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PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

THURSDAY, 6 MARCH 2014

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PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

PO Box 15 Cape Town 8000 Republic of South Africa

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ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR FINANCIAL YEAR ENDING 31 MARCH 2012

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ANNEXURES:

1. INTRODUCTION

The Joint Standing Committee on Intelligence (JSCI) was confronted with considerable challenges during the period 01 April 2011 to 31 March 2012 under review. The membership of the Committee, for example changed a number of times. These changes are set out below. In addition an Ad Hoc Committee appointed in March 2010 to process the Protection of Information Bill only completed its work in September 2011. During this period the Chairperson and a number of JSCI members also served on the Ad Hoc Committee.

The ongoing restructuring of the civilian intelligence services continued with no end in sight. In addition, an unhealthy disagreement emerged between the Minister of State Security and the senior management of the civilian intelligence resulting in the Director-General of the State Security Agency (SSA), the Head National Intelligence Agency (NIA) - Domestic Branch: SSA and the Head of the South African Secret Services (SASS)- Foreign Branch: SSA leaving the Services.

Furthermore serious problems emerged in the Crime-Intelligence (CI) Division of the South African Police Service resulting in the head of the division changing at least four times. The Committee was inundated with serious allegations against members of CI, including Major General Mdluli, the Divisional Head of CI. As a consequence the Committee spent much of its time investigating and interviewing the relevant officials concerned.

2. COMPOSITION OF COMMITTEE

In the Annual Report of the JSCI for the period 2009/2010 it was reported that, following 2009 elections and the formation of the Fourth Parliament of the Republic of South Africa only the Chairperson, Hon CV Burgess and the Honourable L Landers were reappointed onto the JSCI. The remaining Committee members were all new. The Intelligence Oversight Act 40 of 1994 (the Act) provides that the Committee consists of 15 members of Parliament appointed on the basis of proportional representation determined according to a fixed formula set out in the Act. Accordingly the following were the seats allocated after the 2009 elections:

African National Congress (ANC)	9 seats
Democratic Alliance (DA)	2 seats
Congress of the People (COPE)	1 seat
Inkatha Freedom Party (IFP)	1 seat
United Democratic Movement (UDM)	1 seat
Freedom Front Plus (FF+)	1 seat
Independent Democrats (ID)	1 seat
Total	**16 seats**

The members of the Committee up until the changes which took place on 08 February 2011 were:

2009/2010

Name	Party
Mr L.T Landers	ANC (NA)
Mr JJ Maake	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Ms ST Ndabeni	ANC (NA)
Mr NB Fihla	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms A Dlodlo	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

2010/2011

Name	Party
Mr Mr NB Fihla	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Mr JJ Maake	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms ST Ndabeni	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

Hon. Landers and Dlodlo were discharged from the Committee and replaced by the Hon. V. Bam-Mugwanya and Hon. S. Williams-De Bruyn on 08 February 2011.

The present composition of the Committee is:

2011/2012

Name	Party
Mrs S. Williams-De Bruyn	ANC (NA)
Mr JJ Maake	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Mr NB Fihla	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms ST Ndabeni	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

Hon. Ndabeni was discharged from the Committee on 15 March 2012.

3. STATE SECURITY AGENCY

The 2011/2012 Strategic Plans for State Security Agency (SSA) were outlined during a briefing on 23 and 30 March 2011. All components were present. The components are made of Domestic Branch (DB) formerly known as the National Intelligence Agency; Foreign Branch (FB) formerly known as the South African Secret Service. Both Domestic and Foreign Branches are core business for SSA.

Other components are the Intelligence Academy (IA) formerly known as the South African National Academy Intelligence, National Communication (NC) which incorporated (National Communication Centre (NCC), Communication Security (Comsec) and Office of the Interception Centre (OIC)), as well as Administration component which includes the Ministry, Office of the Director General, Intelligence Service Council and Corporate Services. Administration, IA and NC are the support structures of SSA, the support structures were formerly known to be NIA's spending Centres.

The 2011/2012 plans focused on a period beyond the restructuring of SSA as opposed to the 2010/2011 plans. The strategic plan presented had six programmes, Collection, Analysis, Counter Intelligence, Technology, Training and Administration.

The Collection and Analysis programme, executes the department's overall collection and analysis of critical and unique intelligence, related to threats and opportunities, both domestic and foreign. This is aimed at assisting and providing policy makers with a strategic picture in pursuing of South Africa's national interest. The Counter Intelligence programme ensures an effective, efficient, target driven and reliable counter intelligence capacity that secures the country's national interest both at home and abroad.

The Counter Intelligence and Technology programmes seek to implement the department's overall counter intelligence and technology strategies. Amongst other things ensure effective, efficient, target-driven and reliable counter intelligence capacity, strategic partnerships in order to secure the country's national interest through the provision of a timely, innovative, efficient and relevant technological services as well as ensure that the existing technology capacities is integrated.

The Training programme incorporates the department's overall training strategy, to guarantee proficiency in intelligence trade craft through the development and integration of existing capacities and strategic partnerships in order to secure the country through timely, innovative, efficient and relevant training services, whilst administration programme aims to implement the single (shared) corporate service and management services capacity strategy for the whole of SSA.

The budget allocation for MTEF for the year under review to 2013 /2014 is mainly towards Collection, Analysis and Administration programmes, followed by Counter Intelligence programme. The programme with the lowest allocation is training whilst the bulk of capital expenditure for same period is allocated to technology and infrastructure developments.

Management issues

The Committee expressed concerned regarding the prolonged restructuring process at SSA. It was noticeable that it was having a negative effect on the management of SSA and the morale of members. Furthermore negative media reports about SSA alleging infighting between the Minister and the senior management of SSA necessitate the Committee to attend to the matter.

In attending to the matter the Committee determined the following:

- The finalization of the restructuring of the civilian intelligence to give effect to the State Security Agency (SSA) has taken much longer than expected, and,

- The legislation required to give effect to the formal establishment of the SSA has as yet (October 2011) not been approved,

- Media statements (whether true or false) reporting on the SSA and the Ministry of State Security have been negative and damaging to the interest of South Africa,

- A committee oversight visit to Musanda (05 October 2011) where the committee met with officials of SSA revealed that:

  - There was poor communication and co-operation between the Minister and the DG SSA and his Directors, and,
  - The general opinion amongst top management of SSA was that the Agency was in crisis and that,
  - The morale of most SSA members was low due, *inter alia*, to uncertainty concerning employment contracts and possible job losses relating to the restructuring process.
  - The NICOC principals were not meeting as required by law. As a consequence NICOC was reported to be non-functional and that this, would have a serious effect on the production of the National Intelligence Estimates (NIE).

Further matters of concern noted by the Committee were that:

- The Minister of State Security had an extremely busy schedule and that this has affected his overall duties and responsibilities.

- There is an obligation on the Minister of State Security and the Executive Management of SSA to give leadership to the civilian intelligence organization and that this leadership was negatively influenced by the challenges set out herein.

- There is a view in the Executive Management of SSA that the functions of the Minister are not clearly defined in the Constitution and relevant legislation and that this has led to friction and uncertainty.

- The Director of SSA Domestic Branch, Njeje, had left the Services.

In an effort to assist in resolving the matters of concern, the Committee resolved the following:

- That an urgent JSCI meeting be scheduled to which the Minister of State Security, DG SSA and top management of SSA be invited.

- That priority be given to the finalization of the restructuring of the civilian intelligence focusing on specific time-frames.

- That legislation giving effect to the creation of the SSA should immediately be finalized so that it could be tabled in Parliament.

- That the problems affecting the operations of NICOC be immediately addressed by the Co-ordinator, relevant Ministers and the NICOC principals.

Because of the urgency involved the Committee accordingly urged, that the above concerns be addressed by November 2011.

However, on the question of the senior management of SSA which also affected the operations of NICOC, events were overcome by the following:

- The Head of SSA Domestic Branch (NIA), Mr L. Njenje resigned in September 2011.

- The Director General of SSA Ambassador, M. J. Maqetuka resigned in November 2011, and

- The Head of Foreign Branch of SSA (SASS), Ambassador M. Shaik resigned in February 2012

Security Breaches at SSA

In the reporting period, there were several unprecedented incidents of security breaches reported by SSA. The Acting Director General briefed the Committee on the preliminary reports of these incidents. The incidents occurred at the offices of SSA in three Provinces in February and March 2012. The affected provinces were Gauteng, Kwa-Zulu Natal and Western Cape. These incidents relate to:

- A burglary and theft at Bogare, at the building housing the Intelligence Service Council (ISC) and Inspector General of Intelligence (IGI). The break-in took place on 08/09 February 2012.

- A fire at the KZN Provincial Offices on 11 February 2012.

- A burglary and theft at one of the Western Cape Operational Office on 12 February 2012, and

- A burglary at the KZN Operational Office on 28 February and 20 March 2012.

The preliminary findings indicated that the incident at Bogare was an unsophisticated common criminal act with theft of IT equipment as a motive. There was no pronouncement on whether sensitive/classified information was compromised. However, the briefing identified poor implementation and monitoring of security measures which were recommended for the building as a key factor leading to the burglary.

In relation to the fire at the KZN Provincial Office, there was no evidence of arson found but indications were that there were insufficient precautionary measures in place to avoid the spread of the fire in the roof area which went as far as the top of the floor housing the offices. Over 50 desk computers systems were destroyed during the fire including a high quality video conference system.

The preliminary investigations of the burglaries at the Western Cape and KZN Operational offices indicated that it was a common criminal act with the theft of IT equipment as a sole motivation as in the case of the Bogare incident.

3.1 National Intelligence Agency (Domestic Branch) (NIA: DB)

The Domestic Branch has aligned their strategic objectives with the National Intelligence Priorities (NIPS) as well as the government's outcome 3, "all people in South Africa are safe and feel safe" to meet their client's requirements.

In the reporting period, Domestic Branch reported that they have joined forces with other law enforcement agencies in the fight against illegal trading of rhino horns. The department continues to be active in the borders to prevent the smuggling of people and goods and other activities of cross border organised crime groups.

3.2 South African Secret Service (Foreign Branch) (SASS: FB)

The SSA is represented in 52 countries with significant coverage in Africa. During the year under review, it was reported that piracy and terrorism in the Horn of Africa remains a concern with South Africa collaborating with other countries with similar intent to fight piracy in Somalia. There is continued coordination within SADC to maintain stability with situations in Madagascar and Zimbabwe threatening this stability.

The Committee was further briefed on the African Union Commission Chair campaign, which illustrated some anti-South Africa sentiments lobbying from some western countries, particularly from the European Union and other identified African countries. Security situations in Nigeria and East Africa were monitored as well as political situation in Syria.

3.3 National Communications (NC), formerly: Office of Interception (OIC), COMSEC and National Communication Centre (NCC)

The National Communication (NC) component of SSA is a support unit which has been established in line with the restructuring of the civilian intelligence. It is a consolidation of the OIC, COMSEC and the NCC.

The NC falls mainly under programme 4 of the SSA as presented during their strategic planning briefing. According to the progress reports, most of the plans were achieved although limited foreign language capacity, technical skills and experience, coverage of collection systems and information processing remain a challenge within NC.

The Committee remains concerned with the state of equipment used by the NC. Some of systems need overhauling and replacing as it was procured as far as 2004/2005 and is out-date in terms of current technology.

3.4 Intelligence Academy (IA) – SANAI

The Committee has learned of the departure of Mr Sarjoo, the principal of IA to Saudi-Arabia a head of station. Ms Yvonne Setsumi was later in August 2011 introduced as the new principal. The JSCI remains concerned with the accreditation of courses offered by the academy as well as the leadership challenges faced by the academy.

Training Council within the institution discusses all issues of accreditation and other challenges e.g. training material however, the delay in the approval of the high-level organisational structure has led to delay in the implementation of the training programme. During the briefing, it was also reporting that the institution is on a benchmarking mission with other intelligence services outside the country, such as Cuba, Algeria and Russia.

The long standing case of the former SANAI deputy principal, Mr Nduli that has been reported on in the previous reports has finally been resolved. The sheriff of the Court evicted the deputy principal since he refused to leave voluntarily following a court order.

3.5 National Intelligence Coordinating Committee - NICOC

NICOC as the coordinating structure of intelligence has specific objectives in order to achieve that coordinated effort of dissemination of information. The following are the strategic objectives presented to the JSCI on 31 March 2011 for 2011/2012 financial year:

- Produce and disseminate a high quality NIE.
- Contribute to the realisation of key outcome 3 through the production of strategic intelligence products on the domestic terrain.
- Contribute to the realisation of key outcome 11 through the production of strategic intelligence products on regional, continental and global levels.
- Contribute to the realisation of strategic projects and ad hoc tasking.
- Render effective and responsive support services to NICOC

The JSCI also received a briefing from NICOC on the restructuring process that was taking place within the State Security Agency. It was noted that the restructuring would affect the composition and the structure of NICOC.

However, the Committee was more concerned with the non compliance of NICOC in that it was not meeting regularly as a structure. Mr Diseko was appointed in March 2011 as the Acting Coordinator of NICOC. He advised the Committee that he would be acting until 30 September 2011.

Additional problems in NICOC that were noted by the Committee were the vacant posts that were not filled due to a moratorium and under spending due to the low frequency of travelling to meetings. The Cape Town office previously used by NICOC was allocated to the Director General of State Security.

Furthermore the proclamation which established the State Security Agency created uncertainty of the status of NICOC and its composition since the proposed General Intelligence Laws Amendment Bill, would give effect to the new structure was still been processed.

The Committee raised concern about the production of the National Intelligence Estimates (NIE) if the NICOC principals were in fact not meeting regularly.

4. CRIME INTELLIGENCE (CI)

The problems which unfolded in Crime Intelligence made it difficult for the Committee to conduct its work in a normal environment. During the period under review the Committee was continually confronted with serious negative allegations affecting CI which needed the attention of the Committee. In this regarded a further concern emanated from the fact that most of the allegations first surfaced in the media. Much of the information was sensitive. Much of the information was false. These mysterious media reports became a trend which clearly indicated that there were serious problems within CI.

Moreover CI was unable to comply with the statutory obligations relating to their annual reports thus affecting the work of both the AG and the IG who have statutory responsibilities to report to the Committee on this matter. It might be added, in this regard, that the Committee was unable to get the necessary cooperation from CI despite several attempts. This problem was compounded by the fact that during the period under review the position of Divisional Commissioner CI had changed at least four times. Those that acted in this position are:

- Maj-Gen. Matshatshe 2011
- Lieut-Gen. Masemola 2011-2012
- Lieut-Gen. Mkwanazi 2012
- Maj-Gen. Ngcobo 2012-2013

The Committee also found a further problem of infighting and lack of trust between CI members. It was therefore predictable that the performance of the Division would be negatively affected. The Committee also monitored the performance of CI by considering the report of the designated judge in relation to the amount of applications by SAPS (for which CI is responsible) for authorised interception orders in terms of the Regulation of Interception of Communication and Provision of Communicated-Related Information Act 70 of 2002 (RICA).

The instability in Crime Intelligence

Maj-Gen Richard Mdluli was appointed Divisional Commissioner and head of CI in July 2009. Soon after his appointment numerous allegations levelled against Mdluli and some of his senior management began appearing in the media. The Committee interview all concerned at the time and sought the assistance of the IG and the AG. The information before the Committee and explanations given at the time were accepted by the Committee and it was therefore not necessary for intervention. The Committee accordingly continued to monitor the situation within CI. It might be added that Maj-Gen Mdluli was adamant that there was a campaign by unidentified persons within CI to discredit him because certain people were unhappy with his appointment as head of CI. He was specifically questioned on the allegation of the murder of a certain individual in which he was implicated.

Soon after his appointment in August 2009 Maj-Gen Mdluli instructed a senior officer in CI to investigate alleged irregularities carried out by members of SAPS Crime Intelligence division. A sensitive classified report was prepared. The aforesaid investigation appeared to have had the effect of increasing the leaking of negative information to the media on matters of CI.

In October 2010 a weekend newspaper published an article which contained serious allegations of mismanagement, fraud, corruption, nepotism and lack of leadership within CI.

