growing trade linkages"[6]. There is a clear alignment between the DTI's work as per its strategic objectives, the NDP,

[3] Department of Trade and Industry (2015)
[4] Figures based on National Treasury (2016)
[5] The Presidency (2014)
[6] Nene, N. (2015)

the 2015 MTBPS and the 2014-2019 MTSF. In line with this, the DTI's priorities as articulated by the President in his 2016 State of the Nation Address are to provide support for the manufacturing sector; to promote international trade; to promote investment; and to promote Broad-Based Black Economic Empowerment.[7] The DTI expands on these aims in its Strategic Plan (2015/2020), and sets its strategic objectives as follows:[8]

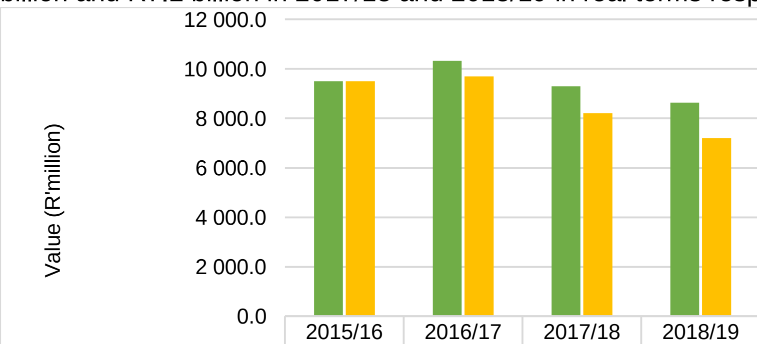
- **Providing Manufacturing Sector Support and Promoting Investment:** Facilitating the transformation of the economy to promote industrial development, investment, competitiveness and employment creation; in particular, the implementation of the Industrial Policy Action Plan (IPAP).
- **Promoting Broad-Based Black Economic Empowerment:** Facilitating broad-based black economic participation through targeted interventions to achieve more inclusive growth; in particular, the promotion of Black Industrialists.
- **Promoting International Trade:** Building mutually beneficial regional and global relations to advance South Africa's trade, industrial policy and economic development objectives.

To support the strategic objectives, the Department has identified a number of interventions to accelerate the achievement of the broader strategic objectives, which the President underlined in his 2016 State of the Nation Address, namely:

- The development of an Inter-Ministerial Committee on Investment Promotion;
- The One Stop Shop/Invest South Africa initiative; and
- The launch of the Black Industrialists Programme.

### 2.3. 2016/17 Budget

The DTI's budget has increased from R9.5 billion in the 2015/16 financial year to R10.3 billion in the 2016/17 financial year, an increase of R829.7 million in real terms. Therefore, the DTI's budget will increase by 2 percent in real terms for the 2016/17 financial year. Given the inflation estimates of 6.2 percent and 5.9 percent for the outer two years respectively, the budget is expected to decline to R8.2 billion and R7.2 billion in 2017/18 and 2018/19 in real terms respectively.[9]




| | 2015/16 | 2016/17 | 2017/18 | 2018/19 |
|---|---|---|---|---|
| Nominal amounts (R'm) | 9 497.8 | 10 327.5 | 9 290.5 | 8 631.4 |
| Inflation-adjusted (R'm) | 9 497.8 | 9 688.1 | 8 206.5 | 7 199.5 |

**Figure 2: Overview of the Budget Allocation: 2015/16 – 2018/19**
Source: calculations based on National Treasury (2016)

In terms of the economic classification, the main budget allocation will be spent on transfers and subsidies (84.9 percent of the total budget), followed by current payments (14.8 percent of the total budget) and payments for capital assets (0.3 percent of the total budget) in the 2016/17 financial year. Transfers and subsidies increased by 4.1 percent in real terms from the 2015/16 financial year to the 2016/17 financial year. This increase was due to the real increase of transfers to private enterprises related to incentives. Most other types of transfers decreased in real terms. Current payments are made up of compensation of employees (60.8 percent of current payments) and goods and services (39.2 percent of current payments). Overall, current payments decreased by 8.1 percent in real terms, with goods and services showing the largest real decrease of 15.3 percent. The three line items that receive the largest allocations under goods and services were:

[7] Zuma, J. G (2015)
[8] Department of Trade and Industry (2015)
[9] Inflation estimates are 6.6%, 6.2% and 5.9% respectively for the next three years from 2016/17 to 2018/19

- Operating leases, which received 36.7 percent of the goods and services budget and decreased in real terms by 16.9 percent;
- Travel and subsistence, which received 17.7 percent of the goods and services budget and decreased in real terms by 4.2 percent; and
- Consultants for business and advisory services, which received 11 percent of the goods and services budget and decreased in real terms by 14.7 percent.

### 2.3.1 Budget Allocation by Programme

In line with the DTI's mandate and strategic objective of "facilitating transformation of the economy to promote industrial development, investment, competitiveness and employment creation"[10], the two largest programmes in terms of the share of the budget are the Incentive Development and Administration Programme, at approximately 67 percent and the Industrial Development Programme with a 17 percent share of the 2016/17 budget. The rest of the budget is allocated to the six other programmes (see Figure 3 below).

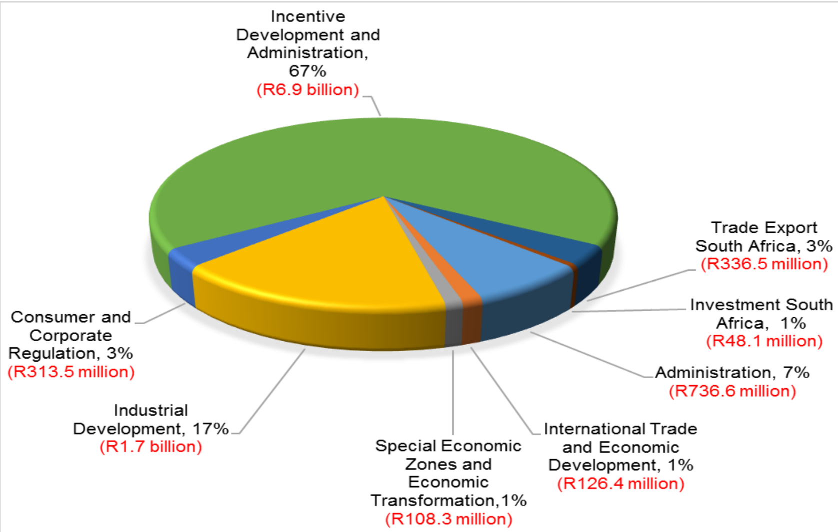



**Figure 3: Budget Allocation by Programme: 2016/17 Financial Year**
Source: calculations based on National Treasury's Estimates of National Expenditure data (2016)

At a programme level, the budget of five (5) programmes (Administration, Industrial Development, Consumer and Corporate Regulation, Trade Export South Africa, and Investment South Africa) decreased by 10 percent, 17 percent, 0.7 percent, 18 percent, and 6.5 percent in real terms respectively. The budgets of three (3) programmes increased, these include the International Trade and Economic Development programme with an increase of 1.7 percent; Special Economic Zones and Economic Transformation programme with an increase of 13.2 percent; and Incentive Development and Administration programme with an increase of 13.4 percent in real terms.

