# Presentation Notes

## Engagement and Interaction

Profile of SAICA members (auditors, tax specialists and legal) affords us a broader view of the customs, excise and international trade sphere. Most specialists in our forum have backgrounds in SARS, clearing and forwarding agents, industry and professional services.
Experience engaging on the draft Bills:

Early engagement and contribution at 1st round review.
Limited interaction in lead-up to 2nd d review. Extremely short window to submit comments, less than two weeks. Reason cited by SARS was that parliamentary review would be opportunity. It is generally accepted that this is an inappropriate forum to deal with lists of itemised technical queries and comments so SARS proposal ill-conceived.
We have observed that SARS has implemented changes where it recognised the following raised by SAICA:

- Typographical errors;
- Consistency issues; or
- Interpretational matters.

However, what concerns us are the items commented on that have not been changed as we have yet to have feedback on why they have remained.
The timeline is intended to demonstrate the large gaps between comments sought by SARS and the limited time afforded (especially during the second round of comments) considering the volume of the bills.

There are a number of technical items on which we would like clarity; it would be in everyone's interest to attend to these matters now as the purpose of this interaction is to limit the possibility of unintended consequences.

Beyond these technical items there are a few pertinent issues.
It is not our intention to stop the bills all together but our concern is that these selected issues not be allowed to be pushed through.

We can accept that perhaps there is a cut-off when it is counter-productive to reach perfection and allow matters to be dealt with in practice or in the courts. However if the newspapers write about anything then is should be what we have contained in this presentation.

# General comments

Within the context of customs and excise the subsidiary legislation contains an incredible amount of detail that is necessary when navigating through customs and excise procedures/processes. For example the tariff and rebate provisions reside within this ambit.
What concerns us is that there was no input from Dept. of Finance (NT). This is NT's bill but it been left almost exclusively to SARS (the controller) to write and oversee them. A number of meetings were scheduled with NT, all of which were cancelled by NT.

# Customs Control Bill

As with other tax types, such as Income Tax and Value-Added Tax registration, the registration for customs purposes, in particular registration as an importer and exporter, should not be renewable on the basis of lapsed time since registration. In addition, the renewals would result in additional administrative activities for SARS and the registrants, resulting in unnecessary barriers to trade.

SARS has attempted to execute this on a limited scale and ad hoc basis in the past and failed. Cite SARS head office example. SARS has improved the vetting and verification process with regard to new registrations over the last 10 years. We see no reason why SARS should impose this provision.

An entity's registration is fundamental and to risk interrupting its service is contrary to trade facilitation.

# Customs Duty Bill

This has been consistent in the legislation to date and has been carried over with one major change. This cannot be supported or explained by SARS modernisation. We are directed to believe that modernisation and new risk modelling techniques allow more effective and efficient revenue collection and detection of evasion. If anything, SARS needs less time to initiate a post-clearance inspection (audit) and is more likely to hit the mark which means better utilisation of resources which means no need for a broad approach. Further, SARS have been able in the past and will continue to go beyond 2 year prescription if they prove there was an intention to evade. We are left to speculate and assume the intention. We can only see that this makes it easier for SARS to schedule taxpayers for larger amounts upfront and be default, on account of the larger prescription window.

Unintended consequences, we observe toward the end of SARS financial year an increase in the number of audits and schedules issued in order to fulfil budget targets. This will be a quick win for SARS as with no extra work they may be able to artificially inflate revenue targets.

This time period has been acceptable to date, SARS did not need to re-write the Act to motivate this change. We see no good/practical reason for this change and we need to ensure that the status quo is maintained.

Rulings (referred to as "advance rulings") whether in respect of tariff, valuation or origin are highly technical endeavours. Previously no validity period was imposed. Further, as with the registrations, we feel this is going to place an inordinate strain on the limited skilled individuals working in these specialised fields at SARS. Currently it takes months or even over a year to have a ruling issued. This is not practical, if for example, a client receives a ruling after 6 months and then 2 years and six months later they are reapplying. Further SARS is insisting that a fee is payable in terms of S188, which means clients would have to pay for compliance / cash for compliance. Further this is not a licensing provision. This is contrary to the interests of trade facilitation and compliance. This places a greater burden on clients and the SARS. Further it is contrary to the intelligent risk management systems that are being touted by SARS modernisation. The status quo must remain and SARS must manage its database better in terms of its risk modelling and approach clients individually if they have a concern to have a new ruling issued and at no cost.