The Committee accordingly invited both the Minister of Police and Maj-Gen Mdluli to address the Committee on the allegations. The Minister was equally concerned about the article and the message it was sending about the intelligence community. Maj-Gen Mdluli dismissed the allegations expressed in the media and attributed rogue and disgruntled elements within CI responsible for the leaking of the information to the media. The Committee requested that the matter be investigated and a written report be produced for the consideration by the JSCI. The report back was discussed and noted by the Committee.

However, by March 2011 there was a warrant out for the arrest of Maj-Gen Mdluli in connection with a murder which had occurred in 1999. Maj-Gen Mdluli handed himself over to SAPS. During the bail application of Maj-Gen Mdluli the Committee learned of an alleged classified document which was declassified and submitted to court. The document was titled "Ground Coverage Intelligence Report".

At a subsequent meeting of the JSCI Maj-Gen Mdluli denied that he had handed the document in to court in support of his bail application. He denied any knowledge of the document. It accordingly remains a mystery how the document landed up in the court file. The investigation which followed the emergence of the document is dealt with herein below. It should be noted that soon hereafter Maj-Gen Mdluli was placed on special leave and Maj-Gen Matshatshe took over as acting head of CI.

During September 2011 a further disturbing matter regarding CI was brought to the attention of the Committee by IG. The Directorate of Priority Crime Investigations [DPCI (the "Hawks")] had obtained a search warrant which authorised access to the premises of CI and access to certain listed documents in the warrant. Maj. Gen. Matshatshe appointed a senior officer of CI to assist the DPCI to obtain access to the documents set out in the search warrant.

The concern of the Committee related to the exposure of covert structures, undercover agents and the operations of CI. The Committee was furthermore concerned about the estimated and potential financial loss that could occur. Many Committee meetings were held with all parties concerned.

During October 2011, Maj-Gen. Matshatshe requested an urgent meeting with the Committee at which he reported that the officer that he had appointed as the liaison between CI and the Hawks, was requesting access to a list of CI agents and that this lists did not appear on the search warrant. The officer had threatened to arrest him for defeating the ends of justice when he refused to produce the list. He requested the assistance of the Committee. After interviewing all parties concerned and having access to the search warrant, and having established that the DPCI had not requested access to the list of agents, the Committee resolved that a letter be addressed to CI requesting that the officer concerned be replaced. The Committee hereafter noted that the letter landed up in the hands of the media and some media had incorrectly reported that the Chairperson of the Committee had interfered in the investigation of DPCI. The leaking of the Committee letter is still under investigation.

During October 2011 the Committee was informed that Maj-Gen Solomon, Lazarus, the Head: Covert Support Services and CFO for the Secret Service

Account was going to be arrested. The allegations appeared to be related to the abuse of the Secret Service Account amounting to fraud and corruption.

The Committee held several briefings with CI and interviewed many stakeholders to evaluate the developments and establish whether CI was still functioning as expected, as well as ensuring that they account for funds allocated to them during period. Several reports were requested by the Committee from the service as well as from the Office Inspector General of Intelligence and the Office of the Auditor General in an attempt to resolve the challenges at the CI.

The Committee was not officially informed but learnt through media reports that a number of Generals including Maj-Gen. Matshatshe had been moved from CI. During the investigations, the communication between JSCI and CI deteriorated as people were appointed in acting positions at CI without the knowledge of the Committee. The trend that followed was that classified information continually landed in the media. One investigation followed the other on developments in CI but the Committee was not kept informed.

During this period the Committee met with the Minister of Police, Hon N Mthethwa and the Deputy Minister of Police, Hon M. Sotyu and also the then acting National Commissioner, Lieut-Gen. Mkhwanazi.

The investigations at CI were hampered by the fact that some included cases before the Courts or were the subject of a departmental disciplinary process.

As a consequence of the problems in CI, CI was unable to report to the Committee as provided for in the Oversight Act. This impediment also affected the work of the AG and the IG who have to account to the Committee in terms of the Act.

Notwithstanding the above mentioned problems the following relate to the performance outcomes of CI in the period under review:

- A number undercover operations were conducted resulting in a large number of arrest
- A number of undercover agents were recruited
- A total of 635 532 operational and strategic analysis reports were produced

Ground Coverage Intelligence Report

During the early part of 2011 a document entitled "Ground Coverage Intelligence Report" was mysteriously distributed to various people including the media. The report made serious unsubstantiated allegations against prominent politicians, senior civil servants, business and other persons. There was also an allegation that the document was the product of Crime Intelligence.

On 23 May 2011 Cabinet Ministers in the Security Cluster established a Task Team to investigate the origins of the "Ground Coverage Intelligence Report" and matters connected therewith. The task team was consisted of officials from the Department of Justice and Constitutional Development, the National Intelligence Agency, the South African National Defence Force (DI) and members from SAPS CI.

The Committee is still awaiting the official findings and recommendations of the Task Team even though it has subsequently become known that the Task Team was unable to establish who was responsible for the production and the distribution of the Ground Coverage Intelligence Report. General Mdluli denied that he had anything to do with the report.

5. DEFENCE INTELLIGENCE

Notwithstanding the challenges facing the civilian intelligence and the ongoing problems in CI, Defence Intelligence (DI) has been unwavering and their members have retained a professional outlook to their work and mandate.

The Committee met DI on 16 March 2012 and received a presentation on their annual performance plans and budget for the financial year 2011/2012. The annual plan covers the objectives of DI which include providing:

- an intelligence capability and service,
- counter intelligence capability and service,
- a Defence Foreign Relations capability and service, and
- Divisional Support Services

The briefing also addressed the role of DI in the field of international relations in as much as the Department of Defence (DOD) and SANDF through the Defence Foreign Relations Division have international and foreign responsibilities.

The budget of DI is housed under the budget of the DOD. Only a small amount is allocated to special intelligence account. The DI budget was in line with the National Intelligence Estimates (NIE) analysis reports.

However, the Committee remains extremely concerned that there was no allocation for border security in the light of the challenges facing the country the management of porous borders. The Committee was informed that the police remained deployed on the borders while the Executive finalises the take-over of DOD.

The long standing problem relating to the Head Quarters (HQ) of DI has not been resolved. DI has been looking for alternate accommodation for its HQ for a number of years. The presently HQ of DI is in a dilapidated, its location is clearly inappropriate and the rental is high.

The critical areas of underperformance were as a result of some security clearance targets not achieved as promised. However, this was directly affected by the loss of ten skilled personnel of DI to other departments. Defence Intelligence has been struggling with developing a plausible retention strategy, in addition there have been difficulties in persuading DI employees not to take better offers elsewhere. DI has accordingly pleaded for additional funding for the vetting unit.

In response to a concern raised by the Committee, DI also briefed the Committee on the situation in Somalia.

6. OFFICE OF THE INSPECTOR GENERAL OF INTELLIGENCE (OIGI)

According to Section 7(11) (c) of the Oversight Act 40 of 1994 the Inspector General of Intelligence (IG) is provided for to submit certificates on the Activity Reports of the services. The IG must report whether the any of the activities of the services unlawful, contravened ministerial directions and involved unreasonable or unnecessary exercise of any of its powers. In so doing, the OIGI must provide independent assurance that the Services operate within the rule of law and respect for human rights, which give credibility to the office. The following were some of the concerns:

Certification process

OIGI has developed a reporting mechanism regarding the certification process which has been approved by the Committee and essentially involves reviewing and reporting on the activities of the intelligence entities. The certificates are accordingly only presented to the Committee after the annual reports of the services have been tabled with the Committee. The format of the certificates includes the following information:

- Monitoring and Review of services compliance with the regulatory framework (applicable laws, Ministerial directions and internal regulatory frame) in the execution of its mandate;
- Review intelligence and counter intelligence activities related to espionage, sabotage and subversion;
- Review services activities in investigating and neutralising terrorism and extremism;
- Evaluate compliance of investigative methods and intelligence collection techniques;
- Evaluate reported investigations of irregularities/unlawful activities within the cover support unit;
- Evaluate the use of intrusive measures;
- Determine service's interception capacity and capabilities;
- Review and monitor security screening and issuance of security clearances;
- Follow up on progress made on previous findings and recommendations made by the OIGI.

Matters of concern

Matters of concern expressed in the certificates relate to SSA, SAPS-CI and DI.

State Security Agency concerns

- The annual report of SSA did not directly address the activities of the NIA (Domestic Branch) and SASS (Foreign Branch) as intelligence services which are components of SSA. The activities of respective services ought to be gleaned from the SSA annual report. The OIGI was concerned that the role of these components in achieving the SSA outputs were reflected inconsistently and created the impression that both NIA and SASS were disestablished and replaced by SSA.

- The OIGI noted that, the Minister of Finance granted approval for SSA and its components to produce only one annual report in terms of the Public Finance Management Act, Act 1 of 1999 pending the finalisation of the necessary legislation. However, the current laws and proclamations provide for the continued existence of these NIA and SASS as components of SSA.

- Although the SSA has been established by Proclamation, it has been three years since the initially drafting of the legislation. The delay in the finalisation of the legislation has resulted in legal uncertainty as to the status of SSA as an intelligence service.

- Concern was expressed regarding the prevalence of fraud and theft cases involving members of SSA. Delays in the investigation and finalization of disciplinary cases involving senior managers who were either suspended or staying away from work for years was a matter of utmost concern. However, it was noted these cases were at various investigation/ disciplinary stages and the results were eagerly awaited.

SAPS-CI concerns

- The IG was concerned that there was a lack of proper statutory regulatory framework to deal with CI as a division of SAPS with its functions explicitly legislated in the South African Police Service Act 68 of 1995 (as amended).

- There was a problem with sound financial management in CI. The organisational design was problematic since it allowed for the Chief Financial Officer (CFO) to be assigned functions that were operational and further assigned responsibilities relating to recruitment and the selection of personnel, as well as that of recruiting personnel for agent programme, to the CFO.

- The Secret Service Account was investigated by the IG with the request of the Minister of Police. The IG was tasked to investigate whether there was compliance of the applicable regulatory framework in the utilisation of the Secret Service Account. The investigations revealed that funds allocated to this account were not strictly employed for the purpose which the account had been established.

- Another matter raised by the OIGI was the misuse of covert premises and safe houses in contravention of the Policy Directive and Procedures of SAPS-CI. It was also established during the certification process that there was one occasion where telephone communication of a senior police officer was unlawfully intercepted. The disciplinary processes involving the implicated members were reported to be underway.

Defence Intelligence concerns

- The IG raised personnel shortages in terms of operational capacity in some sub divisions of DI as a possible risk. DI was advised to vigorously pursue a recruitment strategy for certain Directorates, especially Directorate Vetting so that they can achieve their goals.

7. OFFICE OF THE DESIGNATED JUDGE RESPONSIBLE FOR THE AUTHORISATION OF INTERCEPTIONS

As defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, the Committee met with Judge Khumalo on 16 November 2011 for a briefing on the statistics of interceptions. The report covers a period of seven months. The Committee again raised displeasure in the short term given to each designated judge for interception. It is therefore recommended that the extension of the term for the designate judge be considered as well as ensuring that the term is inline with the financial year.

A report regarding the functions performed by him or her in terms of that Act, including statistics regarding such functions, together with any comments or recommendations which such designated judge may deem appropriate, provided that such report shall not disclose any information contained in an application or direction referred to in that Act. (**See report – Annexure C).**

8. AUDITOR GENERAL

The Committee depends to a large extent on the Office of the Auditor-General of assistance and reporting on the financial statements of the Services. In this regard reference is made elsewhere in this report to the interactions which have occurred between the Committee and the AG's office in the period under review.

The relevant statutory audit reports of the AG relating to the Services are attached hereto as **ANNEXURE B.**

9. JSCI ACTIVITIES

The Committee has a mandate spelt out in Section 2 of the Intelligence Services Oversight Act 40 of 1994 about the establishment of the Committee on Intelligence and to perform an oversight on the intelligence structures. The Act gives the oversight responsibilities to the Committee in relation to the intelligence and counter intelligence functions of the Services, which include the administration, financial management and expenditure of the Service and in respect of the administration, financial management and expenditure of the Intelligence Services Entities and report thereon to Parliament.

In performing its financial oversight responsibilities, the Committee is assisted by the Office of the Auditor General (AG). This is accomplished by annual financial audits and any other audit as the Committee may request. While the Committee recognises and respects the independence of the Office of the AG, the co-ordination of the work of the JSCI and the Office of the AG regarding financial oversight of the Services has assisted both offices in strengthening their oversight mechanism.

It should also be noted that the AG has also greatly assisted with the training of the Members of the JSCI.

Meeting with the President

The Committee met with the President on 01 June 2011. A number of matters relating to oversight and the Services were discussed. Further meetings with the President will follow.

JSCI Strategic Workshop – July 2011

In July 2011 the Committee held a strategic planning workshop. The Office of the Inspector General of Intelligence (OIGI) and the office of the Auditor General were invited. The oversight role of each structure in terms of the Oversight Act was a key consideration of the workshop. The OIGI raised the following challenges that hinder their functioning:

- Non – enforcement of findings.
- Lack of redress to complainants.
- Other intelligence entities outside IGI jurisdiction.
- Non-adherence to the national intelligence priorities (NIPS.
- Term of office of the IGI.
- Tasking functions as described in (section 7 (6) and section 7 (7) (c)) of the Intelligence Services Oversight Act.
- Clarity on section 7 (7A) of the Intelligence Services Oversight Act
- Refining of access to premises provisions.
- Increased powers for conduct of investigations

The AG's office raised the following concerns:

- Possible overlap with the mandates of AG and OIGI. A workshop was proposed to address that issue. The workshop would focus on the actual work performed and how to audit predetermined objectives and the certification process. The outcome will be an MOU to address the overlap.
- Timelines for reporting were clearly stipulated and understood.

- The legislative environment changed after 17 September 2009 when NIA and SASS were incorporated in the State Security Agency (SSA). However, legislation must still be changed to reflect the new dispensation.

Recommendations from the workshop

- A formal process should be adopted to enforce recommendations and findings of the OIGI after reporting on a complainant of the department or if the department's representative differs with the findings or recommendations of the IG.
- Any intelligence oversight failures should be addressed by the three oversight structures.
- Development of trust and professionalism between the JSCI and the Services should be adopted as a practical approach to a constructive oversight working relationship.
- Decisions taken on oversight responsibilities should be actioned.
- Legislation should be amended to reflect the new dispensation following the proclamation of 2009 incorporating some divisions to State Security Agency including amendment to the Electronic Communication Security Act as a Government Owned Entity.
- The Intelligence Services Oversight Act should be amended to accommodate the tabling of one audit report, one set of financial statements and one annual report, all for the new SSA structure.
- Since oversight was a continuous process the JSCI should use the quarterly reports of the Services to monitor progress and identify problems at an early stage.

- When auditing secret funds special attention must be given to the controlled environment and the difficulties in assessing the aspect of "value for money".

- Who should act if the JSCI recommends action? The executive authority (ie the relevant Minister) is the executor. This process could take long. If no action is taken, the matter can be addressed through the relevant Accounting Officer, Minister and even the President. The limitation with parliament in this regard is that it can only recommend.

- There was a need to benchmark or look at other countries oversight models so that the present oversight mechanism could be reviewed.

Investigation of allegations against Minister of Police

The Committee was confronted with allegations of mismanagement against the Minister of Police. The media in April 2012 also carried reports of mismanagement of the CI secret service account by the Minister. In this regard it was alleged in the media that renovations at the Minister's private residence was paid out of the CI funds.

The Minister was invited to a Committee meeting to respond to the allegations. The Minister denied that he had used state funds to renovate his private residence. He explained that following a security assessment of his premises, the recommendation was to erect a solid brick boundary wall. The assessment had indicated that the existing wall created a security risk. The existing wall was then replaced with a solid brick wall.

The Committee requested the assistance of the AG with investigation and to report back to the Committee.

The subsequent report of the AG found no wrong doing by the Minister. The AG did however, find that CI funds were used to erect the wall and that this should have been done by Public Works.

Bi-lateral international with Delegation from Botswana

The Committee met with a Parliamentary delegation from Botswana on 04 November 2011 in Cape Town. The Committee rendered advice and assistance to the delegation.

10. RECOMMENDATIONS OF THE JSCI

10.1 The out-dated technology and equipment used by the NC (OIC, NCC and COMSEC) must be replaced and sufficient funds must be allotted to the division.