**Table 1: Budget Allocation by Programme: 2016/17 Financial Year**

| Programme (R' million) | Budget | | Nominal Increase /Decrease | Real Increase /Decrease | Real Percent change (%) |
|---|---|---|---|---|---|
| | 2015/16 | 2016/17 | 2015/16 – 2016/17 | | |
| Administration | 768.3 | 736.6 | -31.7 | -77.3 | -10.06 |
| International Trade and Economic Development | 116.6 | 126.4 | 9.8 | 2.0 | 1.70 |
| Special Economic Zones and Economic Transformation | 89.7 | 108.3 | 18.6 | 11.9 | 13.24 |
| Industrial Development | 1 964.3 | 1 735.7 | -228.6 | -336.1 | -17.11 |
| Consumer and Corporate Regulation | 296.4 | 313.5 | 17.1 | -2.3 | -0.77 |
| Incentive Development and Administration | 5 827.6 | 6 922.4 | 1 094.8 | 666.2 | 11.43 |

[10] Department of Trade and Industry (2015)

| | | | | | |
|---|---|---|---|---|---|
| Trade Export South Africa | 386.8 | 336.5 | -50.3 | -71.1 | -18.37 |
| Investment South Africa | 48.3 | 48.1 | -0.2 | -3.2 | -6.54 |
| **TOTAL** | **9 497.8** | **10 327.5** | **829.7** | **190.3** | **2.00** |

Source: calculations based on National Treasury (2016)

### 2.3.2 Programme 1: Administration

The Administration programme is responsible for providing strategic support and management to the DTI and its entities. The programme also ensures successful implementation of the DTI's mandate. This programme is the fourth smallest programme by budget allocation, accounting for 3 percent of the DTI's total budget for the 2016/17 financial year or R736.6 million. The budget decreased by R31.7 million (10 percent in real terms) from R768.3 million in the previous financial year.

### 2.3.3 Programme 2: International Trade and Economic Development (ITED)

The ITED programme focuses on building bilateral and multilateral trade relations, relations that facilitate the building of an equitable multilateral trading system; strengthen trade and investment relationships; and promote African development. The programme has two (2) sub-programmes, the International Trade Development and the African Multilateral Economic Development sub-programmes.

The ITED programme is the third smallest programme based on the DTI's budget allocations. With a budget of R126.3 million in the 2016/17 financial year, the programme accounts for 1 percent of the DTI's total budget. The programme's budget will increase from R116.5 million in the 2015/16 financial year to R126.3 million for the 2016/17 financial year. In real terms, the budget has increased by 1.7 percent.

### 2.3.4 Programme 3: Special Economic Zones and Economic Transformation

The purpose of the programme is to promote inclusive economic development and to industrialise the economy through developing and funding Special Economic Zones. The focus of this programme is mainly the implementation of two pieces of legislation, the Special Economic Zones Act (No. 16 of 2014) and the Broad-Based Black Economic Empowerment Act (No. 46 of 2013).

The programme's budget for the 2016/17 financial year will increase by 13.2 percent to R108.2 million. The programme budget for the 2016/17 financial year of R108.2 million accounts for a 1 percent share of the total budget.

The programme consists of 3 sub-programmes, namely: Enterprise Competitiveness, Equity and Empowerment, and Spatial Industrial Economic Development. The Enterprise Competitiveness sub-programme develops and deploys technologies and skills development programmes to stimulate industrialisation and structural change. The Equity and Empowerment sub-programme promotes broad-based black economic empowerment and the real growth of the economy through the Black Industrialists programme. While the Spatial Industrial Economic Development sub-programme responds to the need to decentralise economic development through special economic zones and other mechanisms.[11]

### 2.3.5 Programme 4: Industrial Development

The Industrial Development Programme is responsible for the design and implementation of policies, strategies and programmes to develop the manufacturing and related sectors of the economy with the aim of contributing to the creation of decent jobs, adding higher value to manufactured products and enhancing competitiveness in the domestic and export markets. Industrial development is also at the core of the DTI's work as outlined in the strategic objectives.

The programme is the second largest by budget allocation, Industrial Development takes up a 17 percent share of the DTI's budget to fund two significant sub-programmes: the Industrial Competitiveness and the Customised Sector sub-programmes, which both assist the manufacturing sector in particular. This programme is responsible for the development and implementation of the IPAP, as well as overseeing the technical infrastructure institutions, namely the National Metrology

[11] Portfolio Committee on Trade and Industry (2014)

Institute of South Africa, the National Regulator for Compulsory Specifications, the South African Bureau of Standards, and the South African National Accreditation System.

The programme's budget will decrease from R1.96 billion in the 2015/16 financial year to R1.74 billion in the 2016/17 financial year, a decrease of 17 percent in real terms.

### 2.3.6 Programme 5: Consumer and Corporate Regulation

The Consumer and Corporate Regulation Programme is aimed at "developing and implementing coherent, predictable and transparent regulatory solutions that facilitate easy access to redress and efficient regulation for economic citizens"[12]. The Programme is responsible for developing policies and the regulatory framework to assist business activities, increase access to economic opportunities for small and marginalised businesses and individuals, and protect consumers.

The programme's budget for the 2016/17 financial year will be R313.5 million. The budget increased from R296.3 million; however, in real terms the budget decreased by 1 percent.

Within this programme there are three sub-programmes, namely:

- Policy and Legislative Development;
- Enforcement and Compliance; and
- Regulatory Services

The Regulatory Services sub-programme remains the largest of the three sub-programmes in terms of budget allocation, as it is responsible for overseeing and transferring funds to the DTI's entities which support and implement this programme's mandate. These entities including the Companies and Intellectual Property Commission (CIPC), the Companies Tribunal (CT), the National Consumer Commission (NCC), the National Consumer Tribunal (NCT), the National Credit Regulator (NCR), the National Gambling Board (NGB), and the National Lotteries Commission (NLC). However, the CIPC and NLC are self-funded.

The overall decline in the programme's budget is as a result of the comparatively large budget of the regulatory services sub-programme falling by 2.1 percent in real terms, while the smaller budgets of the Policy and Legislative Development, and the Enforcement and Compliance sub-programmes increased in real terms by 13 percent and 1 percent respectively.

In line with the committee's previous requests that the regulatory entities' budget be increased, the 2016/17 budget shows that transfers to entities will increase from R213 million in the 2015/16 financial year to R218 million for the 2016/17 financial year. However, this is still a decrease in real terms.

### 2.3.7 Programme 6: Incentive Development and Administration

The Incentive Development and Administration Programme is responsible for improving the DTI's incentive administration through designing and implementing incentives and programmes that support investment, competitiveness, employment creation and equity. This programme captures the core mandate of the DTI. For the 2016/17 financial year, the Programme has the largest share of the budget, accounting for 67 percent of the total budget with a value of R6.9 billion. This increase is in line with the committee's recommendation that the incentive programmes be strengthened to improve their impact, particularly in terms of job creation; increased industrial competitiveness; and broader participation of enterprises in the economy[13]. The R1 billion increase in the budget amounts to a real increase of 11 percent, most of which is allocated towards infrastructure investment, to create a better environment to encourage industrial growth. The Manufacturing Incentives sub-programme has the largest share of the budget at R4.9 billion, followed by the Infrastructure Investment Support sub-programme with R1.7 billion.

The Competitiveness and Export sub-programme which previously was a part of this programme has been moved to the Trade Export South Africa programme.

### 2.3.8 Programme 7: Trade Export South Africa

[12] National Treasury (2015)

[13] Portfolio Committee on Trade and Industry (2015)

As mentioned earlier, the Trade and Investment South Africa Programme was part of the former Trade and Investment South Africa programme, which has been divided into two programmes, namely: Trade Export South Africa, and Investment South Africa.

Trade Export South Africa programme is aimed at promoting South African products in high growth markets; facilitating markets for South African manufactured products and services; and enhancing the ongoing promotion of exports.

With a programme budget of R336.5 million for the 2016/17 financial year, the Trade and Investment South Africa Programme accounts for 3 per cent of the Department's total budget.

In line with the country's renewed focus on increasing trade relations with Africa and deepening regional integration, the newly formed African Bilateral Economic Development sub-programme will be allocated R21.1 million in the 2016/17 financial year. This had formerly been the responsibility of the International Trade and Economic Development programme.

