



**Electricity Governance Initiative of South Africa
Briefing Note: Portfolio Committee on Trade and Industry
17 October 2011**

The Department of Trade and Industry has submitted two major Amendment Bills to Parliament for approval and adoption. The Companies Amendment Bill was adopted on 20 April 2011. The Intellectual Property Laws Amendment Bill, intensely debated throughout its consideration, was adopted on 15 September 2011. The majority of the meetings held by the Committee since January 2011 involved deliberations on these two Bills. They can be understood as contributing to the enabling environment for employment creation targeted by the New Growth Path (NGP).

The Companies Amendment Act was signed on 20 April and came into effect on 1 May.

According to Trade and Industry Minister Dr Rob Davies, the amendment “will provide for a modern, efficient system of company regulation that will reduce red tape and hassle while making necessary regulation more effective. The business rescue provisions...will also allow for the early detection and turnaround of companies in financial distress and this will go a long way towards saving jobs.”¹

The Intellectual Property Laws Amendment Bill was supported by ANC and COPE, with the dissenting opposition views provided and included in the Committee Report (15 Sept). The Bill was set for adoption in the National Assembly on 21 September 2011.

The Intellectual Property Laws Amendment Bill has been defined as to provide for the recognition and protection of certain manifestation of indigenous knowledge as a species of intellectual property; to this end to amend certain laws so as to provide for the protection of relevant manifestations of indigenous knowledge as a species of intellectual property. The Bill also seeks to ensure that the indigenous knowledge of indigenous communities is protected from exploitation by foreign countries. In this respect there is a proposed amendment that empowers the Minister to enter into agreements with foreign countries based on the principle of reciprocity.

Opposition to the Intellectual Property Laws Amendment Bill

The Democratic Alliance (DA) voted against the adoption of the whole Bill, while the IFP voted against the majority of the clauses but abstained from voting on Clauses 7, 14 and 15. Freedom Front Plus voted against all the clauses but abstained from voting on Clause 8. DA trade and industry spokesperson, Mr. Tim Harris, expressed his party’s objections to the adoption of the Bill. He said that the definition of 'indigenous work' and the term 'recognise' was too vague and it was supposed to be substituted in the final draft. The definition of 'indigenous community' was supposed to be defined as 'living' and this was supposed to be evidenced by historical or other records. He also stated that the Bill was supposed to include

¹ Address by Dr Rob Davies, Minister of Trade and Industry, on the occasion of the debate on Budget Vote 36: Trade and Industry, in a meeting of the National Assembly, 19 April 2011.

the requirement of a community protocol. The definition of 'indigenous cultural expression or knowledge' and the term 'knowledge' were supposed to be removed. Overall, his objections against the Bill were that the terms created enormous uncertainty with respect to derivative users who could be people from communities and who would be faced with royalty payments. He emphasized that the Committee should not ignore benefit sharing agreements which were seemingly not fair.

Key DTI Achievements for the 2010/2011 Fiscal Year

DTI Acting Director General Mr. Lionel October informed the Committee of the Department's vision, which is based on three pillars: diversifying the economy, broadening the economic participation base, and creating a strong and fair regulatory sphere. Further achievements were reported in the following areas:

Green Industrial Development

In its presentations to the Committee on 17 and 21 March, the DTI reported on progress made in the development of the Green Industries sector in 2010/2011:

- Successful **revision of building standards to require greater energy** efficiency and the finalisation by the SA Bureau of Standards for regulations on solar water heaters, wind energy turbines, energy efficient lighting, appliances and products, electric batteries and alternative fuel vehicles, and the co-generation of electricity and biofuels;
- Intra-departmental **South African Renewables Initiative (SARI)** to **leverage international climate finance to supplement domestic funding sources** for renewable energy production linked to domestic manufacturing; and
- Completion of the draft **Customised Sector Programme for the Green Industries** and action plans for Solar, Wind, Biomass, Water Efficiency and Recycling scheduled for May 2011.

NB: Drafts of the Customised Sector Programmes for Solar and Wind are scheduled for release for public comment in October 2011, but information on further discussions in committee is not yet available as of 17 October.

Industrial Financing and Procurement

- Launched the 12i Tax allowance for investment in new manufacturing assets and training of staff (2 applications have been received);
- Automotive Investment Scheme (AIS) launched investment commitments of R13 billion supporting 24,000 jobs;
- Rollout of the Clothing Textile Competitive Programme (CTCP) and PI – R40 million investments made and 950 jobs created;
- R42 million new investment commitments approved linked to 806 jobs. 3,400 are currently trained under Monyetla II Programme – 70% guaranteed employment by Business Process Outsourcing (BPO);
- Improved performance of incentive programmes by submitting amended guidelines for Business Process Services (BPS) and the Enterprise Investment Programme (EIP).

Trade, Investment, and Exports

- Approved by SACU Council - work on regional industrialization, infrastructure development, trade facilitation, revenue sharing, and unified engagement in trade negotiations;
- Engagement in SACU – EU EPA negotiations with a view of minimizing the damage to SACU and laying basis for a common trade in goods arrangement between SACU and the EU;

- Africa Strategy presented to and approved by African Renaissance Committee of ICTS cluster;
- SADC Ministerial Task Force approved an action plan with 9 priority focus areas to consolidate the SADC FTA;
- SA – Zimbabwe Bilateral Investment Treaty ratified by both Parliaments.

Questions centred on intra-regional trade seemed to be the main concerns presented by the Committee.

National Industrial Participation Programme (NIPP)

The NIPP (http://www.dti.gov.za/industrial_development/nipp.jsp) seeks to leverage economic benefits and support the development of South African industry by effectively utilising the instrument of government procurement. The NIP programme is mandatory for all government and parastatal purchases or lease contracts (goods and services) with an imported content equal to or exceeding US \$10 million. The programme is targeted at the South African industries, enterprises, and suppliers of goods and services to government, where the imported content of such goods and services equals to or exceeds US \$10 million. South African industry is the primary customer and benefits from NIP business plans which, when implemented, generate new or additional business activities through one or more of the following:

- Investment
- Export opportunities
- Job creation
- Increased local sales
- SMME and BEE promotion
- R & D
- Technology transfer

The secondary customers of NIP are foreign suppliers who benefit from the programme through increased participation in the South African economy.

Potential issues for civil society engagement with committee members might include:

- The NIPP as it relates to green industries;
- Follow up on DTI's position paper on the impacts of trade aspects of climate change in preparation for COP17 (mentioned but not included in 18 Mar report to Committee in DTI's 2010/2011 annual report);
- The potential of South Africa as a future green industrial technology exporter in the SADC and beyond;
- Policy coherence and coordination with IPAP2 and NPG.

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