10.2 Priority should be given to addressing the problems relating to the HQ of DI with the express intention of relocating them. This matter must now be considered to be urgent.

10.3 The vetting of officials in the security cluster generally remains an ongoing problem which has perpetually manifested itself in the workplace where government officials are continually confronted with allegations of corruption, maladministration and poor job performance. Accordingly, it is recommended that persons indentified for vetting should first complete the vetting process before they are allowed to take up their positions. Ministers in the security cluster should devise a uniform vetting strategy including methods for swifter completion of the vetting process.

10.4 The finalisation of the restructuring of the SSA and the relevant legislation must be urgently completed since it is has had a negative effect on the morale of the membership.

11. CONCLUSIONS

The JSCI deeply regrets the late tabling of its annual report. This has been as a consequence of matters beyond the control of the Committee. There are a number of sensitive matters not dealt with in this report which have also affected the work of the Committee but will be reported on later.

In addition the problems in CI resulted in CI only tabling their annual reports for the periods 2010-2011 and 2011-2012 in September 2013. It therefore followed that both the work of the AG and the IG were affected.

The Committee has noted that the Oversight Act needs to be amended since the reporting time for the JSCI set out in the Act is not synchronized with the provisions of the Public Finance Management Act 29 of 1999 and the Public Audit Act 25 of 2004. Accordingly the 2010-2011 Annual Report was only forwarded to the President in October 2013.

JSCI PROGRAMME 2011/2012

Wed, 20 April 2011	Briefing by CI
Wed, 25 May 2011	JSCI Meeting no guests
Wed, 01 June 2011	Preparation of the Budget Speech
Wed, 09 June 2011	Meeting with the President
Wed, 15 June 2011	JSCI Meeting no guests
Wed, 22 June 2011	Briefing on Strategic Plan Workshop
03- 04 July 2011	Strategic Planning Session
Wed, 17 Aug 2011	Briefing by SSA and CI on Quarterly Reports
Wed, 24 Aug 2011	Briefing by OIGI and DI on Quarterly Reports
Wed, 07 Sep 2011	JSCI Meeting, no guests
Wed, 14 Sep 2011	Briefing by NICIC on NIE's and Quarterly Reports
Wed, 21 Sep 2011	Briefing by SSA
03 – 07 Oct 2011	Oversight Week
Tue, 04 Oct 2011	Briefing by CI
Wed, 05 Oct 2011	Briefing by SSA
Thur, 06 Oct 2011	Briefing by DI
Thur, 13 Oct 2011	Oversight Discussions
Tue, 18 Oct 2011	JSCI Meeting, no guests
Wed, 19 Oct 2011	JSCI Meeting, no guests
Wed, 26 Oct 2011	Meeting with NPA, OIGI, AG and CI
Thur, 27 Oct 2011	Meeting with OIGI, AG and CI
Fri, 28 Oct 2011	Meeting with DPCI
Wed, 02 Nov 2011	JSCI Meeting, no guests
Fri, 04 Nov 2011	JSCI meeting with Delegation from Botswana

Wed, 09 Nov 2011	Meeting with CI
Wed, 16 Nov 2011	Briefing from the Judge of Interceptions
Wed, 23 Nov 2011	JSCI Meeting, no guests
Wed, 30 Nov 2011	JSCI Meeting with Gen Mdluli
Wed, 07 Dec 2011	JSCI Meeting with Gen Lazarus
Wed, 07 Dec 2011	Briefing by SSA
Wed, 18 Jan 2012	Preparation of Oversight visit
24 – 27 Jan 2012	Strategic Planning Session
Tues, 31 Jan 2012	Meeting with Deputy Minister of Police
Wed, 08 Feb 2012	Briefing on 2010/2011 IG's Certificates
Wed, 15 Feb 2012	Briefing by SSA
Wed, 22 Feb 2012	Deliberations on IG's Certificates
Wed, 29 Feb 2012	Meeting with Amb. Shaik
Wed, 07 March 2012	Briefing by OIGI on GILAB

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON STATE SECURITY AGENCY (SSA)

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the financial statements of the State Security Agency, set out on pages ... to ... , which comprise the appropriation statement, the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the cash flow statement for the year then ended, and the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-General's responsibility

3. My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the *General Notice* issued in terms thereof and International Standards on Auditing. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

4. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

Basis for qualified opinion

Level of assurance

6. Due to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which the services and assets are procured, utilised and safeguarded, the level of assurance, in respect of certain operational expenditure and assets are under these circumstances lower than with other audits.

Limited documentation provided

7. Adequate documentation and information requested to support certain transactions and balances in the financial statements were not provided as a result of a current investigation. Due to this limitation I did not obtain all the information and explanations considered necessary to satisfy myself as to the completeness and accuracy of the balances disclosed for accounts receivable, accounts payable, irregular and fruitless expenditure and contingent liabilities. There were no satisfactory alternative procedures that I could perform to obtain reasonable assurance that accounts receivable, accounts payable, irregular and fruitless expenditure, contingent liabilities, operating expenditure and payables were properly recorded. Consequently I was unable to determine whether any adjustments to these accounts were necessary.

Opinion

8. In my opinion, except for the possible effects of the matter referred to in the basis for qualification paragraph, the financial statements present fairly, in all material respects, the financial position of the State Security Agency as at 31 March 2012, and its financial performance and cash flows for the year then ended in accordance with SA Standards of GRAP and the requirements of the PFMA.

Emphasis of matters

9. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Financial reporting framework

10. As disclosed in note 1.1 and 1.5 to the annual financial statements, the Minister of Finance has granted approval to the department to apply GRAP with Directive 4 transitional provisions for medium and low capacity municipalities.

Significant uncertainties - Claims

11. As disclosed in note 32, the department is a defendant against several claims levelled against it. The department is opposing these claims. The ultimate outcome of the matter cannot presently be determined and no provision for any liability that may result has been made in the financial statements.

Restatement of corresponding figures

12. As disclosed in note 31 to the financial statements, the corresponding figures for 31 March 2012 have been restated as a result of errors discovered during 2012 in the financial statements of the department at, and for the year ended, 31 March 2011.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

13. In accordance with the PAA and the *General Notice* issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

Predetermined objectives

14. I performed procedures to obtain evidence about the usefulness and reliability of the information in the State Security Agency's annual performance report as set out on pages ... to ... of the annual report.

15. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable (i.e. well defined, verifiable, specific, measurable and time bound) and relevant as required by the *National Treasury Framework for managing programme performance information.*

    The reliability of the information in respect of the selected programmes is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

16. The material findings are as follows:

Usefulness of information

17. The National Treasury Framework for managing programme performance information (FMPPI) requires that performance targets be measurable. The required performance could not be measured for a total of 51% of the targets relevant to:
    - Programme 1:Collection
    - Programme 2: Analysis
    - Programme 3: Counterintelligence

18. The National Treasury Framework for managing programme performance information (FMPPI) requires that performance targets be specific in clearly identifying the nature and required level of performance. A total of 51% of the targets relevant to the following programmes were not specific in clearly identifying the nature and the required level of performance.
    - Programme 1:Collection

- Programme 2: Analysis
- Programme 3: Counterintelligence

Other Matters

We draw attention to the matter below. Our opinion is not modified in respect of this matter.

Achievement of planned targets

19. Of the total number of 164 reported targets, 93 were achieved, 61 partially achieved and 10 not achieved during the year under review. This represents 43.29% of total planned targets that were not fully achieved during the year under review.

Compliance with laws and regulations

20. I performed procedures to obtain evidence that the entity has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the *General Notice* issued in terms of the PAA are as follows:

Strategic planning and performance management

21. Treasury Regulations requires that the accounting officer of an institution must prepare a strategic plan that is consistent with the period covered by the Medium Term Expenditure Framework for approval by the relevant executive authority. The strategic plan did not include measurable objectives as required by Treasury Regulations 5.2.3(d).

Annual financial statements, performance and annual reports

22. The accounting officer submitted financial statements for auditing that were not prepared in all material aspects in accordance with generally recognized accounting practice (and supported by full and proper records) as required by section 40 (1)(a) and (b) of the PFMA. Material misstatements were identified and subsequently corrected in the following accounts:

    - Provisions
    - Assets
    - Commitments
    - Irregular expenditure
    - Lease commitments

Procurement and contract management

23. Goods and services of a transaction value above R500 000 were procured without inviting competitive bids, as required by Treasury Regulations 16A6.1 This resulted in irregular expenditure of R86,126,229.88 being incurred. Subsequently to year end the amount was condoned by the accounting officer.

24. Goods and services with a transaction value below R500 000 were procured without

obtaining the required price quotations, as required by Treasury Regulation 16A6.1.This resulted in irregular expenditure of R60,385.80 being incurred. Subsequently to year end the amount was condoned by the accounting officer.

25. Employees of the department performed remunerative work outside their employment in the department without written permission from the relevant authority as required by section 30 of the Public Service Act.

26. Persons in service of the SSA who had a private or business interest in contracts awarded to government institutions failed to disclose such interest, as required by Treasury Regulation 16A8.4.

Expenditure management

27. The accounting officer did not take effective steps to prevent fruitless and wasteful expenditure amounting to R30 000 and irregular expenditure, as mentioned in this report, as required by section 38(1)(c)(ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.

Internal control

28. I considered internal control relevant to my audit of the financial statements, and compliance with laws and regulations.

Leadership

29. The accounting officer approved policies and procedures for the SSA. The department is in the process of implementing the revised policies and procedures to ensure effective monitoring of compliance, with laws, regulations and internally designed procedures.

Financial and performance management

30. Schedules to support some disclosure notes could not be generated from the information system and inadequate monitoring and review during the preparation of the financial statements resulted in material misstatements.

31. The Department did not adequately monitor compliance with supply chain management regulations for some procurement of goods and services during the year.

OTHER REPORTS

Investigations

32. As reported in the prior year, an investigation into alleged fraud at Opmed was conducted. The matter was reported to the South African Police Services. Two former NIA/Opmed members were charged and found guilty in the Pretoria Specialized Commercial Court. The case against other members and service providers are still continuing.

33. An investigation was instituted after reports that transfers from NIA's account, within Momentum, was made to the account of a broker. This matter was reported to the Financial Services Board (FSB) and Financial Advisory and Intermediary Services (FAIS) for investigation. The investigation was completed and the matter was referred to the NPA

and Hawks for further consideration.

34. An investigation was instituted at the Covert Support Unit. The DDG-Operations together with three other members were suspended pending the outcome of the investigation. In December 2010 the DG accepted the resignation of the DDG. The investigation is still ongoing.

35. An investigation is currently being done on the source remuneration expenditure. Disciplinary procedures have already been instituted against a member and the disciplinary hearing has commenced in May 2011.

Pretoria

14 December 2012

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE SOUTH AFRICAN POLICE SERVICE- CRIME INTELLIGENCE: SECRET SERVICE ACCOUNT

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the financial statements of the South African Police Service - Crime Intelligence: Secret Service Account set out on pages ... to ..., which comprise the appropriation statement, the statement of financial position as at 31 March 2012, the statement of financial performance, statement of changes in net assets and the casn flow statement for the year then ended and the notes, comprising a summary of significant accounting policies and other explanatory information.

Accounting Officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation of these financial statements in accordance with the Departmental financial reporting framework prescribed by the National Treasury and the requirements of the Public Finance Management Act of South Africa,1999 (Act No.1 of 1999) (PFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor-General's responsibility

3. My responsibility is to express an opinion on the financial statements based on conducting the audit in accordance with the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA), the *General Notice* issued in terms thereof and International Standards on Auditing. Because of the matter(s) described in the Basis for disclaimer of opinion paragraph(s), however, I was unable to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for disclaimer opinion

Level of Assurance

4. Owing to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which services are procured, utilised and safeguarded, the level of assurance, in respect of certain operational expenditure and assets, under these circumstances is lower than with ordinary audits.

Related party transactions

5. Declaration of interest forms from those charged with governance was not provided to confirm the accuracy and completeness of the database used as a basis for disclosing related party transactions. Furthermore, the Department does not have policies and procedures to sustain a process to ensure the completeness of related party transactions as required by the PFMA section 38(1) (b). There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the related parties disclosure note was complete and accurate. Consequently, I was unable to determine whether any adjustments relating to the related parties disclosure note was necessary.

Unauthorised, irregular and fruitless and wasteful expenditure

6. The Department does not have a policies and procedures to identify unauthorised, irregular and fruitless and wasteful expenditure as required by PFMA section 38(1) (c) (iii). I am therefore unable to confirm whether all unauthorised, irregular and fruitless and wasteful expenditure was recorded.

7. The Department did not include particulars of irregular expenditure in the notes to the financial statements as required by section 40(3)(i) of the PFMA. The Department made payments in contravention of the supply chain management requirements which were not included in irregular expenditure, resulting in irregular expenditure being understated by R 47 061 309.67

8. The Department did not include particulars of unauthorised expenditure in the notes to the financial statements as required by section 40(3) (i) of the PFMA. The Department made payments not in accordance with the purpose of the vote which were not included in unauthorised expenditure, resulting in unauthorised expenditure being understated by R 4 988 761.

Cash and Cash Equivalents

9. I was unable to externally confirm bank balances amounting to R 32 725 615 in the annual financial statements as these accounts were frozen by the respective banking institutions. I was unable to confirm the rights, ownership and valuation of these cash and cash equivalents by alternative means. Consequently I was unable to determine whether any adjustment relating to cash and cash equivalents in the financial statements was necessary.

Journals

10. The Department does not have policies and procedures to sustain a process to ensure the validity of journals processed as required by the PFMA section 38(1) (b). There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the journals processed are approved in terms of the delegations of authority. Furthermore, the Department could not provide sufficient appropriate audit evidence to support debit and credit journals amounting to R 838 459 504.

Sufficient appropriate audit evidence

11. The Department could not provide sufficient appropriate audit evidence to support the following account balances or class of transactions as disclosed in the annual financial statements:

    - Goods and services-Communication expenditure amounting to R 30 412 000 as disclosed in the annual financial statements.
    - Goods and services-Other Operating Expenditure amounting to R 139 121 000
    - Goods and services-Inventory expenditure amounting to R 12 015 000
    - Expenditure for capital assets: Tangible Assets amounting to R 97 358 521

    There were no satisfactory alternative audit procedures that I could perform to obtain reasonable assurance that the account balances or class of transactions mentioned above was properly recorded. Consequently, I was unable to determine whether any adjustments relating to these account balances or class of transactions was necessary.

Goods and services

12. The Department did not accurately disclose Goods and Services in the annual financial statements. Consequently the following accounts have been estimated as overstated in the annual financial statements -

   - Goods and services-Other Operating Expenditure, R 18 736 098.
   - Goods and services-Inventory, R 3 670 815.
   - Goods and services-Travel and Subsistence Expenditure, R 7 813 749.

Lease commitments

13. The Department did not accurately disclose leases as reflected in note 33 of the annual financial statements. Consequently Lease commitments as disclosed in the annual financial statements are overstated by an amount of R 51 642 972.

Aggregation of immaterial uncorrected misstatements

14. The financial statements as a whole are materially misstated due to the cumulative effect of numerous individually immaterial uncorrected misstatements in the following elements making up the statement of financial position and the statement of financial performance:

   - Goods and services-Contractors reflected as R 1 174 000 is overstated by an estimated amount of R 862 953.
   - Goods and services-Property Payments reflected as R 5 166 000 is overstated by an estimated amount of R 1 749 746.

15. In addition, we were unable to obtain sufficient appropriate audit evidence and we were unable to confirm or verify the following elements by alternative means.

   - Goods and services - Contractors reflected as R 1 174 000 in the annual financial statements.
   - Goods and services - Property Payments reflected as R 5 166 000 in the annual financial statements.

   As a result, we were unable to determine whether any adjustments to these elements were necessary.

Disclaimer of opinion

16. Because of the significance of the matters described in the Basis for disclaimer of opinion paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion. Accordingly, I do not express an opinion on these financial statements.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

PAA REQUIREMENTS

17. In accordance with the PAA and the *General Notice* issued in terms thereof, I report the following findings relevant to performance against predetermined objectives, compliance with laws and regulations and internal control, but not for the purpose of expressing an opinion.