#### 2.3.9 Programme 8: Investment South Africa

In the 2016 State of the Nation Address, President Zuma announced the One Stop Shop/Invest South Africa initiative that will increase investment into the country by removing red tape as well as legislative and regulatory blockages. The purpose of the programme is stated as to "support foreign direct investment flows and domestic investment by providing a one-stop shop for investment promotion, investor facilitation and aftercare support for investors"[14]. While the programme is new, the activities aligned to it had already been implemented by the DTI as part of the former Trade and Investment South Africa programme.

The programme is allocated R48 million for the 2016/17 financial year, translating to 1 percent of the budget. The Investment and Inter-Departmental Clearing House sub-programme which specifically deals with the activities of the One Stop Shop has a budget of R4 million for the 2016/17 financial year.

### 2.4. Key issues raised by the committee during its deliberations

During its deliberations, the committee raised a number of concerns relating to industrial policy, energy, the promotion of black industrialists and the verification of Black Economic Empowerment, among others, which are captured below:

- *The impact of Industrial Parks with respect to job creation and addressing the apartheid legacy:* The committee acknowledged the positive impact that Industrial Parks could have with respect to job creation, especially in the former homelands and close to townships. The DTI informed the committee that Industrial Parks represents an opportunity for stimulating local economic development, foreign direct investment and job creation.
- *Risks that would impede the DTI's ability to achieve its objectives as it relates to fraud and corruption, and the non-achievement of performance targets by entities:* The committee raised its concerns with respect to the strategic risks that would impede the DTI's ability to achieve its strategic objectives. The DTI informed the committee that it had appointed an external service provider to conduct a fraud risk assessment to improve its internal controls. With regard to the monitoring of the entities, the DTI informed the committee that it recognised that the quarterly monitoring had been reactive. Consequently, it had adopted an integrated approach which would allow the assessment of the quality of the entities' internal targets and not simply their performance against these. The DTI envisaged that it would actively participate when entities develop their Annual Performance Plans to ensure that targets adhere to the SMART principles[15].
- *The beneficiation drive of government with reference to the mining sector and the specific products identified:* The committee raised its concern with respect to the slow uptake of both government and the private sector with regard to mineral beneficiation. The DTI informed the committee that two sectors had been identified. The first is mining equipment. There is a programme similar to the automotive sector which would be looking at how mining companies should be encouraged to purchase locally produced mining equipment, as well as production for the export market. The second sector is for platinum-based fuels cells to drive economic development. Impala Platinum is building a 1.6 megawatt fuel cell plant in collaboration with the

[14] National Treasury (2016a)
[15] SMART stands for **S**pecific, **M**easurable, **A**ttainable, **R**ealistic and **T**imely.

Department of Science and Technology. The technology's demand for the use of platinum could provide additional avenues for beneficiation of Platinum Group Metals (PMGs).

- *The rationale for the decline in the investment leveraging targets over the Medium Term Expenditure Framework (MTEF) period and its relation to attracting future investment:* The committee raised a concern around the perceived decline in the investment leveraging target over the MTEF period. The DTI responded that investment is currently 17 per cent of Gross Domestic Product with the goal to double investment to ensure a 5 per cent growth. The reference to the decline in the investment target relates to the Manufacturing Competitive Enhancement Programme (MCEP), which has come to an end. The MCEP was a specific programme designed to deal with a specific crisis and was never projected to be a long-term programme. Due to the massive slowdown in South Africa's exports to the European Union, it was decided to put in a rescue package in place at the time for the manufacturing sector to deal with the crisis. The DTI was of the view that it was not economically sound to continuously subsidise the private sector but that it should use other programmes to stimulate manufacturing and sharpen exports to the continent. The conclusion of the MCEP programme would mean a reduction in incentives. This would also require that the DTI lower its targets as it would assist fewer companies. The reduction in targets also relates to the projected lower growth forecast amid global and local economic conditions. It was of the view that other programmes would still be able to stimulate manufacturing. A specific programme, such as for agro-processing, should be created, as it would stimulate the agricultural sector, which has a significant job multiplier effect. The DTI is in support of creating specific incentive programmes but acknowledged that in the current economic environment and with the budgetary constraints it may be a challenge. Furthermore, the DTI also noted key investments which were announced in the automotive sector by Mercedes, BMW, Goodyear, Volkswagen (VW), Beijing Auto Works, the Metair Group and General Motors, as well as affirmations of South Africa as the regional manufacturing hub from Nestle, Unilever, Hisense and Samsung who are investing in the country.
- *Impact of the Investment Act on future investment:* The DTI informed the committee that there were always risk associated with the implementation of any new legislation and the impact of the Protection of Investment Act on real investment must still be tested. Notwithstanding the new legislation, BMW and VW are expanding their business in South Africa. Despite the economic slowdown, BMW announced that it planned to invest more than US$417 million in its South African operation to start production of the X3 sport utility vehicle (SUV). The DTI is therefore of the view that since the promulgation of the Act, there has been significant investments in the country. The DTI had also undertaken international roadshows to explain the rationale behind the new investment legislation.
- *The investment pipeline:* The DTI informed the committee that the investment pipeline is being monitored by the DTI. South Africa is going through a learning curve with respect to new industries and there is a view that these industries cannot be incentivised indefinitely and that a timeframe should be attached. The DTI made reference to the MCEP which had a five year timeframe. It indicated that it could only support incentive programmes with fixed terms given the current low growth trajectory. It also reiterated that although the MCEP had ended, support for the manufacturing sector would continue and sectors outside manufacturing were equally important for the economy.
- *Status of the One Stop Shop (OSS) concept:* The committee welcomed the establishment of the OSS to facilitate the delivery of government services to investors. The DTI informed the committee that an Inter-Ministerial Committee was established to improve the support and assistance to investors. An investment division within the DTI was also established to focus on investment promotion, facilitation and aftercare. This is to improve the turn-around time for investors as they would be able to engage multiple agencies for permits and licences through one vehicle.
- *Film incentives and its links to specialised skills rather than unskilled labour:* Although the committee welcomes the impact of the film incentives on job creation, it remains concerned that this is only with respect to highly specialised skills within the industry. Dependence on one or two niche sectors would not bode well for any country's economy. Most industrialised countries have a diverse economy to enable them to deal with crises more effectively. It was of the view that more unskilled jobs within the manufacturing sector should be prioritised. The DTI informed the committee that one of the objectives of the IPAP was to create a diversified economy. South Africa should continue providing incentives to the film industry, while ensuring that labour-intensive sectors such as manufacturing receives the necessary incentives to stimulate economic growth and job creation. To achieve full employment, all sectors of the economy should grow. For instance, agro-processing has the potential to stimulate growth within the agricultural sector and would contribute to the creation of low and unskilled jobs.

- *The need for a strategic shift by the DTI to focus on job creation:* The committee highlighted the importance of DTI's contribution to job creation. The DTI informed the committee that a complex relationship exists between direct and indirect jobs. For example, the automotive industry requires steel, plastic and rubber components, which stimulates these manufacturing sectors creating a downstream linkage for local job creation. The DTI was of the view that if the critical manufacturing sectors are stimulated it would lead to the creation of more indirect jobs.
- *The verification process of the South African Bureau of Standards in terms of local content:* The DTI informed the committee that verification should not become a regulatory and cost barrier to companies. A system of self-declaration and spot checking is required and failure to comply should lead to severe sanctions. Currently, the right policy and compliance instruments do not exist, but these should be supportive of industrialisation and ensure traceability of local content. Also critical is to develop a culture in both the public and private sector to buy local.

## 3. Entities reporting to the Minister of Trade and Industry

Currently, 13 entities are reporting to the Minister. However, for the budget process the committee agreed to consider the strategic and annual performance plans of three entities. The committee based this decision on the frequency that it had overseen these entities and their contribution to economic transformation. The table below indicates the budgetary allocations for the three entities for the 2016/17 financial year.