18. I performed procedures to obtain evidence about the usefulness and reliability of the information in the South African Police Service-Crime Intelligence: Secret Service Account's annual performance report as set out on pages XX to XX of the annual report.

19. The reported performance against predetermined objectives was evaluated against the overall criteria of usefulness and reliability. The usefulness of information in the annual performance report relates to whether it is presented in accordance with the National Treasury annual reporting principles and whether the reported performance is consistent with the planned objectives. The usefulness of information further relates to whether indicators and targets are measurable (i.e. well defined, verifiable, specific, measurable and time bound) and relevant as required by the *National Treasury Framework for managing programme performance information*.

20. The reliability of the information in respect of the selected programme is assessed to determine whether it adequately reflects the facts (i.e. whether it is valid, accurate and complete).

The material findings were as follows:

Usefulness of information:

Consistency

21. Treasury Regulation 5.2.4 requires that the strategic plan should form the basis for the annual report, therefore requiring the consistency of objectives, indicators and targets between planning and reporting documents. A total of 60% of the reported targets are not consistent with the targets as per the approved strategic plan. This is due to the inadequate understanding of the requirements of the Treasury Regulations and PFMA.

Relevance

22. The National Treasury *Framework for managing programme performance information (FMPPI)* requires that the indicator should relate logically and directly to an aspect of the institution's mandate, the realisation of strategic goals and objectives. A total of 80% of measures did not relate logically and directly to an aspect of the institution's mandate and realisation of strategic goals and objectives as per the three year strategic plan, due to the fact that it is the first time that SAPS CI is reporting on performance information.

    As a result there was a lack of development and implementation of proper performance planning and management practices to provide for the development of performance indicators and targets included in the annual performance plan.

Reliability of Information

23. I was unable to obtain sufficient, appropriate audit evidence to satisfy myself as to the validity, accuracy and completeness of the actual performance reported in the annual performance report. This was due to a lack of a document management system.

Compliance with laws and regulations

24. I performed procedures to obtain evidence that the Department has complied with applicable laws and regulations regarding financial matters, financial management and other related matters. My findings on material non-compliance with specific matters in key applicable laws and regulations as set out in the General Notice issued in terms of the PAA are as follows:

Strategic planning and performance management

25. The accounting officer did not prepare the quarterly reports on the progress made in achieving measurable objectives and targets as required by Treasury Regulations 5.3.1.
26. There is no documentary evidence that the Evaluation Committee on Intelligence held meetings as required by the Secret Service Act 56 of 1978, in order to evaluate the Department's activities.
27. Information regarding informer rewards is not classified as required by the Minimum Information Security Standards, Chapter 4, paragraph 1.
28. The Intelligence Network System is not customised in a manner that classifies active, on-active and iced informers as required by Public Finance Management Act, Section 38(1) (a).

Procurement and contract management

29. Goods and services with a transaction value below R500 000 were procured without obtaining the required price quotations, as required by Treasury Regulation 16A6.1.
30. Goods and services with a transaction value above R 500 000 were procured without inviting competitive bids, as required by Treasury Regulation 16A6.1.
31. Sufficient appropriate audit evidence could not be obtained that invitations for competitive bidding were advertised for a required minimum period of 21 days, as required by Treasury Regulations 16A6.3(c).
32. Sufficient appropriate audit evidence could not be obtained that bid adjudication was done by committees which were composed in accordance with the policies of the Department, as required by Treasury Regulations 16A6.2(b) and (c).
33. Contracts were awarded to bidders who did not submit a declaration of past supply chain practices such as fraud, abuse of SCM system and non-performance, which is prescribed in order to comply with Treasury regulation 16A9.1

34. Sufficient appropriate audit evidence could not be obtained that all extension or modification to contracts were approved by a properly delegated official as required by Treasury Regulation 8.2.

35. The preference point system was not applied in all procurement of goods and services above R30 000 as required by section 2(a) of the Preferential Procurement Policy Framework Act and Treasury Regulations 16A6.3(b).

36. Sufficient appropriate audit evidence could not be obtained that contracts were awarded only to bidders who submitted a declaration on whether they are employed by the state or connected to any person employed by the state, which is prescribed in order to comply with Treasury regulation 16A8.3.

37. Employees of the department performed remunerative work outside their employment in the department without written permission from the relevant authority as required by section 30 of the Public Service Act.

38. Persons in service of the Department whose close family members, partners or associates had a private or business interest in contracts awarded by the Department failed to disclose such interest, as required by Treasury Regulation 16A8.4. Appropriate action was not taken against role player in the supply chain management system, as required by Treasury Regulation 16A9.1 (b) (i).

39. The accounting officer failed to implement measures for combating the abuse of the supply chain management (SCM) system as required by Treasury Regulations 16A9.1 in that awards were made to providers who committed a corrupt or fraudulent act in competing for the contract.

Expenditure management

40. The accounting officer did not take effective steps to prevent unauthorised, irregular and fruitless and wasteful expenditure, as required by section 38(1) (c) (ii) of the Public Finance Management Act and Treasury Regulation 9.1.1.

41. Expenditure was incurred which is not in compliance with section 2(3) of the Secret Service Act for some procurement of goods and services.

42. The accounting officer did not ensure effective internal controls were in place for payment approval and processing, as required by Treasury Regulation 8.1.1.

43. Money was spent without the approval of the accounting officer or a properly authorised official, as required by Treasury Regulations 8.2.1 and 8.2.2.

Assets and liabilities

44. Sufficient appropriate audit evidence could not be obtained that bank reconciliations were performed on a daily basis, as required by Treasury Regulation 15.10.1.2(j).

Annual financial statements

45. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework as required by section 40(1) (a) and/or (b) of the Public Finance Management Act.

Internal control

46. I considered internal control relevant to my audit of the financial statements, and compliance with laws and regulations. The matters reported below under the fundamentals of internal control are limited to the significant deficiencies that resulted in the basis for disclaimer of opinion, the findings on the report on performance information and the findings on compliance with laws and regulations included in this report.

Leadership

47. The accounting officer did not exercise adequate oversight responsibility over the financial and performance activities of the Department.

48. The accounting officer did not ensure that policies and procedures were developed and implemented for all critical financial and performance aspects of the business.

OTHER REPORTS

Investigations

49. An investigation is currently being conducted by the Hawks(Special Investigation Unit) into allegations of misuse and abuse of the Department's funds by certain members. As a result of the investigation, two senior members of the Department were suspended. The investigation is still in progress as at the date of this report.

Auditor - General.

Pretoria

31 July 2013

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

the doj & cd
Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

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Enq: The Honourable Mr Justice J A M Khumalo

REPORT TO JOINT STANDING COMMITTEE ON INTELLIGENCE FOR THE PERIOD 1 APRIL 2010 TO 31 OCTOBER 2011

Honourable Chairperson of the Joint Standing Committee on Intelligence, Honourable Members, ladies and gentlemen, it is an honour for me to present this report and my statistical information to you. I have not dealt with the merits of individual applications for the reason that these are top secrets which the Act protects from disclosure. These applications mostly involve difficulties experienced by agencies in the investigation of serious crimes such as:-

- Drug dealing and Drug trafficking,
- Vehicle thefts and car hijacks,
- Armed robberies,
- Corruption and Fraud,
- Assassinations, murder, terrorism, etc.

Interception involves the gathering of intelligence by secret surveillance; because of its nature it should never be allowed to become an end in itself. It should be used as a last resort in investigating crime. The Act regulates the making of applications for and, the issuing of, directions authorising the interception of communications and the provision of communication-related information. The Act also regulates the execution of directions and entry warrants by law enforcement officers. It helps in combating the ever-present threat of serous crime including terrorism.

1. Constitutional Background

Section 14 of the Constitution of the Republic of South Africa guarantees as a fundamental right, the right of privacy which includes the right not to have the privacy of communication infringed. It stands to reason therefore, that the function of the designated Judge is also to protect innocent members of the public from unwarranted interception, and infringement of their right to privacy. A direction is therefore not easy to obtain because, as the courts have stated:-

> *"The potential to obtain such a direction is very strictly controlled. It could, for example hardly be issued on mere suspicion unsupported by hard facts."*

Other democratic countries have similar provisions protecting privacy. Section 8 of the European Convention on Human Rights provides an example. In keeping with the constitutional right and the limitation clause the Regulation of Interception of Communications and Provision of Communication-Related Information Act No. 70 of 2002 was enacted as a law of general application. Section 2 thereof prohibits interception communications by third parties. Only stipulated state agents may apply to obtain a direction form a designated Judge to intercept a communication. The Act makes provision in sections 16, 17, 18, 20, 21 and 22 for various substantive applications and directions each with its own requirements. There is also provision for the monitoring of postal communications. The following directions may be issued by the designated Judge:-

(i) *Interception direction in respect of a direct or indirect communication e.g. cell-*

phone. (Section 16).

(ii) Real-time communication-related direction, (Section 17) i.e. information stored by a service provider for 90 days.

(iii) Interception direction combining real-time and archived communication-related information. (Section 18).

(iv) Archived communication-related direction. (Section 19) i.e. information stored by a service provider for a period determined in a ministerial directive referred to in section 30(2) of the Act.

(v) A direction authorising an entry warrant into premises for the purposes of:-

(a) Intercepting a posted article or communication, or

(b) Installing and maintaining an interception device on, and removing an interception device from the premises and this includes an oral warrant issued under section 23 of the Act.

The duration of a direction and its extensions can only be three months. It is issued without any notice to the person or customer to whom it applies. For this reason a designated Judge has to be very careful when considering granting a direction. He will only grant a direction if he is satisfied that any of the grounds set out in sections 16(5), 17(4) and 19(4) of the Act are mentioned in the affidavit. The right of privacy of the person concerned must however be borne in mind.

2. Meetings with Office of Interception Centres, Service Providers and Law Enforcement Officers:

Whenever problems concerning any of the abovementioned instances arise meetings are held with responsible officers and problems are resolved. This helps to improve the quality of work. The timeous delivery of directions to the Office for Interception Control which is now being delivered by one of the Clerks attached to the designated Judge's office has taken effect from 29/06/2011. From 18/01/2011 to 24/06/2011 the Office for Interception Centres came to fetch directions directly from our office, this arrangement was made between the designated Judge's office and Director Koopedi from the OIC to ensure that the correct directions reach the OIC and that the directions are triggered correctly before the Service Providers activate their triggers.

The Department of Defence have requested assistance to seek interception of communication in appropriate cases and my officials expressed their willingness to assist. Two of the problems which have given rise to these meetings are:-

2.1 The submission of documents mentioned in section 8(5) of the Act. It appears that my predecessors did not insist on their submission or check compliance with the Act. Section 8 deals with interception of communication for purposes of determining location in cases of emergencies resulting mainly from threat to life and limb. The section requires the following to be submitted by the service provider concerned and the Law Enforcement Agencies:-

"*(a)* *a copy of a written confirmation of request made by the law enforcement officer to a service provider,*

(b) *an affidavit by the law enforcement officer setting forth the results of the request and information,*

(c) *an affidavit of the service provider setting forth the steps taken by the service provider in giving effect to the request of the law enforcement officer and the results and information obtained from such steps, and*

(d) *if such steps included the interception of an indirect communication, any*

recording of that indirect communication that has been obtained by means of that interception, any full or partial transcript of the recording and any notes made by the telecommunication service provider of that indirect communication."

2.2 A designated Judge is required to keep this record for five years. It is important to note that the section allows this interception to take place without prior authorisation by the designated Judge, because of the emergency. If there is no emergency as contemplated by the Act the interception is unlawful. Hence my eagerness to check that such interceptions comply with the Act. At present the police are up to date in their submission of these documents. I have in the meetings insisted on compliance. One of the Service Providers i.e. MTN has not submitted anything. It is anticipated that when compliance has been achieved these voluminous documents will be spot checked instead of them all being checked individually. What complicates the situation is that the section does not stipulate the simultaneous submission of documents by police and service providers to facilitate filing. I have suggested to police to submit these documents simultaneously including those from service providers to facilitate proper filing. Otherwise, the section if properly used is a useful weapon in combating serious crime.

3. Draft Directives in terms of Section 58(1) of the Act

These have been forwarded to the office of the late Advocate Labuschagne for consideration and approval by the Judges President of the Republic. Unfortunately Advocate Labuschagne passed away suddenly and I have not heard from his successor. Section 58(1) of the Act reads as follows:-

"A designated judge or, if there is more than one designated judge, all the designated judges jointly, may, after consultation with the respective Judges-President of the

High Courts, issue directives to supplement the procedure for making applications for the issuing of directions or entry warrants in terms of this Act."

4. Newspaper reports and articles criticising the Act and its implementation

The designated judge follows criticism of the Act and its implementation which from time to time appear in the media. There have even been suggestions of a commission of enquiry, because of allegations of illegal hacking into citizen's private telephone conversations. Apart from what I have said in connection with section 8 of the Act, I am personally not aware of any unlawful secret surveillance carried out by any of the state agencies. If such is the case the Departments concerned should investigate as a matter of urgency. Unfortunately no specific individuals are mentioned by the critics. Section 51 of the Act prescribes very severe penalties for transgressions under the Act. For instance any person who intercepts or attempts to intercept, or authorises or procures any other person to intercept or attempt to intercept, at any place in the Republic, any communication in the course of its occurrence or transmission, is guilty of an offence and is on conviction liable to a fine not exceeding R2,000 000 or to imprisonment for a period not exceeding 10 years. I can assure the committee that I have not spoken to any journalist and any enquiries they make are referred to the Department of Justice.

5. Statistical information

My office has a manager, a legal assistant, a secretary and three clerks. It is a good and supportive staff. The designated Judge is required to keep his records for five years. For a reason I do not know, no files have been destroyed by previous designated Judges and I can foresee a time when there will be no space to keep further records.

What now follows is a brief discussion of statistical data pertaining to the work done during the period under review.

There is no backlog in the applications dealt with. The incoming work is dealt with on a daily basis.

The National Intelligence Agency

Figures for the period are as follows:-

• Applications	65	
• Re-applications	27	
• Amendments	38	
• Extensions	38	
• Amendments and Extensions	31	
• Refusals		2
• **Total**	**199**	**2**

The South African Police Force

Figures for the period are as follows:-

• Applications	376	
• Re-applications	94	
• Amendments	111	
• Extensions	42	
• Amendments and Extensions	64	
• Refusals		4
• **Total**	**687**	**4**

The South African National Defence Force

- Application 1

The combined figures for the NIA, SAPS and SANDF are as follows:-

•	Applications	442	
•	Re-applications	121	
•	Amendments	149	
•	Extensions	80	
•	Amendments and Extensions	95	
•	Refusals		6
•	**Total**	**887**	**6**

There was an increase of 81 new applications which is approximately 20%. Amendments and extensions on existing files amounted to approximately 50%. 3 217 requests in terms of Section 8 of the Act were dealt with by the South African Police.

A perusal of the above figures shows the following:-

(a) Most of the work comes from the South African Police followed by the National Intelligence Agency;

(b) The Department of National Defence has submitted only one application;

(c) The Independent Complaints Directorate has not submitted any application during the period under review and I submit a nil return;

(d) The figure 887 which includes amendments and extensions is reasonably small considering the large number of cell phones and landline telephones currently in use in the country. This is in keeping with the notion that electronic surveillance is considered as the last resort in crime prevention and gathering of information to ensure the security of the state;

(e) The 20% increase in new applications may be due to a realisation by the law enforcement agencies of the effectiveness of interceptions. This indeed is the case if one thinks of the observation made by the South African Law Commission at page 19 of its project 105 which reads as follows:-

> "......... Telecommunications are being used more and more in the organizing and commissioning of crime especially organized crime, heists and other serious violent crimes. Legal provision should be made to give law enforcement agencies the necessary tools to investigate such crime as well as other concomitant crimes such as money–laundering. A review of the Act should ensure that the emphasis in the Act should be on crime."

6. Recommendations by the Honourable Judge JAM Khumalo

Amendments to section 7 and 8 of the Act should be effected to facilitate filing of documents by police and service providers. Amendments to prevent any possible abuses by State agencies and service providers should be considered.

Lastly I wish to take the opportunity to thank the NIA and SAPS for being careful in supplying information required by the Act when preparing affidavits in support of applications submitted. I also thank the staff for assisting me in the preparation of this report.