**Table 2: Budget allocations for the 2016/17 financial year**

| Programme<br><br>(R thousands) | Entity | Total Budget | DTI Transfer | % of Budget |
|---|---|---|---|---|
| Consumer and Corporate Regulation | Companies Tribunal | 22 690 | 15 069 | 66.4 |
| | National Consumer Tribunal | 51 242 | 46 151 | 90.1 |
| | National Gambling Board | 43 693 | 30 121 | 68.9 |

Source: National Treasury (2016)

### 3.1. Companies Tribunal

The Companies Tribunal was established in terms of section 193 of the Companies Act (No.71 of 2008), and started its operation in September 2012. Its core mandate is to ensure that disputes falling under the Companies Act are resolved speedily and cost effectively by adjudicating applications or providing alternative dispute resolution, namely conciliation, mediation and arbitration options. This is achieved by offering free services, informal proceedings and speedily issued decisions to reduce the cost of doing business relative to court processes.

#### 3.1.1. Strategic Goals of the Companies Tribunal

The Tribunal's strategic objectives are driven by its core mandate. The strategic goals and outcomes are as follows:

**Table 3: Strategic Goals and Outcomes**

| Strategic Goals | Strategic Outcomes |
|---|---|
| To adjudicate and make orders in relation to any application. | • Adjudicate applications timeously, fairly and in a transparent manner |
| To resolve disputes in terms of Alternative Dispute Resolution | • Resolve disputes in a cost effective, informal and timeous manner. |
| To ensure operational effectiveness and efficiency of the Tribunal | • To recruit, appoint and develop competent staff for the Tribunal<br>• To build a body of knowledge around company law<br>• To promote and maintain sound corporate governance<br>• To ensure the efficient management of cases |
| Effective stakeholder engagement | • To educate members of the public and raise awareness |

| Strategic Goals | Strategic Outcomes |
|---|---|
| | regarding the Tribunal |

Source: Companies Tribunal (2016a)

### 3.1.2. Annual Performance Plan

The Companies Tribunal has two programmes through which it undertakes its work, namely the administration and the adjudication programmes.

#### 3.1.2.1. Programme 1: Adjudication Programme

This programme deals with adjudication and making orders in relation to applications made in terms of the Companies Act, as well as resolving disputes through Alternative Dispute Resolution. Adjudication and the resolving of disputes based on the papers filed by the Tribunal is a task of the members of the Tribunal. Hearings may be held depending on the nature of the case being adjudicated on.

**Table 4: Adjudication Programme Performance Plan**

| Strategic Objective | Performance Indicators | 2016/17 Targets |
|---|---|---|
| Adjudicate applications timeously, fairly and in a transparent manner | Percentage of decisions and orders issued within 30 working days after the final date of the hearing | 90% |
| | Percentage of decisions and orders issued within 30 days after the date of allocation | 90% |
| | Percentage of cases finalized in terms of Alternative Dispute Resolution (ADR) within 25 working days after the date of final hearing or final submission by parties whichever is applicable | 75% |

Source: Companies Tribunal (2016b)

#### 3.1.2.2. Programme 2: Administration

This programme ensures operational efficiency, effectiveness and effective stakeholder engagement. In this regard, the presence of effective financial management, human resource management, information technology, knowledge management, stakeholder management and legal services contributes to the creation of effective and well-managed operations.

A number of performance indicators were developed. However, the following were important for the CT to achieve its mandate during the 2016/17 financial year:[16]

- The development and partial implementation of a case management system.
- Participation in eight outreach programmes and/or exhibitions targeting business people, aspiring business people and the youth in the following areas: Kimberley, Bloemfontein, Port Elizabeth, Potchefstroom, Mogale City, Emalahleni, Richards Bay, and Mafikeng.

[16] Companies Tribunal (2016b)

### 3.1.3. Medium Term Budget Analysis

#### 3.1.3.1. Income

For the 2016/17 financial year, the CT's expected income amounts to R22.7 million. The budgeted income shows an increase of R3.9 million (a 21.3 percent increase in nominal terms or 13.8 percent increase in real terms) compared to the previous financial year. Transfers from the DTI are expected to amount to R15 million (66 percent of the total budgeted income) while other income is expected to be about R7.6 million. Income from transfers from the DTI show a real decrease of 0.6 percent and other income show a real increase of approximately 59 percent in real terms from the 2015/16 financial year.

**Table 5: Budgeted Income 2016/17 – 2018/19**

| Revenue (R thousand) | Revised estimate | Medium-term expenditure estimate | | | Growth | % Real Growth |
|---|---|---|---|---|---|---|
| | 2015/16 | 2016/17 | 2017/18 | 2018/19 | 2015/16 - 2016/17 | |
| Other non-tax revenue | 4 488 | 7 621 | 7 285 | 8 044 | 3 133.0 | 59.3 |
| Transfers received | 14 221 | 15 069 | 15 822 | 16 740 | 848.0 | -0.6% |
| **Total revenue** | **18 709** | **22 690** | **23 107** | **24 784** | **3 981.0** | **13.8** |

Source: National Treasury (2016)

#### 3.1.3.2. Expenditure

In terms of budget allocation by programme, of the two programmes the entity has, the largest programme is the Administration programme accounting for approximately 80.1 percent of the total budget. The Adjudication programme is therefore allocated the remaining 19 percent of the budget. Compared to the previous financial year, the Administration programme's budget will increase by 17.2 percent and the Adjudication by 1 percent in real terms.

The Tribunal notes that use of Alternative Dispute Resolution services is expected to increase over the 5 year period. However, the Adjudication budget increases by merely 1 percent in the current financial years and will increase marginally in the two financial years thereafter.

**Table 6: Expenditure by Programme 2016/17 – 2018/19**

| Programme (R thousand) | Revised estimate | Medium-term expenditure estimate | | | Growth | % Real Growth |
|---|---|---|---|---|---|---|
| | **2015/16** | **2016/17** | **2017/18** | **2018/19** | **2015/16 - 2016/17** | |
| Administration | 14 672 | 18 342 | 18 330 | 19 542 | 3 670.0 | 17.2 |
| Adjudication | 4 037 | 4 348 | 4 777 | 5 242 | 311.0 | 1.0 |
| **Total** | **18 709** | **22 690** | **23 107** | **24 784** | **3 670.0** | **13.8** |

Source: National Treasury (2016)

In terms of expenditure by category, expenditure of the entity is mainly for the compensation of employees and expenditure on goods and services. Compensation of employees accounts for 56 percent of total expenditure while expenditure on goods and services accounts for 43 percent.

**Table 7: Expenditure by Category 2016/17 – 2018/19**

| Expenditure (R thousand) | Revised estimate | Medium-term expenditure estimate | | |
|---|---|---|---|---|
| | **2015/16** | **2016/17** | **2017/18** | **2018/19** |
| Compensation of employees | 11 233 | 12 780 | 13 815 | 14 786 |
| Goods and services | 7 284 | 9 808 | 9 191 | 9 898 |
| Depreciation | 192 | 102 | 101 | 100 |
| **Total expenditure** | **18 709** | **22 690** | **23 107** | **24 784** |

Source: National Treasury (2016)

Compensation of employees will increase by 6.6 percent and expenditure on goods and services by 26 percent in real terms in the current financial year compared to the previous year. The increase in compensation of employees is an inflationary increase as no new employees will be recruited in the financial year. The increase in expenditure on goods and services is due to possible increases in the total members' fees paid that will result because of the expected increase in the number of cases referred to the Tribunal.

### 3.1.4. Key issues raised by the committee during its deliberations

During its deliberations, the committee raised a number of issues which are captured below:

- *The nature of cases considered by the CT:* The CT informed the committee that no cases of a transformative nature had been considered. Cases considered by the CT are mainly around non-payment of dividends. Cases around fronting are referred to the courts because it is a criminal act.
- *The number of full-time and part-time tribunal members and their salaries for the last financial year:* The CT informed the committee that currently there is only one full-time member whose annual cost to company package is R1 428 186. The full-time tribunal member is responsible for the daily operation of the CT, adjudication of cases and alternative dispute mechanism matters. The part-time tribunal members are remunerated for adjudicating cases, attending to alternative dispute resolution cases, tribunal meetings, seminars, workshops and training organised by the Tribunal. Part-time tribunal members receive a monthly allowance for their cell phone, tablet and 3G data and are reimbursed for travel expenses calculated using the Department of Transport's rates. The daily rate for part-time members is R5 000.00 and for the deputy chairperson is R6 000.00.
- *The breakdown of the chairperson's earnings:* The chairperson is remunerated and reimbursed on a similar basis as other part-time members. He also receives a stipend for attending to strategic and operational matters in his capacity as the Accounting Authority. The daily rate for the chairperson is R7 000.00. The CT informed the committee that the chairperson had not submitted any travel claims for the 2015/16 financial year. The chairperson's remuneration for 2015/16 financial year was as follows:

| | |
|---|---|
| Fees | 301 020 |
| Allowances | 18 000 |
| Reimbursive Expenditure | - |

| | |
|---|---|
| Skills Development Levy | 3 280 |
| **Total** | **331 300** |

- *Fees associated with the services of the CT:* The CT informed the committee that together with the DTI the matter of charging a fee for rendering a service was considered. The CT was advised that no provision existed in the Act that allowed for a fee to be charged. This could only occur if the Act was amended to make provision for a clause that gives the CT the power to levy fees for services rendered. This matter should be considered in the future.
- *The maximum value of fines that the CT may impose:* The CT informed the committee that it did not have the power to impose administrative fines. Only a court in terms of section 175 of the Companies Act may impose an administrative fine. In terms of section 175 of the Companies Act, the court, on application by the Companies and Intellectual Property Commission (CIPC) or the Takeover Regulation Panel (TRP), may impose an administrative fine for failure by a company to comply with a compliance notice. The fine may not exceed the greater of 10 percent of the company's turnover for the period over which the company failed to comply with a compliance notice, and the maximum amount of an administrative fine which amount must be not less than R1 000 000 in terms of section 175(5) of the Act.
- *The need for a remuneration policy for staff and senior executives:* The CT had undertaken to submit its remuneration policy to the committee once completed. The CT is currently reviewing its policy to align it with the mandate of the organisation.
- *Payment of performance bonuses to staff:* The CT indicated that no performance bonuses were paid to any staff member since the inception of the Tribunal.
- *The impact of its outreach programme:* The CT informed the committee that its outreach programmes did not exclude rural areas. The rationale for focusing in the major cities was because of the concentration of major businesses and potential entrepreneurs within urban areas. The CT acknowledged that its reach should be beyond the major cities as entrepreneurial ability is not only located within the cities only.
- *The nature of the Alternative Dispute Resolution process:* The CT informed the committee that the *Alternative Dispute Resolution* process is voluntary but that the respondent is obliged to agree to appear before the dispute resolution body. In both the voluntary and mandatory models, parties to mediation and conciliation processes must by agreement resolve the matter.

### 3.2. National Consumer Tribunal

The National Consumer Tribunal (NCT) was established in terms of the National Credit Act (No. 34 of 2005) (NCA) and the Consumer Protection Act (No. 68 of 2008) (CPA). The NCT adjudicates on applications and referrals in terms of the NCA and CPA, and must determine whether any allegations of prohibited conduct are true and impose remedies to address such conduct. It may also review decisions by the National Credit Regulator and the National Consumer Commission; and can deal with applications for debt re-arrangement agreements (DRAs) or consent orders in terms of the Consumer Protection Act.[17]

#### 3.2.1. Strategic Goals of the National Consumer Tribunal

The NCT's strategic objectives are driven by its core mandate; therefore, are mainly to adjudicate on applications and referrals in terms of the NCA and the CPA.

**Table 8: Strategic Goals and Outcomes**

| Strategic Goals | Strategic Outcomes |
|---|---|
| To effectively and efficiently manage and adjudicate on matters brought to the NCT | • To expedite service delivery through the expeditious finalisation of complete debt re-arrangement applications.<br>• To expedite service delivery through the expeditious finalisation of non-DRA applications and referrals.<br>• To ensure that the NCT decisions are substantively and procedurally correct. |
| To contribute to an efficient and effective Consumer Regulatory environment | • To ensure cooperation and partnership amongst external stakeholders ongoing engagement.<br>• To build Tribunal capacity through research papers or approved briefing papers on consumer protection and credit related matters, added to the NCT knowledge |

[17] National Consumer Tribunal (2016a)

| Strategic Goals | Strategic Outcomes |
|---|---|
| | database. |
| To ensure effective and efficient Organisational Management | • To effectively and efficiently manage the financial resources of the NCT.<br>• To enhance operational efficiency by implementing an enabling ICT architecture.<br>• To ensure that the Tribunal has adequate human resources to deliver in accordance with its mandate.<br>• To expand economic opportunities for historically excluded and vulnerable groups. |

Source: National Consumer Tribunal (2016a)

### 3.2.2. Annual Performance Plan

The NCT has two programmes through which it undertakes its work, namely, the administration programme and the adjudication programme. Below are performance indicators as per its Strategic goals for the 2016/17 financial year.

#### 3.2.2.1. Programme 1: Adjudication

This programme deals with adjudication and making orders in relation to applications made in terms of the Companies Act, as well as resolving disputes in terms of the Alternative Dispute Resolution. Adjudication and the resolving of disputes based on the papers filed by the Tribunal is a task of the members of the Tribunal. Hearings may be held, depending on the nature of the case being adjudicated on.

**Table 9: Adjudication Programme Performance Plan**

| Strategic Goal/Outcome | Performance Indicator | Targets 2016/2017 |
|---|---|---|
| To effectively and efficiently manage and adjudicate on matters brought to the NCT | Average number of days from date of complete filing of DRA to date of issuing order to filing parties | 75 days |
| | Average number of days from date of close of pleadings of non-DRA to date of issuing judgment to filing parties. | 70 days |
| To effectively and efficiently manage and adjudicate on matters brought to the NCT | % Decisions overturned on appeal or review | <5% |

Source: National Consumer Tribunal (2016b)

#### 3.2.2.2. Programme 2: Administration

This programme deals with ensuring that the operational efficiency, effectiveness and effective stakeholder engagement. In this regard, the presence of effective Financial Management, Human Resource Management, Information Technology, Knowledge Management, and Stakeholder Management, among other aspects, contributes to the creation of effective and well-managed operations.

### 3.2.3. Medium Term Budget Analysis

#### 3.2.3.1. Income

For the 2016/17 financial year, the NCT's expected income amounts to R51.2 million. The budgeted income shows an increase of R1.6 million in nominal terms (or 17.9 percent increase in real terms) compared to the previous year. Transfers from the DTI are expected to amount to R46.1 million (90 percent of the total budgeted income) while other income is expected by be R5.1 million, particularly from filing fees. Despite the increase in the transfers in nominal terms, income is expected to decrease by 0.61 percent in real terms and other income (fees and interest income) show an increase of approximately 17.3 percent in real terms from the 2015/16 financial year. The increase on other income is a result of increases in the filing fees by the NCT from the previous financial year into the medium term, filing fees has been increased by 60 percent for applications for debt re-arrangement agreements and 30 percent for non-debt re-arrangement agreements in the 2016/17 financial year. Additional grant funding is expected to be R1.6 million in the financial year.

**Table 10: Budgeted Income 2016/17 – 2018/19**

| | **Revised estimate** | **Budget** | **Growth** | **% Real Growth** |
|---|---|---|---|---|
| **R thousands** | **2015/16** | **2016/17** | **2015/16 - 2016/17** | |
| Grant allocation | R43 029 | R46 151 | R43 122 | 0.61 |
| Additional Grant Donor funding | - | R1 620 | R1 620 | 100 |
| Other income | R2 775 | R3 470.7 | R695.7 | 17.33 |
| Surplus Brought Forward | R3 786 | - | -R3 786 | -100 |
| **Total income** | **R49 830** | **R51 241.7** | **R1 651 704** | **17.94** |

Source: National Treasury (2016)

### 3.2.3.2. Expenditure

In terms of budget allocation by programme, of the two programmes the entity has, the largest programme is the Administration programme accounting for approximately 58 percent of the total budget. The Adjudication programme is therefore allocated the remaining 42 percent of the budget.