J A M KHUMALO
DESIGNATED JUDGE
2011/10/31

GLOSSARY OF ACRONYMS

AG	Auditor General
ANC	African National Congress
BCOCC	Border Control Operational Coordinating Committee
BMA	Border Management Agency
BPE	Best Practice Experts
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CI	Crime Intelligence: Division of the South African Police Services
CICF	Counter Intelligence Coordinating Forum
COMSEC	Electronic Communications Security Pty (Ltd)
COPE	Congress of the People
DA	Democratic Alliance
DB	Domestic Branch
DG	Director General
DDG	Deputy Director General
DI	Defence Intelligence: Division of the South African National Defence Force

DOD	Department of Defence
DPCI	Department of Priority Crime Investigations
DPSA	Department of Public Service and Administration
EIA	Environmental Impact Assessment
FB	Foreign Branch
FIFA	Federation of International Football Association
FIS	Foreign Intelligence Service
FTP	Formative Training Programme
FF+	Freedom Front Plus
IA	Intelligence Academy
ICT	Information & Communication Technology
IFP	Inkatha Freedom Party
IGI	Inspector General of Intelligence
IIRAC	International Intelligence Review Agencies Conference
ISC	Intelligence Services Council on the Conditions of Services
JCPSC	Justice, Crime Prevention and Security Cluster
JSCI	Joint Standing Committee on Intelligence

LEA	Law Enforcement Agencies
MISS	Minimum Information Security Standards
MOU	Memorandum of Understanding
MTEF	Medium Term Expenditure Framework
MRC	Ministerial Review Commission
MV	Military Veterans
NA	National Assembly
NATJOINTS	National Joint Operating Committee
NC	National Communications
NCC	National Communication Centre
NCOP	National Council of Provinces
NDPP	National Director of Public Prosecution
NIA	National Intelligence Agency
NICOC	National Intelligence Coordinating Committee
NIE	National Intelligence Estimates
NPA	National Prosecuting Authority
NSC	National Security Council

OIC	Office for Interception Centres
OIGI	Office of the Inspector General of Intelligence
RICA	Regulations of Interception of Communications and Provision of Communication-Related Information Act
RSA	Republic of South Africa
SADC	South African Development Community
SANAI	South African National Academy of Intelligence
SANDF	South African National Defence Force
SAPS	South African Police Service
SAQA	South African Qualifications Authority
SASS	South African Secret Service
SLA	Service Legal Agreement
SOP	Standard Operating Procedures
SSA	State Security Agency
UDM	United Democratic Movement

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ANNUAL REPORT OF THE JOINT STANDING COMMITTEE ON INTELLIGENCE FOR FINANCIAL YEAR ENDING 31 MARCH 2011

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1. INTRODUCTION

The Joint Standing Committee on Intelligence (JSCI) is a Parliamentary Committee established in terms of the Intelligence Services Act 40 of 1994 (herein after "the Act"). The members of the JSCI and the Chairperson are appointed by the President in consultation with the Speaker of the National Assembly and the Chairperson of the National Council of Provinces as the case may be, having been nominated by their respective political parties.

Political parties' membership of the JSCI depends on the results of the national elections and pending the issuing of the necessary security clearance by the National Intelligence Agency (NIA).

Subsequent to the April 2009 elections the following parties qualified to serve on the Committee:

African National Congress (ANC)	9 seats
Democratic Alliance (DA)	2 seats
Congress of the People (COPE)	1 seat
Inkatha Freedom Party (IFP)	1 seat
United Democratic Movement (UDM)	1 seat
Freedom Front Plus (FF+)	1 seat
Independent Democrats (ID)	1 seat
Total	16 seats

However, both the ID and the FF+ declined to serve on the Committee. The Committee therefore consists of 13 members since in terms of the Act 8 seats are the maximum a party may take up. It should be noted that the Chairperson of the JSCI is appointed separately in terms of Section 2(4) of the Act.
The members of the Committee are:

Name	Party
Mr L.T Landers	ANC (NA)
Mr JJ Maake	ANC (NA)
Ms SCN Shope-Sithole	ANC (NA)
Ms ST Ndabeni	ANC (NA)
Mr NB Fihla	ANC (NA)
Mr SS Mazosiwe	ANC (NCOP)
Ms MG Boroto	ANC (NCOP)
Ms A Dlodlo	ANC (NA)
Mr SD Montsitsi	ANC (NCOP)
Mr TW Coetzee	DA (NA)
Mr DJ Stubbe	DA (NA)
Mr CT Msimang	IFP (NA)
Mr NM Kganyago	UDM (NA)
Mr MS Shilowa	COPE (NA)

The Act further provides for the establishment of a joint standing committee to perform oversight functions related to intelligence and counter-intelligence functions of the Intelligence Services and report thereon to Parliament. The reporting includes the administration, financial management and expenditure of the Services and Intelligence Service Entities.

Accounting officers of the various intelligence structures/services are required to account to the JSCI in a manner that entrenches a culture of oversight and accountability, thereby strengthening Parliament as a pivotal national institution serving the people of South Africa.

2. THE LEGISLATIVE MANDATE OF THE JSCI

The following are some of functions of the JSCI as set out in Section 3 of Act 40 of 1994. These are to receive from:

- the Auditor-General an audit report compiled in accordance with Public Audit Act 25 of 2004 and after obtaining the report, to consider-

  - ➢ the financial statements of the Services, Academy and Comsec;

  - ➢ any audit reports issued on those statements; and
  - ➢ any reports issued by the Auditor-General on the affairs of the Services and the Intelligence Services Entities.

- the Evaluation Committee a report on the secret services and intended secret services evaluated and reviewed by it, together with any comments or recommendations which the Evaluation Committee may deem appropriate.

- any judge as defined in the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, a report regarding the functions performed by him or her in terms of that Act including statistics regarding such functions, together with any comments or recommendations which such judge may deem appropriate: Provided that such report shall not disclose any information contained in an application or direction contemplated in section 3 of that Act.

- the Ministers responsible for the Services and the Intelligence Services Entities, a report regarding the budget for each Service or Entity for which he or she is responsible.

Further functions are:

- to consider and make recommendations on the report and certificate transmitted to it in terms of section 7 (7) (d) of the Act by the Inspector-General of Intelligence.

- to consider and make recommendations on all proposed legislation relating to a Service and any other intelligence and intelligence-related activities, and to initiate legislation in connection with such Service, intelligence and activities.

- to review and make recommendations on regulations made under section 6 of the National Strategic Intelligence Act, 1994 (Act 39 of 1994), and regulations regarding the intelligence and counter-intelligence functions of a Service, made under section 29 of the Intelligence Services Act, 1994 (Act 38 of 1994), section 87 of the Defence Act, 1957 (Act 44 of 1957), or section 24 of the South African Police Service Act, 1995 (Act 68 of 1995).

- to review and make recommendations regarding interdepartmental co-operation and the rationalisation and demarcation of functions relating to intelligence and counter-intelligence between the Agency, the South African Secret Service, the National Defence Force and the South African Police Service.

- to order investigation by and to receive a report from the Head of a Service or the Inspector-General regarding any complaint received by the Committee from any member of the public regarding anything which such member believes that a Service has caused to his or her person or property: Provided that the Committee is satisfied that such complaint is not trivial or vexatious or made in bad faith.

- to refer any matter in relation to a Service or intelligence activity which comes to its attention and which it regards as relevant to the promotion of, respect for, and protection of the rights entrenched in Chapter 2 of the Constitution to the South African Human Rights

Commission referred to in section 184 of the Constitution, and to receive a report from such Commission concerning the matter.

- to consider and make recommendations regarding any matter falling within the purview of this Act and referred to it by the President, any Minister responsible for a Service or Parliament.
- to request the officials or bodies to explain any aspect of a report.
- to deliberate upon, hold hearings, subpoena witnesses and make recommendations on any aspect relating to intelligence and the national security, including administration and financial expenditure.
- to consult with any member of the Cabinet appointed in terms of the Constitution, regarding the performance of the functions of the Committee in terms of this Act.
- to consider and report on the appropriation of revenue or moneys for the functions of the Services and the Intelligence Services Entities.

3. RESTRUCTURING

The restructuring process of the State Security Agency (SSA) continues at a slower pace than anticipated. Following Proclamation No 59 of 2009, a phased-in approach was followed to bring together the National Intelligence Agency (NIA), South African Secret Service (SASS), as well as South African National Academy of Intelligence (SANAI), the Electronic Communications Security (COMSEC) and the Office of Interception Centre (IOC) to have a single entity whereby the heads of these departments report to the Director General: State Security Agency.

During the year under review, the committee received several briefings on the progress on restructuring from the Minister of State Security. The progress made to date involves:

- As from the beginning of the financial year, the DG SSA is now the sole Accounting Officer.
- Corporate Services have been centralised.
- The DG has appointed interim heads of SSA corporate services;
- Chief Financial Officer has been appointed.
- Chief Information Officer, Head of Human Resources, Chief Logistic Officer and Head of Internal Audit have been appointed in acting capacity whilst in the process of filling in these critical posts.
- The high level structures of General Managers have been completed.

There are however, challenges since members of the community are still grappling with the transitional issues such as roles of new leadership and terminology like Domestic and Foreign Branch, integration of IT systems and finalisation of the migration plan as well as the delay in the outstanding legislation that will give effect to the new entity.

As reported in the previous year, the Minister of State Security, Dr S. Cwele briefed the committee about the possible amendments to existing intelligence legislation and also indicated that the legislation that will give effect to amalgamation of the various intelligence components into a single entity will be tabled in Parliament in the financial year. However, the legislation, the "National State Security Bill" is still in the drafting phase and will only be tabled in the coming financial year.

Although the committee has noted slow progress with the restructuring, the committee's great concern is with the instability that the process is causing amongst members of the community. The delay in finalising the restructuring process is creating a negative effect and causing uncertainty especially at a senior level which has further affected the morale of all members.

4. LEGISLATION

The JSCI has a responsibility to consider and make recommendations on all proposed legislation relating to the service and any other intelligence and intelligence related activities, and to initiate legislation in connection with such Service, intelligence and activities. Because the JSCI is a joint committee, the aforementioned legislation will be processed through the establishment by the National Assembly of the Ad Hoc Committee where after it will be dealt with by the National Council of Provinces (NCOP).

In March 2010 the Ministry of State Security tabled in Parliament the Protection of Information Bill. The National Assembly established the Ad Hoc Committee on the Protection of Information Bill with the sole purpose of processing this legislation and complete it in the current financial year. Several members of the JSCI, including the Chairperson were nominated to serve on the Ad Hoc Committee and this had an impact on the programme of the JSCI.

The Committee was briefed by the Ministry for State Security that the Ministry will soon be tabling legislation that will cover the restructuring process that is taking place in the civilian intelligence. Currently the Ministry and department operate in terms of presidential proclamation 59 of 2009. The JSCI will report further on this legislation in the next financial year annual report.

Due to the nature of the new SSA structure and as a result of the presidential proclamation, the JSCI was confronted with the problem of how to address and deal with Services in performing its duties. The Committee accordingly resolved:

"That the Committee noted that the civil intelligence was undergoing a process of restructuring which has created a new entity known as the State Security Agency (SSA).

That no legislation recognising the SSA is presently in operation. Furthermore that no amendments have been affected to the Intelligence Services Oversight Act 40 of 1994 or any other legislation which has the effect of altering and or amending the oversight functions of the Committee as provided for in Section 3 of the Act.

That in light of the above and considering the legal opinion obtained by the Committee on the matter, that the Committee will continue to exercise its oversight function as envisaged by Act 40 of 1994 over the entities, Agency and Services set out in the Act or other relevant legislation."

A copy of the resolution of the Committee was communicated to all relevant entities

5. OUTSTANDING MATTERS FROM PREVIOUS REPORTS

During the tabling of the 2009/2010 annual report the Committee identified the following recommendations for attention:

- Meetings with the President and the Presiding Officers of Parliament should be regularised.
- The Evaluation Committee must table the report to the Committee as provided for in the Oversight Act.
- The Minister for State Security must finalise all the regulations that are still outstanding for the Services.
- SANAI must finalise the process of accreditation of all the courses offered at the college.
- The Committee should meet with the National Security Council.

- The Executives must address the challenges facing by Comsec and the OIC.
- The co-ordination of the sharing of intelligence products among the intelligence community must be strengthened.
- Monitor and ensure that the re-structuring process within the civilian intelligence with the necessary legislative support be finalised as a matter of urgency.
- The Executive must review the RICA.
- Telecommunications equipment must be properly screened before being approved for importation into South Africa.

THE INTELLIGENCE STRUCTURES

6. STATE SECURITY AGENCY (Domestic Branch)
NATIONAL INTELLIGENCE AGENCY (NIA)

During the Budget and Business Plan briefing for the current year, the Minister of State Security advised the Committee that the budget was informed by the government priorities. The two major outcomes for SSA this year was to assist in reducing the illegal border crossings as well as focusing on the restructuring process in order to increase professional ethos.

A presentation on the unit's expenditure and business plan was made to the JSCI on 30 March 2011. Domestic branch programme accounts for 53% of the SSA budget allocation. Personnel budget was expected to increase in line with the strategic plans of the unit. The organisational design of the domestic branch is informed by the need for greater legal and governance compliance, the development of specialist capacities and the need to increase South Africa's national geographic and thematic footprint.

A number of objectives were presented to the Committee as plans for the next financial year of 2011/2012. The following are some of the objectives as presented to the Committee:

- Creation of a collection management mechanism where centralised and integrated target identification, tasking, monitoring and review can take place
- Capacity building intended at improving the ability for better collection
- Intelligence collection which is relevant to the Client's needs
- Ensure that all dimensions of both offensive and defensive collection are fully utilised and integrated into collection efforts
- Regarding the analysis of collected material, there is a need for an integrated SSA analysis capacity
- An integrated Counter Intelligence effort harnessed towards the security and stability of the state, its people and national interest at home and abroad
- To protect the South African state, its sovereignty and citizens against all forms of terrorism and to prevent South Africa from being used as a springboard of domestic or international terror.
- To create a secure environment to protect state assets, personnel, information and integrity of state information process.
- Vetting

7. STATE SECURITY AGENCY (Foreign Branch) SOUTH AFRICAN SECRET SERVICE (SASS)

The foreign branch of the SSA had 412 staff members as of February 2011. These are comprised of Intelligence Officers, Analysts and Intelligence Officers that are stationed abroad. The branch has stations and representation 52 countries with the staff complement of 119 members. They key clients of the branch are; President and Cabinet, Minister of State Security, ICT Cluster, JSCI, AG and OIG. The following are the key objectives of the branch:

- Re-organise the core business organisational structure to collect on thematic and regional
- Reposition analysis to play a vital and central role on intelligence requirements planning to better focus and direct collection
- Re-establish and capacitate a credible special operations infrastructure that will ensure high impact and effectiveness
- Exceed expectations of all clients and stakeholders of SSA FB.
- Improved corporate governance

The branch had projected to have utilised 91.7% of its budget of R3.0bn by 28 February 2011, at the time of presenting, the branch had utilised 90.3% of its allocated budget. Foreign branch programmes accounted for 23% of the entire SSA budget allocation. Personnel expenditure was lower than the operational expenditure due to the foreign placements costs which are part of the operational expenditure. The operational expenditure budget also included the funding of increased global coverage.

8. STATE SECURITY AGENCY (National Communications) NATIONAL COMMUNICATION CENTRE (NCC)

The National Communication Centre (NCC) presented their performance plan for the 2011/2012 financial year the Committee. Although presented during the year under review, the report on the performance of the NCC is in-line with their mandate and objectives. Their objectives included the following:

- Centralise and optimise an integrated technology architecture
- Optimised and effective collection coverage aligned to clients requirements and technology status
- Identify and develop IT security solutions
- Build human capital
- Build knowledge base to direct collection effort

9. OFFICE OF INTERCEPTION CENTRES (OIC)

The Office of Interception Centres presented its annual plans to the Committee in line with the restructuring process of the SSA. The following are some of the objectives as presented to the Committee:

- Review and align the OIC structure in view of the SSA and NC revised functions
- Recruit and appoint competent members/talent in the Office
- Establish strategic partnership with relevant stakeholders
- Provide lawful interception

- Coordination of training and development

The distribution of sufficient funds to the OIC is a major issue in the fight against crime. There is a constant need to upgrade equipment and technology in this area.