Increases in programme expenditure are marginal, this is mainly due to the small increase in the total budget for the period. The budget towards the Administration programme increases by 6 percent while the Adjudication budget declines by 1 percent.

**Table 11: Expenditure by Programme 2016/17 – 2018/19**

| **Programme (R'000)** | **Revised estimate** | **Medium-term expenditure estimate** | | |
|---|---|---|---|---|
| | **2015/16** | **2016/17** | **2017/18** | **2018/19** |
| Administration | 27 889 | 29 498 | 30 651 | 32 658 |
| Adjudication | 21 943 | 21 743 | 26 747 | 33 395 |
| **Total** | **49 831** | **51 241** | **57 398** | **66 053** |

Source: National Treasury (2016)

In terms of expenditure by category, expenditure of the entity is mainly expenditure on the compensation of employees and expenditure on goods and services. Compensation to employees account for 52 percent of total expenditure while expenditure on goods and services account for 42 percent. Compensation of employees will increase by 2.2 percent and expenditure on goods and services decreases by 11.5 percent in real terms in the current financial year compared to the previous year. The increase in compensation of employees in an inflationary increase as no new employees will be recruited in the financial year.

**Table 12: Expenditure by Programme 2016/17 – 2018/19**

| **Category (R'000)** | **Revised estimate 2015/16** | **Medium-term expenditure estimate** | | | **Growth** | **% Real Growth** |
|---|---|---|---|---|---|---|
| | | **2016/17** | **2017/18** | **2018/19** | **2015/16 - 2016/17** | |
| Compensation of employees | 26 065 | 28 398 | 30 123 | 32 028 | 2 333.0 | 2.2% |
| Goods and services | 22 936 | 21 631 | 26 540 | 33 167 | - 1 305.0 | -11.5% |

| | | | | | | |
|---|---|---|---|---|---|---|
| **Total expenses** | **49 831** | **51 241** | **57 398** | **66 053** | **1410** | **-3.54%** |

Source: National Treasury (2016)

### 3.2.4. Key issues raised by the committee during its deliberations

During its deliberations, the committee raised a number of concerns relating to the NCT which are captured below:

- *The average number of days utilised to finalise a non-DRA matter and the new calculation for the turnaround time:* The 70 days referred to in the Annual Performance Plan is a new target for the non-DRA matters in the 2016/2017 financial year. In the 2015/2016 financial year, the key performance indicators (KPI) was 150 days for the finalization of non-DRA matters from the date of close of pleadings to the issuing of the judgment. The average turnaround time as indicated in the Quarter 3 report was 69.1 days. However, this calculation only includes matters that were filed in the 2015/16 financial year and excludes matters that were postponed as was defined in the KPI index. Further turnaround times on cases will be provided on 18 May 2016.
- *Success rate of the adjudication process of the NCT:* The NCT informed the committee that of all the cases it had adjudicated; only one case was overturned by the court. The NCT can only issue judgments to parties, which then have the right to appeal the High Court.
- *The additional tribunal member and its implication for the budget:* The NCT informed the committee that fees paid to part-time tribunal members are accounted for under goods and services. The decrease in the goods and services budget for the 2015/16 and 2016/17 financial years was as a result of the planned appointment of a full-time member and of anticipated efficiencies within the NCT that would reduce cost. However, this appointment was not approved. The chief financial officer informed the committee that the correct accounting principle was to place the cost of part-time employees under goods and services, as they were only paid for their hours worked. Referring to the budget for goods and services for the next two financial years, the NCT was of the view that efficiencies could be introduced only to a certain extent.
- *The NCT's funding model and its other sources of income, if any, to mitigate against the budgetary challenges it faces:* The NCT informed the committee that it did not have any additional sources of income other than filing fees. It had received an additional R3 million in the 2015/16 financial year from its surpluses and the increase in filing fees would alleviate some of these constraints in the 2016/17 financial year. The NCT is implementing a number of measures, such as the ICT interventions, to ensure greater efficiencies. The enhancement of the NCT Case Management System (CMS) would allow for the capturing of data directly into the NCT's database, which would result in the reduction of resources required, as well as reducing the risk associated with incorrect capturing of data in the CMS. This would also speed up the process for adjudication of cases by tribunal members in relation to DRAs, as well as reducing the cost of adjudication in the long-run. With respect to its new mandate introduced through the amendments to the National Credit Act, the NCT informed the committee that it had submitted a request for additional funding to the National Treasury. Cost savings initiatives introduced in relation to ICT and other measures would mitigate against the rise in cost. The extra members would be paid on a part-time basis and only paid on the days they provide a service.
- *Interventions put in place to reduce adjudication costs:* The NCT informed the committee that a number of interventions had been put in place during the 2015/16 financial year to reduce adjudication costs, namely:
    - The introduction of motion courts to adjudicate on DRA applications that had been completely filed. Through this process, legal representatives only argue on the papers before the court. This had resulted in significant cost savings associated with travelling and the hiring of venues and the fact that Tribunal members are now able to deal with bigger case loads.
    - Where possible similar cases were considered and scheduled on the same day which resulted in the reduction of daily fees paid to part-time Tribunal members.
    - Panels, for the hearing of non-DRA matters, have been compiled to ensure that only one panel member travels from outside Gauteng.
- *Staff complement at the NCT:* The NCT informed the committee that its current approved posts were 41, of which six positions are vacant. With the resignation of the Human Resource Manager, only one position was vacant at the senior management level. Vacancies at lower levels are being filled by participants in the internship programme of the NCT, as far as possible.
- *Disbursement of performance bonuses:* The NCT informed the committee that it had paid out performance bonuses to the chief executive officer and the chief operating officer to the amount of R313 403.45 and R247 698.35 respectively. The Registrar and two senior officials had not yet

received performance bonuses as their performance information were under review and the process was not yet finalised.

- *The rationale for an internal audit commissioned on the HR unit and its outcome:* The NCT informed the committee that its human resource manager had resigned. The internal audit on the Registrar was commissioned at the request of the chairperson as a result of the performance information submitted by the Registrar and two senior officials. The HR governance committee, in reviewing the performance assessment information provided, noticed certain discrepancies. Currently, an external review process was underway, which should be concluded by the end of May 2016.

### 3.3. National Gambling Board

The National Gambling Board (NGB) is mandated through the National Gambling Act (No. 7 of 2004) to oversee gambling activities within South Africa, namely casinos, bingo halls and limited payout machines, as well as betting with a bookmaker and wagering on horse racing and other sport. According to the Act, the NGB's functions include:

- Monitoring and investigating the issuing of national licences by provincial licensing authorities for compliance.
- Investigating, monitoring and evaluating the compliance monitoring by provincial licensing authorities of licensees.
- Ensuring that national norms and standards established by the Act are uniformly and consistently applied by provincial licensing authorities.
- Establishing and maintaining a national register of excluded persons, a national central electronic monitoring system to monitor gambling activity on limited payout machines, and a national register of gambling machines and devices.
- Advising the National Gambling Policy Council on licensing of gambling activities, matters of national policy and on the determination of national norms and standards regarding any matter in terms of this Act.
- Monitoring socio-economic patterns of gambling activity within the Republic relating to the socio-economic impact of gambling, and addictive or compulsive gambling.
- Providing a broad-based public education programme about the risks and socio-economic impact of gambling.
- Monitoring market share and market conduct in the gambling industry for any concerns regarding market share or possible prohibited practices in terms of the Competition Act (No. 89 of 1998).

#### 3.3.1. Strategic Goals of the National Gambling Board

The NGB's strategic goals and outcomes are as follows:

**Table 13: Strategic Goals and Outcomes**

| **Strategic Goals** | Strategic outcomes |
|---|---|
| Enforce Compliance | • Compliance monitoring of all provinces with Gambling Legislation<br>• Combatting of unlicensed gambling activities<br>• Suppression of illegal gambling activities<br>• Effective monitoring of Limited Payout Machines<br>• Establish and maintain National Functional Registers<br>• Develop a register of illegal operatives |
| Enhance Stakeholder Liaison and Statutory Advisory Services | • Provide research-based authoritative advice on gambling<br>• Conduct public awareness, education and responsible gambling campaigns<br>• Facilitate social dialogue with stakeholders |
| Optimise Organisational Excellence | • Financial efficiency<br>• Human resources efficiency<br>• Operational and technical efficiency |

Source: National Gambling Board (2016a)

#### 3.3.2. Annual Performance Plan

The NGB has three programmes through which it undertakes its work, namely:

- Compliance,
- Stakeholder liaison and advisory services, and
- Corporate services.

Below are performance indicators as per the NGB's strategic goals for the 2016/17 financial year.

#### 3.3.2.1. Programme 1: Compliance

This programme provides the mandated operational core functions in terms of the National Gambling Act, namely the statutory enforcement of this legislation. This includes:

- Compliance monitoring of all provinces with gambling legislation;
- Combating of unlicensed gambling activities;
- Suppressing illegal gambling activities;
- Effective monitoring of limited payout machines; and
- Establishing and maintaining national functional registers.

**Table 14: Compliance Programme's Performance Targets**

| Strategic Objective | Performance Indicator | Targets 2016/17 |
|---|---|---|
| Compliance monitoring of all provinces with Gambling Legislation | Ten (10) consolidated three tier compliance evaluation assessment reports | Ten (10) consolidated reports on the evaluation of the issuance of national licenses, compliance monitoring of licensees and performance of PLAs |
| Combatting of unlicensed gambling activities | Four (4) reports on intelligence gathering and reporting of information to PLAs and law enforcement agencies | Four (4) reports on intervention and support provided to regulators and law enforcement agencies |
| Suppression of Illegal gambling activities | Four (4) reports on illegal gambling activities | Four (4) reports on illegal gambling activities and related matters |
| Effective monitoring of the LPMs sector in the gambling industry | Four (4) quarterly and one (1) annual analytical reports of data in accordance with the prescribed requirements | Four (4) quarterly and one (1) annual analysis of LPM gambling sector performance report |
| | Four (4) reports on the evaluation of LPM applications in excess of 5 machines | Four (4) reports on the evaluation and approval of all LPM applications in excess of 5 |
| Establish and maintain National functional Registers | Five reports, i.e. annual audit report (1 report) and four (4) consolidated report on the registers | Five reports, i.e. annual audit (one report) and four (4) consolidated report on fully operational registers aligned to the NGA requirements |

Source: National Gambling Board (2016b)

#### 3.3.2.2. Programme 2: Stakeholder liaison and advisory services

This programme provides continuous interpretation and guidelines on the statutory mandate of the NGB and provides strategic coordination and promotes liaison at local and international level amongst the various stakeholders of the NGB, including the South African National Gambling Responsible Foundation and the public. It comprises of two units that provide specialised services, namely:

- Legal services: researches and provides authoritative advice to the DTI on regulatory strategies and inputs on legislation and policy development, as well as other legal services including legal advice.

- Stakeholder and liaison: provides coordination and secretariat services to the various stakeholders of the NGB and Executive Management, as well as strategic planning and support.

**Table 15: Stakeholder Liaison and Advisory Services Programme's Performance Targets**

| **Strategic Objective** | **Performance Indicator** | **Targets 2016/17** |
|---|---|---|
| Provided research based authoritative advice on gambling | S65 Advisory reports presented to the Accounting Authority | S65 Annual advisory report presented to the Accounting Authority on the implementation of the NGA |
| | Conduct Research on impact of gambling and present the report to the Accounting Authority | Research on the socio economic impact of gambling conducted and a report presented to the Accounting Authority |
| | Audited gambling sector performance report | Annual audited gambling sector performance report |
| Conducted public awareness, education and responsible gambling campaigns | Facilitate broad based stakeholder participation through targeted intervention such as events, campaigns/published information as well as other initiatives as stated in the Corporate Communication Plan | Responsible gambling advocacy campaigns conducted |

Source: National Gambling Board (2016b)

### 3.3.2.3. Programme 3: Corporate Services

This programme seeks to optimise organisational efficiencies and provides strategic financial management functions, human resource and information technology infrastructure support. It comprises of four units that provide specialised services, namely:

- Finance,
- Supply chain management,
- Information and communication technology (ICT), and
- Human capital optimisation (Human resources)

### 3.3.3. Medium Term Budget Analysis

#### 3.3.3.1. Income

For the 2016/17 financial year, the NGB's expected income amounts to R43.7 million. The budgeted income shows an increase of R2.9 million in nominal terms (or 0.5 percent increase in real terms) compared to the previous year. Transfers from the Department are expected to amount to R30.1 million (69 percent of the total budgeted income) while the NGB is expecting to generate about R13.6 million in other revenue, particularly from the National Central Electronic Monitoring System. Most revenue streams are declining in real terms with the exception of the monitoring fee from the National Central Electronic Monitoring System (NCEMS). This increase is as a result of an expected change in the funding model for this system.

**Table 16: Budgeted Income 2016/17 – 2018/19**

| R thousands | Revised estimate 2015/16 | Medium-term expenditure estimate 2016/17 | % Growth | % Real Growth |
|---|---|---|---|---|
| | | | 2015/16 - 2016/17 | |
| Interest income | 1367 | 1 449 | 6 | -0.6 |
| National Central Electronic Monitoring System | 2 150 | 10 000 | 365.1 | 336.3 |
| Other income | 5 272 | 2 123 | -59.7 | -62.2 |
| Transfers received | 31 983 | 30 121 | -5.8 | -11.7 |
| **Total revenue** | **40 772** | **43 693** | **7.2** | **0.5** |

Source: National Treasury (2016)

#### 3.3.3.2. Expenditure

In terms of budget allocation by programme, of the three programmes the NGB has, the largest budget is allocated to Corporate Service accounting for approximately 49.9 percent of the total budget. This was followed by the Compliance programme, which was allocated about 30.7 percent of the budget, and the Stakeholder Liaison and Advisory Services programme, which was allocated about 19.4 percent of the budget. Only the Stakeholder Liaison and Advisory Services programme received a real increase.

**Table 17: Expenditure by Programme 2016/17**

| Category (R thousands) | Revised estimate 2015/16 | Medium-term expenditure estimate 2016/17 | % Growth | % Real Growth |
|---|---|---|---|---|
| | | | 2015/16 - 2016/17 | |
| Compliance | 12 402 | 13 053 | 5.2 | -1.3 |
| Stakeholder Liaison and Advisory Services | 5 669 | 8 254 | 45.6 | 36.6 |
| Corporate Services | 20 964 | 21 200 | 1.1 | -5.1 |
| **Total** | **39 035** | **42 507** | **8.9** | **2.2** |

Source: National Treasury (2016)

In terms of expenditure by category, expenditure of the NGB is mainly on the compensation of employees. Compensation of employees account for 54 percent of total expenditure while expenditure on goods and services accounts for 40.8 percent. Compensation of employees will increase by 89.6 percent and expenditure on goods and services decreases by 34.8 percent in real terms in the current financial year compared to the previous year. The increase in compensation of employees is related to the filling of vacancies and the inflationary increase.