10. ELECTRONIC COMMUNICATIONS SECURITY PTY (LTD) (COMSEC)

In line with the restructuring process, COMSEC is in the process of being de-registered as a state-owned company. Its assets and functions will be transferred to the State Security Agency. The Committee will monitor the take-over and report more fully later.

11. NATIONAL INTELLIGENCE COORDINATION COMMITTEE (NICOC)

The National Intelligence Coordinating Committee has as its vision a mandate of ensuring peace and security through effective coordination of intelligence and the dissemination of national early warning. The mission of NICOC is to provide the South African state with timeous integrated all-source intelligence that adds unique value to policy and decision-making and also to provide quality early warning to the regional early warning centre.

The following were some of the strategic objectives of NICOC as presented to the JSCI:

- Produce and disseminate a high-quality National Intelligence Estimates

- Monitor the implementation of the approved 2010 NIE recommendations and

- Contribute to the realisation of key outcomes through the production of strategic intelligence products on the domestic terrain

- Contribute significantly to the functioning of the JCPS cluster

- Facilitate a programme of engagement to enhance the quality of intelligence production

- Contribute and participate in the regional process to establish and sustain an operational SADC REWC

The JSCI also received a briefing from NICOC on illicit mining in South Africa. This was after a request from the Committee based on the recent surge in the illicit mining activity. According to the briefing from NICOC, illicit mining threats have been found to fall mainly in two categories - the insiders who are employees and contract labourers who have access to precious metals, explosives, electricity conductors and commercial contracts. The second category is outsiders who are mainly:

- Corrupt law enforcement officials and public servants

- Illegal miners who are often self-employed are mainly ex-mine employees
- Unregulated international refiners and buyers of precious metals

- South African refiners and buyers of precious metals, some of whom do not always verify the sources of precious metals they buy.

- Scrap dealers who purchase copper and other electrical conductors without verifying the legitimacy of the product

- Front companies who trade with mines in relation to "legitimate" supply arrangements on other categories
- Irresponsible recovery works and jeweller permit license holders
- Certain interventions are underway to try and resolve the problem of illicit mining. These include activities such as:
- Engaging local stakeholders in areas where such criminality is taking place
- Adopt a comprehensive and holistic international approach involving a variety of stakeholders that will provide technical support in line with their expertise
- Introduction of a stringent certification process to regulate the trade in gold and precious metals internationally. Currently precious stones are regulated by the Kimberly process
- Develop an international investigation and prosecuting capacity
- Develop local and international governance structures to manage the dynamics of dealing with the intervention strategies
- Training for law enforcement and customs officials on techniques to investigate complex of this crime
- Establish effective media strategy around awareness campaign to help towards driving impact.

12. INTELLIGENCE ACADEMY
SOUTH AFRICAN NATIONAL ACADEMY OF INTELLIGENCE (SANAI)

On 30 March 2011 the Intelligence Training Academy of the State Security Agency presented its 2011/2012 annual performance plans to the Committee. These plans were preceded by the review of the Academy's performance in 2010/2011 financial year in particular challenges that were encountered. The following were the challenges identified:

- Specialist training not aligned with the accreditation requirements and the challenge of limited training delivery capacity
- Integrated SSA training policy is yet to be finalised which will clarify and establish the relationship between training and career development
- There is a need to promote a culture of leaning within SSA and the commitment of line managers in releasing staff for training
- Finalisation of the structure, post establishment and the appointments of all role-players
- Collaboration with line units/departments in developing case studies training

Going forward, the Academy outlined its intervention strategy to deal with the identified challenges and ensure that the institution achieve its mandate. The Committee has for long been concerned about the Academy's inability to get accreditation for all the training they offer, it has always been the view of the Committee that unless the Academy get the necessary accreditation of their modules, training offered will be of no value to the SSA and the Intelligence Community in general, they will also find difficulty in measuring the quality of their modules given the fact that such modules would not have complied with the required quality standards.

13. DEFENCE INTELLIGENCE (DI)

On 21 April 2010, Defence Intelligence, an intelligence division of the South African National Defence Force presented to the Joint Standing Committee on Intelligence its annual performance plans and budget for the financial year 2010/2011. This annual plans also captured the objectives of DI which amongst others, included:

- Providing an intelligence capability and service
- Providing counter intelligence capability and service
- Providing early warning
- Participating in security management in the region and on the continent

Subsequent to the briefing on the performance plans, on 27 October 2010 DI briefed the Committee on their annual report and expenditure for the financial year 2009/2010. This report was covered in detail in the previous report of the JSCI.

Following the request of the Committee, DI prepared and presented to the Committee a report that looks at the stability of the African Continent, particularly focusing on the stability/instability of Somalia and the risk it poses to Africa in general and the Horn of Africa in particular. The report also looked at the security implications of piracy in the Indian Ocean for South Africa. Several findings were made about the political situation of Somalia:

- The country does not have functioning, cross-clan military force able to extend territorial control
- No civil service and no essential social services are provided
- TFG's credibility continues to decline as a result of its inability to use foreign assistance to build capacity and function effectively
- Internal tension and weaknesses are distracting the TFG from focusing on the critical issues of stability
- TFG enjoys little support from Somali population as it cannot provide any security protection and its forces are unable to capture territory
- A peace agreement with the insurgents is unlikely to succeed because of the insurgent's belligerence, uncompromising style of politics and extremist religious convictions.
- Al-Shabaab's terror attack in Kampala mark the regionalisation of the Somalia conflict and have raised the organisation's international profile and the attacks served as a warning to any country considering deploying forces in Somalia.

On its briefing of 16 February 2011 to the Joint Standing Committee, DI presented a detailed insight on the piracy problem that is currently being experienced in the horn of Africa, particularly in Somalia region. The Committee was informed that the crisis in Somalia is the major restriction to finding a solution to the piracy threat. The security situation in this area has not changed much, particularly given the fact that since the early days of piracy in 1992 during the fall of General Siad Barre regime, these activities seem to have increased. The more structured form of piracy dates back to the early 90s and has now developed into fully fledged, two pronged illegal fishing and shipping piracy conflict. In protecting South Africa and SADC interest from piracy activities it is recommended that:

- South Africa should in the immediate term prioritise maritime patrols within SADC waters particularly in the north of the Mozambican channel

- South Africa should persuade ESA-IO member states to commit fully to the implementation of the adopted strategy to combat piracy off the Somali coast and the greater South African waters

- In the short term, South Africa should contribute to international initiatives aimed at building effective governance capacity in Somalia

14. CRIME INTELLIGENCE

Crime Intelligence is a division of the South African Police Service with the objective of contributing to the neutralisation of crime by gathering, collating and analysing intelligence, culminating in an actionable police activity. The Joint Standing Committee on Intelligence received a briefing on the Division's strategic plan and budget allocation for the financial year 2010/2011. This plan incorporated Government policy directives which was integrated into the daily policing activities of CI in particular and SAPS in general. The Division also has additional obligations towards NICOC relating to the National Intelligence Estimates applicable to the intelligence mandate of the South African Police Service.

The CI receives their budget allocation from the SAPS budget. This budget is monitored both by the Portfolio Committee on Police (open budget) and the Joint Standing Committee on Intelligence (Secret service account).

In the year under review, the vision of the SAPS was to create a safe and secure environment for all the people in South Africa and its mission was to prevent and combat anything that may threaten the safety and security of any community, investigates all crime that may threaten the safety and security of any community, ensure offenders are brought to justice and participate in efforts to address the root cause of crime. The Division strategic direction is informed by the departmental vision and mission statement and in the reporting year CI had the following as their focus area:

- Provision of actionable intelligence and crime priorities to enable prosecutions
- Focus intelligence operations against syndicate involved in drug and people smuggling and human trafficking

The priorities for the Division in the reporting year were crime dependent on police action such as drug related crimes and illegal possession of firearms. With regard to the Division's obligation to NICOC, in the reporting year CI was tasked to provide inputs in the following priorities:

- Organised crime which involves drugs, vehicles, weapons, diamonds, people smuggling, human trafficking, corruption and commercial crimes
- Political instability
- Terrorism
- Border security and integrity
- Right wing extremism
- 2010 FIFA World cup
- Social instability, service delivery protests and

- Attacks against foreigners

ACTIVITIES OF THE JSCI IN THE REPORTING YEAR

15. AUDITOR GENERAL

The mandate for the Auditor General is derived from the Constitution of the Republic of South Africa, 1996 and the Public Audit Act (Act 25 of 2004). Section 2 of the Intelligence Services Oversight Act 40 of 1994 talks about the establishment of the Committee on Intelligence to perform an oversight on the intelligence structures. The Act gives the oversight responsibilities to the Committee in relation to the intelligence and counter intelligence functions of the Services, which include the administration, financial management and expenditure of the Service and in respect of the administration, financial management and expenditure of the Intelligence Services Entities and report thereon to Parliament.

In discharging the financial oversight responsibility, the Committee is assisted by the AG through its annual audits and any other audit as the Committee may request. The financial oversight coordination between the two offices has assisted both offices in strengthening their oversight mechanism on the Services. In the year under review the AG's office had to grapple with the challenge of auditing the newly formed State Security Agency which its existence is legalised through a Presidential Proclamation. At the core of the challenge was whether the AG should audit state security as a new entity or should it be audited as it was previously established before the proclamation and the restructuring process.

Legal opinions were sought by both the AG and the Committee and based on these opinions, the AG's office indicated that they will continue auditing the Intelligence Services in-line with the old structure. The Committee also resolved to perform its oversight function on the Intelligence Services guided by the previous structure until such time that the legislation to formalise the restructuring process.

The AG tabled the audited financial statements of the Services to the Committee. These statements are attached in this report in-line with the Intelligence Services Oversight Act 40 of 1994. (refer to annexure A)

16. OFFICE OF INSPECTOR GENERAL OF INTELLIGENCE (OIGI)

The Office of the Inspector General briefed the Committee on the tapes on 19 May 2010. The report on the "tapes" was presented by the former IG, Mr Zolile Ngcakani in the presence of the newly appointed IG, Advocate Faith Radebe. Following some media outcry and perceptions on the illegality of the interception of the "Zuma tapes", the IG decided to find out if the interceptions were properly approved and how they were handled. The investigation was self tasking to fulfil their monitoring function as stated in section 7(7) (a) of the Intelligence Oversight Act 40 of 1994.

- The findings were that the intercepts were lawfully obtained by National Intelligence Agency and Crime Intelligence;
- The judge's authorisation in terms of RICA was obtained;
- The services did not supply intercepted material to any party;
- The IG further noted that there was a lacuna/gap in the RICA Act (dealing with the handling of intercept material)

IG certificates on Intelligence Services

The IG presented the certificates of the reporting period 01 April 2009 to 31 March 2010 on 10 November 2010 in terms of section 7 of the Act. The IG was satisfied that the activity report (Annual Report) of services fairly represents the activities of the services in the year under review. However there were some key raised by the IG which included amongst others:

- The slow pace of restructuring and its impact on other structures
- The risk posed by personnel shortages
- Concern about ongoing investigations of fraud cases implicating members of the services
- Lack of effective coordination within the services in relation to liaising with foreign intelligence services
- Although significant efforts have been made to overcome the vetting challenges vetting within the services still remain a challenge

17. INTERCEPTION JUDGE

According to the Act the committee shall receive a report from, any designated judge as defined in section 1 of the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002. A report regarding the functions performed by him or her in terms of that Act, including statistics regarding such functions, together with any comments or recommendations which such designated judge may deem appropriate, provided that such report shall not disclose any information contained in an application or direction referred to in that Act. (See report on Annexure B)

In the year under review, the judge briefed the committee and indicated that he was pleased with the improvements of applications brought before him. The services continue to be more careful in supplying information required by the Act and this has resulted in a drastic reduction of refusal. The committee has also noted that the turnaround for application is 24 hours and the office of the judge has no backlog.

The judge with the request from the committee has explored the possibility of "electronic interception directions". His findings were that, whilst there might be advantages with the electronic application process, a couple of issues such as the validity of an electronic direction, prescribed security standards that should be implemented and archive requirements for electronic application and directions issued will have to considered and provided for in the Act. However, the matter will be given more attention by the Department of Justice and Constitutional Development.

The Committee is concern with the short term given to the designate judge. The appointment is usually for a period of a year renewable. Furthermore, the period is not usually in line with the financial year, making it challenging for the incoming judge's reporting. It is therefore recommended that the extension of the term for the designate judge be considered as well as ensuring that the term is in line with the financial year.

18. JSCI OVERSIGHT VISITS

The JSCI undertook a visit from 2 to 6 August 2010 to Pretoria. The objective of the visit:

- Training of Committee members by the Office of the Auditor General on understanding of financial statements and expenditure of special accounts.

- To visit intelligence entities; inspect their facilities and receive briefings on sensitive and special projects run by Defence and Crime Intelligence services.

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It was also necessary to familiarise the members who joined JSCI during the 4th Parliament on the functions of Defence and Crime Intelligence while exposed to the equipment they use. The briefings and presentations also dealt with details on projects that could not be accommodated during committee meetings due to limited allocated time. These presentations also make it possible for the Committee to assess the capacity of the services and to ascertain whether they are able to produce quality products with their allocated funds.

Meeting with Defence Intelligence (DI)

Acting Chief of Defence Intelligence, General Matlakeng gave an overview of the presentations. A presentation that reflects on challenges DI faces when dealing with border security, vetting and skills retention was made to the Committee. The following were the challenges identified:

- A challenge of poaching of skilled personnel by other state departments. This year the unit lost seven (7) members. The unit is planning to recruit young people in addressing personnel shortage looking at the responsibility of services and recruiting middle management personnel outside Defence Intelligence.

- Given the high staff turnover, the department is in constant need for staff vetting. The department is envisaging establishing monitoring section to monitor those already in the system and to vet people continuously to determine transgressions. Criminal records are taking long to reach the vetting unit thereby causing the delay on the vetting process.

- On border security the department indicated that the challenge they face is when they apprehends illegal immigrant crossing the border they hand over to Home Affairs Immigration section and at times these illegal immigrants are released.

The Committee was again reminded of the dreadful condition of the HQ of DI. Both the location and the condition of the building are shocking.

Meeting with Crime Intelligence (CI)

The delegation was welcomed by Lt General Mdluli, Divisional Commissioner of Crime Intelligence with his senior management. Commissioner Lazarus gave general overview of the unit noting that the Portfolio Committee on Police oversees overt structures while the covert structures are overseen by the Joint Standing Committee on Intelligence. Audit Committee meets four times a year to look at financial reports and to improve control. The CI is audited by the AG and thereafter the report of the audited statements is presented to Parliament through the JSCI.

The primary objective of Crime Intelligence is to gather intelligence, collate and analyse to address crime. Border intelligence has been identified as one of the major areas of concern hence a lot of focus has been placed on the area.

Findings by the Committee while on oversight

After having considered and reviewed the information obtained during the oversight visit, the Committee noted the following:

- The Border Control Operational Coordinating Committee (BCOCC) was not effective and a new structure has been established known as Border Management Agency (BMA).

- Home Affairs has amended its rules that causes release of apprehended illegal immigrants handed over to Home Affairs Immigration section.

- The fact that SAPS have not received instructions to leave the borders, impacts heavily on the success of SANDF. The concern of porous borders is not yet resolved.

- The relocation of Defence Intelligence to new Headquarters, if approved will take three years from now. DI is currently renting premises at R3,5 million a month and this is a serious concern.

- Challenges of vetting head hunted officials and personnel employed within the Ministries whereby an incumbent is vetted after being employed.

- There is a lack of uniformity between NIA and DI in terms of vetting processes.

- Crime Intelligence needs operational vehicles with specialised equipment to trace criminals.

19. RECOMMENDATIONS

As a consequence of the overall work performed by the Committee during the year under review, the JSCI makes the following recommendations:

- Inadequate vetting in the intelligence community both regarding procedure and the vetting of officials is of serious concern and the Executive must address this problem urgently.

- The prolonged process of the restructuring of the civilian intelligence is affecting the morale of the SSA community. The Minister must attend to these problems before it escalates.