**Table 18: Expenditure by economic classification 2016/17**

| (R thousands) | Revised estimate 2015/16 | Medium-term expenditure estimate 2016/17 | % Growth | % Real Growth |
|---|---|---|---|---|
| | | | 2015/16 - 2016/17 | |
| Compensation of employees | 11 346 | 22 933 | 102.1 | 89.6 |
| Goods and services | 25 477 | 17 362 | -31.9 | -34.8 |
| Depreciation | 2 212 | 2 212 | 0.0 | -6.2 |
| **Total expenses** | **39 035** | **42 507** | **8.9** | **2.2** |

Source: National Treasury (2016)

### 3.3.4. Key issues raised by the committee during its deliberations

During its deliberations, the committee raised a number of concerns relating to the NCT which are captured below:

- *The NGB's position on illegal gambling practices at licensed operations:* The NGB informed the committee that in terms of the Gambling Act, it is empowered to act on illegal practices by licensed operators. However, these investigations must be done in conjunction with the Provincial Licensing Authorities (PLAs). The NGB acknowledged its constraints with respect to its capacity to investigate such complaints.
- *Potential conflict of interest for the NGB in relation to the perceived revenue generating potential of Limited Payout Machines (LPMs):* Currently, the NGB is responsible for approving applications for sites that wish to set up more than five LPMs up to 40 LPMs before the PLAs may issue such a licence. It is also responsible for ensuring that each LPM is linked to the NCEMS for ongoing monitoring and receives some income from the NCEMS operator. It is of the view that no conflict of interest exists to its approval role within the current regulatory framework.
- *The ability of the NGB to fulfil its mandate:* The NGB informed the committee that it is confident that it can fulfil its mandate. Once it receives additional responsibilities arising from the new proposed legislation, there will be capacity constraints and consideration will need to be given to increasing the capacity of the organisation. Based on the new policy, there is work underway with the DTI, to plan the establishment of the new National Gambling Regulator. This would require a revision of the strategy and development of a new organisational design to determine the requisite staff complement.
- *Staff complement within the enforcement division of the NGB:* The NGB informed the committee that the division has a staff complement of 9. By 1 April 2016, all positions would be filled with people having experience within the gambling industry.
- *Status of the NCEMS:* The NGB informed the committee that the process to appoint a new NCEMS operator is almost completed and advertisement for the NCEMS would be placed soon.

## 4. Conclusions

Having considered the information shared and reports from the DTI and its entities with respect to their strategic and annual performance plans, the committee has reached the following conclusions:

1. The committee has observed the decline in the real budget of the DTI over the outer two years of the Medium-term Expenditure Framework. This decline may have a negative impact on the achievement of the national goals of creating employment and eradicating poverty.
2. The uncertainty around the impact of the current economic environment is of concern to the committee. This uncertainty has compounded the need to implement cost-containment measures across government. As a result, the DTI's incentives measures need to be revisited to accommodate the cost-containment measures that the National Treasury introduced and to ensure that value for money is achieved.
3. There is a need for greater sector specific focus, particularly in labour-intensive sectors such as agro-processing among others, and to upscale support for incentive programmes to ensure more investment in higher value adding manufacturing and job creation.
4. The coordination of government departments and public entities is critical for the impact required to achieve the necessary economic growth and development. There should be consideration to establish an Inter-ministerial committee on industrialisation to assist in this regard.

5. Although the committee notes the establishment and recommendations from the Inter-departmental Task Team on Steel Pricing and the global challenges facing the steel market, steel is an important commodity for industrialisation and the domestic pricing model thereof remains a challenge for the local market. This is in spite of an agreement related to the implementation of higher tariffs on imported steel, there have been increases in the domestic price.
6. The committee is encouraged by the continued investments within the agro-processing; automotive; clothing, textiles, leather and footwear; and manufacturing sectors.
7. The one-stop shop initiatives by the DTI to facilitate and support investment requires greater inter-departmental co-ordination to achieve its desired outcome. This is critical to reduce the cost of doing business and therefore is expected to attract more investment opportunities for South Africa.
8. Although the committee welcomes the initiatives already implemented by the DTI and its entities to improve corporate governance, some challenges still remain. In particular, risks associated with the entities not reaching their performance targets remains a concern for the committee. Furthermore, the committee welcomes the proactive approach taken by the DTI to ensure compliance of its entities.
9. The committee welcomes the intervention in relation to Broad-Based Black Economic Empowerment, in particular the Black Industrialist Programme. The committee further notes the need for consolidation of funding for this programme to ensure effective implementation.
10. The DTI should monitor the implementation of the Investment Act.
11. The current use of the Alternative Dispute Resolution mechanisms has been limited in terms of company disputes. The committee would like to encourage the Companies Tribunal to enhance its awareness campaign in this regard, as it could lead to a greater uptake of the Alternative Dispute Resolution process. The Alternative Dispute Resolution process is currently a voluntary exercise which does not require the respondent to agree to it, which in the view of the committee needs to be addressed to make this mandatory.
12. A major concern for the committee is the cost associated with the court process. The committee would like to ensure accessibility to cost-effective dispute resolution and therefore would encourage the review of the legislation to enhance the scope of matters that the Companies Tribunal may address.
13. Notwithstanding the current budgetary constraints, the Companies Tribunal in order to execute its mandate may require additional funding. In this regard, the charging of fees for the Companies Tribunal’s service should be considered, which would require legislative amendments.
14. The committee was concerned that the National Consumer Tribunal would not be able to fulfil its mandate in a timeous manner due to budgetary constraints. This could negatively impact on its ability to adjudicate on the increasing number of cases being filed. The committee welcomes the measures implemented to address the existing backlog and the anticipated increase in applications, as well as measures to address the budgetary constraint. Increased efficiencies within the National Consumer Tribunal would contribute to reducing the time taken to issue judgment on non-debt rearrangement agreement applications.
15. A major concern for the committee is the ability of the National Gambling Board to fulfil its enforcement mandate. The committee welcomes measures to ensure compliance by filling the vacant positions within the enforcement division.
16. The committee welcomes the completion of the policy process with respect to gambling and would encourage the timeous submission of the amendment bill.

## 5. Acknowledgements

The committee would like to thank participants from the Ministry of Trade and Industry, the DTI and its entities during this process. The committee also wishes to thank its committee support staff, in particular the Committee Secretaries, Mr A Hermans and Mr T Madima; the Content Advisor, Ms M Sheldon; the Researcher, Ms Z Madalane; the Executive Assistant, Ms T Macanda; and the Committee Assistant, Mr D Woodington, for their professional support and conscientious commitment to their work. The Chairperson thanks all Members of the committee for their active participation during the process of engagement and deliberations and their constructive recommendations made in this report.

## 6. Recommendations

The Portfolio Committee on Trade and Industry, having considered the 2015 proposed Budget Vote 34: Trade and Industry, recommends that the House adopts Budget Vote 34: Trade and Industry.

The committee further recommends that the House request that the Minister of Trade and Industry should consider reviewing the funding model for the Companies Tribunal and considering amending the Companies Act to facilitate the ease of the Tribunal to perform its duties.

Report to be considered.

---

**References**


Companies Tribunal (2016a). *Strategic Plan 2015-2020*

Companies Tribunal (2016b). *Annual Performance Plan 2015/16.*

Department of Trade and Industry (2015) Strategic Plan 2015 – 2020

National Consumer Tribunal (2016a). *Strategic Plan 2016/17-2020/21*

National Consumer Tribunal (2016b). *Annual Performance Plan 2016/17.*

National Gambling Board (2016). *Annual Performance Plan 2016/17.*

National Treasury (2016). *Estimates of National Expenditure (ENE) 2016: Vote 34: Trade and Industry.* Pretoria

Portfolio Committee on Trade and Industry (2014). Budget Review and Recommendations Report 2014. Parliament. Cape Town.

Portfolio Committee on Trade and Industry (2015). Budget Review and Recommendations Report 2015. Parliament. Cape Town.

Zuma, J.G. (2016) *State of the Nation Address by His Excellency Jacob G. Zuma, President of the Republic of South Africa on the occasion of the Joint Sitting of Parliament*. Cape Town.