- The term of office of an Interception Judge should be extended to allow for enhanced co-operation between the Judge and the intelligence community.

- Officials who leave the Services should notify the JSCI of their intention. There is presently no exit strategy in the community and there is a need for such a procedure. All intelligence entities should develop one.

- The RICA needs to be amended as report in the last annual report to the JSCI.

- The Committee notes that a number of previous recommendations have not been attended to.

Further special attention should be given to the findings of the JSCI as set out herein above. In particular the challenge pertaining to vetting within the intelligence community must be attended to.

C.V. BURGESS, MP

Chairperson: Joint Standing Committee on Intelligence (JSCI)

20. ANNEXURES

A. Report of the Auditor-General

B. Judge's Annual Report on applications for interceptions

C. Programme of the JSCI for the Financial Year 2010/2011

D. Diagram of restructured State Security Agency

E. Glossary

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE SECRET SERVICES ACCOUNT OF THE DEPARTMENT OF POLICE FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

Introduction

I have audited the accompanying financial statements of the Secret Services Account, which comprise the appropriation statement, the statement of financial position as at 31 March 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies as set out on pages 8 to 21.

Accounting Officer's responsibility for the financial statements

The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the modified cash basis of accounting determined by National Treasury as set out in accounting policy note 1.1 and in the manner required by the PFMA. This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act of South Africa and section 3 of the Secret Services Act, 1978 (Act 56 of 1978), my responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Basis for opinion

Level of Audit Assurance

Owing to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which the assets and services are procured and utilised, the level of assurance in respect of certain operational expenditure is, under these circumstances lower than with ordinary audits.

SECRET SERVICES ACCOUNT:
SOUTH AFRICAN POLICE SERVICE
ACCOUNTING POLICIES

for the year ended 31 MARCH 2010

The Financial Statements have been prepared in accordance with the following policies, which have been applied consistently in all material aspects, unless otherwise indicated. However, where appropriate and meaningful, additional information has been disclosed to enhance the usefulness of the Financial Statements and to comply with the statutory requirements of the Public Finance Management Act, Act 1 of 1999 (as amended by Act 29 of 1999), and the Treasury Regulations issued in terms of the Act and the Division of Revenue Act, Act 2 of 2006.

1. Presentation of the Financial Statements

1.1 Basis of preparation

The Financial Statements have been prepared on a modified cash basis of accounting, except where stated otherwise. The modified cash basis constitutes the cash basis of accounting supplemented with additional disclosure items. Under the cash basis of accounting transactions and other events are recognised when cash is received or paid.

1.2 Presentation currency

All amounts have been presented in the currency of the South African Rand (R) which is also the functional currency of the department.

1.3 Rounding

Unless otherwise stated all financial figures have been rounded to the nearest one thousand Rand (R'000).

1.4 Comparative figures

Prior period comparative information has been presented in the current year's financial statements. Where necessary figures included in the prior period financial statements have been reclassified to ensure that the format in which the information is presented is consistent with the format of the current year's financial statements.

1.5 Comparative figures - Appropriation Statement

A comparison between actual amounts and final appropriation per major classification of expenditure is included in the Appropriation Statement.

2. Revenue

2.1 Appropriated funds

Appropriated funds comprises of departmental allocations as well as direct charges against revenue fund (i.e. statutory appropriation).

Appropriated funds are recognised in the financial records on the date the appropriation becomes effective. Adjustments made in terms of the adjustments budget process are recognised in the financial records on the date the adjustments become effective.

Opinion

In my opinion, except for the matter described in the Basis for opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Secret Services Account as at 31 March 2010 and its financial performance and its cash flows for the year then ended, in accordance with the modified cash basis of accounting as determined by National Treasury as set out in accounting policy note 1.1 and in the manner required by the PFMA and section 3 of the Secret Services Act, 1978 (Act 56 of 1978).

Emphasis of matter

I draw attention to the matter below. My opinion is not modified in respect of this matter:

Basis of accounting

The Secret Services Account's policy is to prepare financial statements on the modified cash basis of accounting as determined by the National treasury, as set out in accounting policy note 1.1.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

In terms of the PAA of South Africa and *General notice 1570 of 2009*, issued in *Government Gazette No. 32758 of 27 November 2009* I include below my findings on the report on predetermined objectives, compliance with the PFMA, Electronic Communications Act, 2005 (Act No. 36 of 2005) and financial management (internal control).

Predetermined objectives

The predetermined objectives related to the Secret Services Account are reported together with the predetermined objectives of the Department of Police.

Compliance with laws and regulations

No matters to report.

Auditor-General

Pretoria

30 July 2010

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE NATIONAL INTELLIGENCE AGENCY (NIA) FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the National Intelligence Agency, which comprise the appropriation statement, the statement of financial position as at 31 March 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, as set out on pages XXX to XXX.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and in the manner required by the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act of South Africa and section 3 of the Secret Service Act, my responsibility is to express an opinion on these financial statements based on my audit.

4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Basis for qualified opinion

Level of Assurance

7. Owing to the nature of certain operational transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which services are procured, utilised and safeguarded, the level of assurance, in respect of certain operational expenditure and assets, under these circumstances is lower than with ordinary audits.

8. In addition possible unrecorded account balances could occur due to the increased risk of completeness of all transactions and balances at year end. accounts receivable as disclosed in note 10, account payables in note 12 and contingent liabilities disclosure could be misstated. I am unable to quantify the misstatement. I was unable to perform alternative audit procedures to obtain sufficient, appropriate audit evidence that the above balances are accurate and complete.

9. The opening balance for the standing advances as disclosed in note 11 was incorrectly transferred from the Oracle system to the SAP system. Sufficient appropriate audit evidence in the form of supporting documentation for the difference of R4 868 000 could not be provided.

Qualified opinion

10. In my opinion, except for the matter described in the Basis for qualified opinion paragraph, these financial statements present fairly, in all material respects, the financial position of the National Intelligence Agency as at 31 March 2010 and its financial performance and its cash flows for the year then ended, in accordance with the SA Standards of GRAP and in a manner required by the PFMA.

Emphasis of matter

I draw attention to the matters below. My opinion is not modified in respect of these matters:

Basis of accounting

11. The NIA's policy is to prepare financial statements on the basis of Statements of Generally Recognised Accounting Practice, as described in accounting policy note 1 to the financial statements. They have opted to utilise the transitional conditions as per Directive 4 that is available with the first time adoption of GRAP.

Unauthorised/Fruitless and wasteful/Irregular expenditure

12. As disclosed in note 24 to the financial statements, irregular expenditure to the amount of R5 897 841 was incurred, as a proper tender processes had not been followed.

Material underspending of the budget

13. As disclosed in the appropriation statement, the department has materially under spent the budget to the amount of R121 447 000. The unspent funds are inclusive of commitments to the value of R89 658 000 in respect of open orders which were issued to service providers.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

14. In terms of the PAA of South Africa and *General notice 1570 of 2009*, issued *in Government Gazette No. 32758 of 27 November 2009* I include below my findings on the report on predetermined objectives, compliance with the Public Finance Management Act (PFMA), Public Service Act (PSA), Intelligence Service Act (ISA) and financial management (internal control).

Predetermined objectives

15. No matters to report.

Compliance with laws and regulations

PFMA and Treasury Regulations

Non-adherence

16. The agency did not have adequate policies and procedures to sustain a process to ensure the completeness of related party transactions as required by PFMA section 38(1)(b).

17. Monthly creditors reconciliations were not performed as required by PFMA section 38(1)(a)(i).

18. Suspense accounts were not cleared and monthly reconciliations were not done to ensure correct allocation of transactions as per Treasury Regulations 17.1.1 and 17.1.2

19. Management did not provide, even after formal resolutions and requests, the monthly and quarterly reports to the audit committee to ensure the compliance of review and comment on the quality of the reports as required by Treasury Regulations Section 3.1.13(b).

20. The audit committee only consisted of 2 members, instead of 3 at year-end after the resignation of 1 member as required by PFMA 77 (a).

21. Contrary to the requirements of section 38(1)(h) of the PFMA no evidence could be obtained that disciplinary steps were taken against officials who contravened compliance with rules and regulations.

22. Contrary to the requirements of PFMA Section 42(1) (a) and (b) and 42(2) transfer documentation regarding assets and liabilities was not signed by the accounting authority.

INTERNAL CONTROL

23. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the PFMA, Intelligence Service Act and Intelligence Service Regulation, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

Leadership

24. The accounting officer did not effectively monitor the compliance, with laws, regulations and internally designed procedures resulting in non–compliance and fruitless expenditure.

Financial and performance management

25. The accounting officer did not maintain an effective and efficient system of internal control and financial systems to ensure quality of the reported financial information.

26. Staff in the finance department did not enhance their competencies to enable them to prepare quality financial statements in compliance with the new financial reporting requirements.

OTHER REPORTS

Investigations

27. An investigation was conducted against a service provider for audio and video equipment. The company was subsequently placed under liquidation and a claim was lodged with the liquidators. Disciplinary action was instituted against the members.

28. A forensic audit was conducted into a company appointed for the disposal of assets.

29. As reported in the prior year an investigation into alleged fraud was conducted at Opmed. The matters were reported to the Police to assist in the criminal investigation and to take the matters to court.

30. During January 2008, NIA received information from Momentum's Head of Forensic Examination and Anti-Money Laundering division, indicating that there were transfers from NIA's account within Momentum to the account of the broker. This matter was reported to the Financial Services Board (FSB) and Financial Advisory and Intermediary Services (FAIS) for investigation.

31. A formal investigation has been instituted at a covert structure.

Auditor - General

Pretoria

30 July 2010

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE SOUTH AFRICAN NATIONAL ACADEMY OF INTELLIGENCE (SANAI) FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the SANAI, which comprise the appropriation statement, the statement of financial position as at 31 March 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information as set out on pages ... to ....

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with South African Standards of Generally Recognised Accounting Practise (SA Standards of GRAP) and in the manner required by the Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA) and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act of South Africa and section 3 of Secret Service Act, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the South African National Academy of Intelligence as at 31 March 2010, and its financial performance and its cash flows for the year then ended, in accordance with the South African Standards of Generally Recognised Accounting Practice and in the manner required by the Public Finance Management Act of South Africa.

Emphasis of matter

I draw attention to the matters below. My opinion is not modified in respect of these matters:

Amendments to the applicable basis of accounting

8. As disclosed in accounting policy note 1, the Accountant-General gave SANAI approval to prepare their statements in accordance with Directive 4 (transitional provisions for municipalities) on 30 June 2009.

Fruitless and wasteful expenditure

9. As disclosed in note 36 to the financial statements, fruitless and wasteful expenditure to the amount of R530 668 was incurred, due to penalties for late payments.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

10. In terms of the PAA of South Africa and *General notice 1570 of 2009,* issued in *Government Gazette No. 32758 of 27 November 2009* I include below my findings on the report on predetermined objectives, compliance with the PFMA, Secret Services Act and financial management (internal control).

Predetermined objectives

Usefulness of reported performance information

11. The following criteria were used to assess the usefulness of the planned and reported performance:

    - Measurability: Are objectives made measurable by means of indicators and targets? Are indicators well defined and verifiable, and are targets specific, measurable, and time bound?

    The following audit findings relate to the above criteria:

Planned and reported performance targets not specific/measurable

12. Strategic objective 1 - Development and delivery of quality intelligence training for the preparation and formation of intelligence officers:

    - 50% of the planned targets are not specific in not clearly identifying the nature and required level of performance;

- 25% of the planned targets are not measurable in identifying the required performance.

The following serves as an example:

Indicator	Target
A model is developed for the impact on line.	Yes
Develop and implement system of tracking compliance in training.	Yes

13. Strategic objective 2 - Develop and conduct research programmes that enhance training delivery:
    - 38 % of the planned targets are not specific and measurable in clearly identifying the nature and the required level of performance.

The following serves as an example:

Indicator	Target
Research Policy and Plan developed. Design an internal development programme to develop research skills	Research and experimentation conducted on equipment and training resources

Reported indicators/targets not complete as no supporting source information was provided

14. Management in core business did not properly document the monitoring of performance as a result we were unable to obtain adequate and sufficient audit evidence to verify the completeness of reported information against predetermined objectives

Compliance with laws and regulations

PFMA and Treasury Regulations

15. Due to management not providing, even after formal resolutions and requests, the monthly and quarterly reports to the Audit Committee, the committee did not review the quality of monthly/quarterly reports as is required by Treasury Regulations Section 3.1.13(b).
16. At year end the audit committee only consisted of 2 members, instead of 3 as required by PFMA section 77 (a).
17. The accounting officer did not submit a signed performance contract for audit purposes as required by the PFMA section 36(5).
18. SANAI did not have adequate policies and procedures to sustain a process to ensure the completeness of related party transactions as required by PFMA 38(1) (b).

INTERNAL CONTROL

19. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the PFMA, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

Leadership

20. The accounting officer did not effectively monitor the compliance, with laws, regulations and internally designed policies and procedures resulting in non-compliance and fruitless and wasteful expenditure as reported in this report.

Financial and performance management

21. The accounting officer did not implement adequate systems to ensure the complete and accurate collection, recording, processing, monitoring and reporting of results against predetermined objectives specifically for performance management.

OTHER REPORTS

Investigations

22. An investigation was conducted on the former deputy principal. At the date of the report, the case was still ongoing.

Auditor- General

Pretoria

30 July 2010

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS AND PERFORMANCE INFORMATION OF THE SOUTH AFRICAN SECRET SERVICE FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the South African Secret Service (SASS), which comprise the appropriation statement, the statement of financial position as at 31 March 2010, the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, set out on pages XX to XX.

Accounting Officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practise (SA Standards of GRAP) and in the manner required by the Public Finance Management Act (PFMA). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act of South Africa and section 3 of the Secret Service Act, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Basis for qualified opinion

Level of assurance

7. Due to the nature of certain transactions and the circumstances under which they are incurred and recorded as well as the circumstances under which the services are procured and utilised, the level of assurance, in respect of certain operational expenditure and assets are under these circumstances lower than with ordinary audits.

Property, Plant and Equipment

8. In terms of GRAP 17 paragraph 10, SASS is required to recognise all assets that they utilise and from which they receive a service potential benefit. SASS did not recognise the assets they have used for more than one period at the foreign stations. It is not possible to quantify the amount by which note 19, property, plant and equipment is understated, as asset registers were not maintained for foreign station assets.

Qualified opinion

9. In my opinion, except for the effects of the matters described in the Basis for qualified opinion paragraphs, these financial statements present fairly, in all material respects, the financial position of the South African Secret Service as at 31 March 2010 and its financial performance and its cash flows for the year then ended in accordance with the SA Standards of GRAP and in the manner required by the PFMA.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

In terms of the PAA of South Africa and *General notice 1570 of 2009,* issued in *Government Gazette No. 32758 of 27 November 2009* I include below my findings on the report on predetermined objectives, compliance with the Public Finance Management Act (PFMA), Public Service Act (PSA), Intelligence Service Act (ISA) and financial management (internal control).

Predetermined objectives

10. No matters to report.

Non-compliance with laws and regulations

Public Service Act

11. Members of the South African Secret Service are performing remunerative work outside employment of the Service without the approval of the Executive Committee as required by section 30 and 31 of the Public Service Act.

PFMA and Treasury Regulations

Non-adherence

12. The Service did not have adequate policies and procedures to sustain a process to ensure the completeness of related party transactions as required by PFMA 38(1) (b).

13. Due to management not providing, even after formal resolutions and requests, monthly and quarterly reports to the Audit Committee, the committee did not review the quality of monthly/quarterly reports as is required by Treasury Regulations Section 3.1.13(b).

14. At year end the audit committee only consisted of 2 members, instead of 3 as required by PFMA 77 (a).

INTERNAL CONTROL

I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the Public Finance Management Act, Intelligence Service Act and Intelligence Service Regulation but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

Leadership

15. The Accounting Officer did not ensure the effective monitoring of the Service's compliance, with laws, regulations and internally designed policies and procedures resulting in non-compliance.

Financial and performance management

16. Pertinent information relating to assets at foreign stations was not identified and captured by management to support financial reporting, resulting from the incorrect interpretation of the recognition requirements of GRAP 17.

OTHER REPORTS

Investigations in progress

17. As stated in the accounting officer's report, an investigation is currently being performed on source remuneration expenditure.

Auditor - General

Pretoria

30 July 2010

AUDITOR-GENERAL
SOUTH AFRICA

REPORT OF THE AUDITOR-GENERAL TO PARLIAMENT ON THE FINANCIAL STATEMENTS OF THE ELECTRONIC COMMUNICATION SECURITY (PTY) LTD (COMSEC) FOR THE YEAR ENDED 31 MARCH 2010

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the Electronic Communication Security (Pty) Ltd, which comprise the statement of financial position as at 31 March 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, and a summary of significant accounting policies and other explanatory information, and the directors report, as set out on pages ~~xxx~~ 75 to ~~xxx~~. 101

Accounting authority's responsibility for the financial statements

2. The accounting authority is responsible for the preparation and fair presentation of these financial statements in accordance with the Statements of General Recognised Accounting Practice (GRAP) and in the manner required by the Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) and the Companies Act of South Africa (Act no. 61 of 1973). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa and section 4 of the Public Audit Act of South Africa and section 3 of the Secret Services Act, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and General *Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Audit Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Electronic Communication Security (Pty) Ltd as at 31 March 2010 and its financial performance and its cash flows for the year then ended in accordance with the SA Standards of GRAP and in the manner required by the PFMA and the Companies Act of 1973.

Emphasis of matter

I draw attention to the matters below. My opinion is not modified in respect of these matters:

Basis of accounting

8. The public entity's policy is to prepare financial statements on the basis of Statements of Generally Recognised Accounting Practice, as described in accounting policy note 1 to the financial statements.
9. Comsec has opted as disclosed in note 6.3 of the notes to the financial statements that directive 2 will be applied in terms of transitional conditions for application of SA Statements of GRAP. Detail of the application is part of note 9 and 10 respectively for property plant and equipment and intangible assets.

Restatement of corresponding figures

10. As disclosed in note 7.2 to the financial statements, the corresponding figures for 31 March 2009 have been restated as a result of errors discovered during the year of 31 March 2010 in the financial statements of Comsec at, and for the year ended 31 March 2009.

Fruitless and wasteful expenditure

11. As disclosed in Annexure 1 to the financial statements, fruitless and wasteful expenditure to the amount of R60 000 was incurred, as interest paid on late payments to suppliers.

Material underspending of the budget

12. As disclosed in the statement of financial performance the surplus as at 31 March 2010 amounted to R45 134 000.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

13. In terms of the PAA of South Africa and *General notice 1570 of 2009*, issued in *Government Gazette No. 32758 of 27 November 2009* I include below my findings on the report on predetermined objectives, compliance with the PFMA and financial management (internal control).

Predetermined objectives

14. No matters to report.

Compliance with applicable Legislation

PFMA and Treasury Regulations

15. Management did not provide, even after formal resolutions and requests, the monthly and quarterly reports to the audit committee to ensure the compliance of review and comment on the quality of the reports as required by Treasury Regulations Section 27.1.8 (d).

16. The audit committee only consisted of 2 members, instead of 3 at year-end after the resignation of 1 member as required by PFMA 77 (a).

17. Contrary to the requirements of PFMA Section 42(1) (a) and (b) and 42(2) transfer documentation regarding assets and liabilities was not signed by the accounting authority.

18. Contrary to the requirements of TR 31.1.2(j) and TR 17.2.2 bank and creditor's reconciliation were not done on weekly basis.

19. Comsec did not have adequate documented policies and procedures to sustain a process to ensure the completeness of related party transactions as required by PFMA 38(1) (b).

20. Although the entity has an appointed board there is no evidence of the board complying with its fiduciary duties as required by section 50 of the PFMA. This resulted in some non-compliance of the general responsibilities as stipulated in section 51 of the PFMA.

21. Contrary to the requirements of TR 53(3), the entity did not obtain approval from the executive authority to retain a budget surplus from the financial year 2008/09, amounting to R 51 027 000.

INTERNAL CONTROL

22. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives and compliance with the PFMA, but not for the purposes of expressing an opinion on the effectiveness of internal control. The matters reported below are limited to the deficiencies identified during the audit.

Leadership

23. Comsec management did not develop and implement a significance and materiality framework.

23. Regular monitoring of compliance, by the accounting authority, with laws, regulations and internally designed policies and procedures is not done effectively and resulted in non-compliance issues

Financial and performance management

24. Management did not develop and implement adequate financial policies to ensure the information reported is of high quality.

Auditor - General

Pretoria,

30 July 2010

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

the doj & cd
Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

Office for Interception and Monitoring of Communications
Please quote our full reference number in all correspondence
P O Box 57155, ARCADIA, 0007 · 523 Church Street, Provisus Building, ARCADIA, 0083
Tel (012) 341 0650, Fax (012) 341 0620

Ref: 7/21/2
Enq: The Honourable Mr Justice J A M Khumalo

UPDATED BRIEFING ON INTERCEPTION STATISTICS COMMENTS AND RECOMMENDATIONS

PERIOD UNDER REVIEW: 1 APRIL 2010 TO 31 OCTOBER 2010

Honourable Chairperson of the Joint Standing Committee on Intelligence, Honourable Members, ladies and gentlemen. I wish to thank you for inviting me to present this statistical information. I have been redesignated by the Honourable Minister of Justice and Constitutional Development in terms of section 1 of the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002 (Act No. 70 of 2002) for the period 1 November 2010 to 31 October 2011. My office serves the entire Republic of South Africa. A brief resume of my functions is necessary.

Section 14 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) guarantees as a fundamental right, the right to privacy, which includes the right not to have "the privacy of communications infringed". The limitation clause in the Constitution provides that the rights in the Bill of Rights (in which section 14 is included), "may be limited only in terms of a law of general application to the extent that the limitation is reasonable, and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors..." In keeping with this constitutional right and the limitation clause the Regulation of Interception of

Communications and Provision of Communication-Related Information Act, 2002 (Act No. 70 of 2002) was enacted as a law of general application. Section 2 thereof prohibits interception of communications by third parties. Only stipulated state agents may apply to obtain a direction from a designated Judge to intercept a communication. A direction is not easy to obtain because, as the Courts have stated:

> *"The potential to obtain such a direction is very strictly controlled. It could, for example, hardly be issued on mere suspicion unsupported by hard facts."*

It follows, therefore, that the application must be sufficiently motivated. The Act makes provision in sections 16, 17, 18, 20, 21 and 22 for various substantive applications and directions each with its own requirements. There is also provision for the monitoring of postal communications.

A designated Judge may issue the following directions:-

(i) Interception direction in respect of direct or indirect communication. e.g. cell-phone, (section 16);

(ii) Real-time communication-related direction, (section 17). Information stored by a communication service provider for 90 days;

(iii) Interception direction combining real-time and archived communication-related information (section 18);

(iv) Archived communication-related direction; (section 19). Information stored by the service provider for the period determined in a directive referred to in section 30(2) of the Act.

A direction can only be for three months and it can be extended for only three months. If it is allowed to lapse the applicant has to apply afresh. It is issued without any notice to the person or customer to whom it applies and without hearing such person or customer. For this reason the designated judge has to be very careful when considering applications and he must seek sufficient information. In exceptional circumstances an oral application may be made for an oral direction or an oral entry warrant. This will be the case where it is not reasonably practicable to make a written application because of the urgency of the case. The oral direction or entry warrant must be confirmed by the designated Judge within 12 hours after the issue thereof. There is also provision for a cancellation.

What now follows is a discussion of statistical data pertaining to work done during the period under review.

National Intelligence

New applications	16		
Re – applications	12		
Amendments	2		
Amendments and Extensions	14		
Extensions	11	Refused	1
Total	55		1

Total 56 including one refusal.

South African Police Force

New applications	136	Refused	5
Re – applications	21		
Amendments	20		

Amendments and Extensions	20		
Extensions	17	Refused	1
Total	214		6

Total applications including refusals = 220.

The NIA and SAPS figures make a total of 276.

This makes an average of 39.4 per month. Agencies continue to be careful in supplying information required by the Act and this has resulted in a drastic reduction of refusals. Applications are dealt with on the same day they are received and we thus have no backlog.

Draft directives and standardized forms have been prepared for approval by the respective Judges Presidents. This will also help in reducing applications refused. In the seven months under review there were 1593 section 8 (eight) matters reported by the Police. These have to be checked by the Designated Judge to ensure compliance with the Act. The figure of 276 applications is reasonable considering the large number of cell phones and landline phones currently in use in the country. This shows that interception is considered as a last resort in investigating crime.

The Department of Defence and the Independent Complaints Directorate have submitted no applications during the period under review and I therefore submit a nil return.

I have not dealt with the merits of individual applications for the reason that these are top secrets which the Act protects from disclosure. These applications, all involve difficulties experienced by agencies in the investigation of serious crimes such as:

- Drug dealing and Dug trafficking;
- Vehicle thefts and car hijacks;
- Armed robberies;
- Corruption, Fraud; and
- Assassinations, murder, terrorism etc.

This concludes what I have to say about statistical matters. I now wish to comment on a matter that was briefly discussed by the Committee at my last briefing and that is the subject of electronic interception directions.

"In view of technological developments in the field of electronic messaging and equipment which provides for secure connections, digital signatures as well as encryption and other security measures, a secure process can be designed in order to deal with electronic applications for directions in terms of Chapter 3 of the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002 (Act 70 of 2002) (the Act).

An electronic application process may have the following advantages:

(a) Enhanced confidentiality and security in that the directions are not handled by an array of persons.

(b) Saving of time on the travelling by law enforcement agencies to and from the office of the designated judge.

(c) Cost saving implications relating to storage requirements and general operational requirements.

(d) Applications for directions can be made any time of the day or night, which is currently dependent on the physical availability of the designated judge.

(e) Applications for directions will be expedited.

The following steps in the application for a direction in terms of the Act are relevant if an electronic application process for directions is considered:

(a) An application for a direction must be lodged by a law enforcement agency. This application is usually accompanied by a number of documents which may be electronically generated.

(b) Receipt and consideration of the application by the designated judge who may require additional information from the law enforcement agencies.

(c) Informing the law enforcement agencies of the decision and if the application is approved, sending the direction to the relevant law enforcement agency.

(d) The serving of the direction on an electronic communications service provider by the relevant law enforcement agency.

(e) Informing the interception centre of the approved direction.

(f) Archiving of documents by the office of the designated judge.

The provisions of this Act were evaluated to determine whether an electronic application process can be utilised for purposes of applications for directions. Although the Act is not clear on the matter it is submitted that if the following is taken into account one may well come to the conclusion that an electronic application process can be accommodated under the Act:

(a) The Act does not specifically prescribe the procedure that must be followed when making an application for a direction as intended in sections 16, 17, 18, 19, 20 and 21, other than that it must be made to a designated judge and that the application should be in writing. The Act also provides that the direction issued by the designated judge should be in writing and the same principles discussed hereunder would therefore apply to the issuing of the direction.

(b) The fact that an application can be made in writing to a designated judge, implies that the applicants do not need to be physically present when an application is made.

(c) The following Acts are relevant to the interpretation of the word "writing":

(i) The Interpretation Act, 1957 (Act No. 33 of 1957), which provides as follows: ***"In every law expressions relating to writing shall, unless the contrary intention appears, be construed as including also references to typewriting, lithography, photography and all other modes of representing or reproducing words in visible form.".***

(ii) Section 12 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002), which provides that a requirement in law that a document or information must be in writing is met if the document or information is -

* in the form of a data message; and
* accessible in a manner usable for subsequent reference.

During discussions with the Department of Justice and Constitutional Development (the Department responsible for administering the Act) it was indicated that it may be advisable to explicitly make provision in the Act for electronic applications for interception directions rather than to rely on an interpretation of the Act. It was further indicated to me that various other aspects may also have to be considered, and which should also be provided for in the Act, *inter alia*, -

(a) prescribed security standards that should be implemented;

(b) the procedure to be followed when making such an application;

(c) special needs and procedures of the law enforcement agencies;

(d) the validity of an electronic direction; and

(e) archive requirements for electronic applications and directions issued.

The Department has indicated that it is in the process of considering various other amendments to the Act and that this specific aspect will be addressed during that process.

Thanks Chairperson,

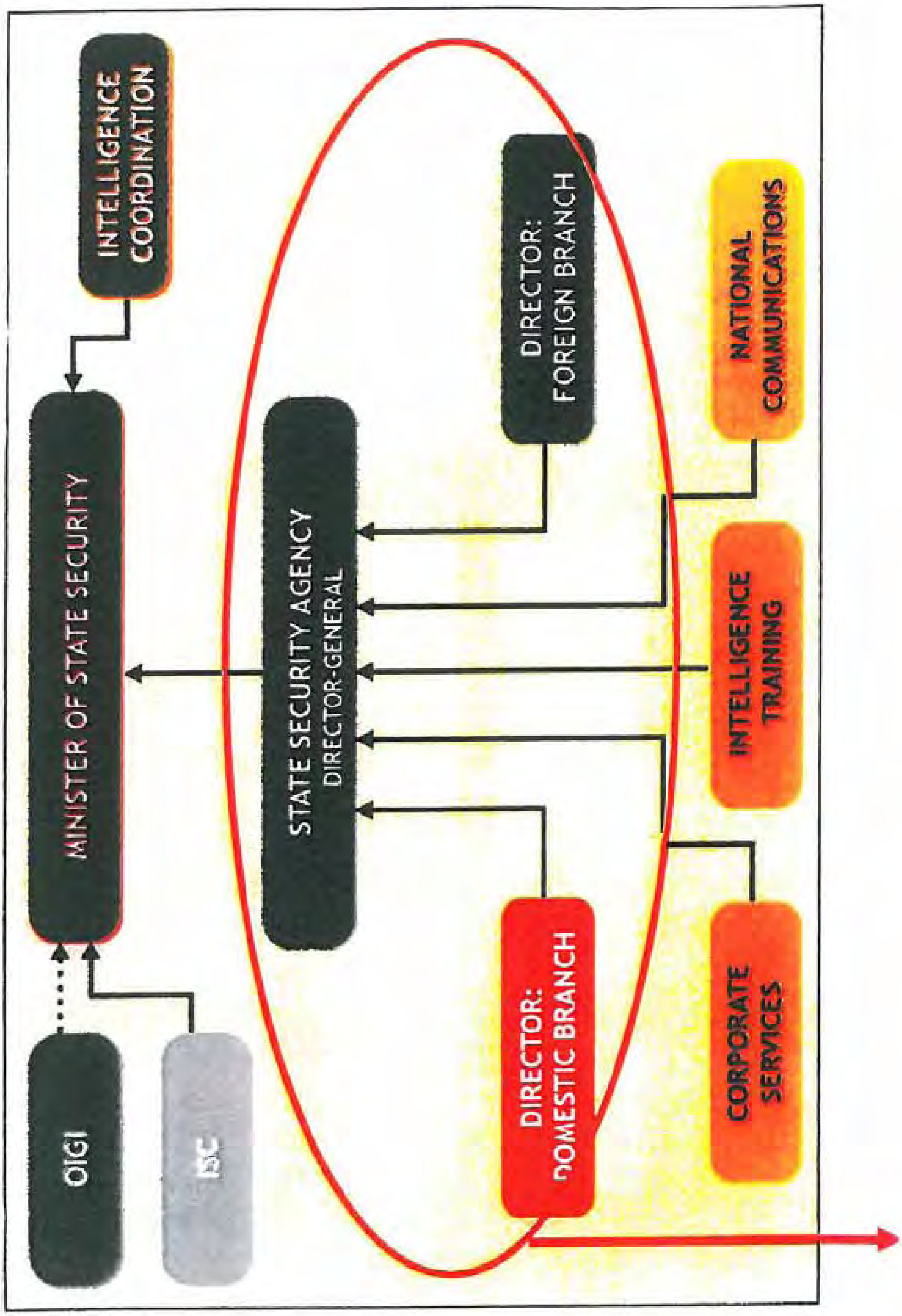
DESIGNATED JUDGE
5 November 2010

PROGRAMME OF THE JSCI FOR YEAR ENDING 31 MARCH 2011

Wed 07 April 2010	Briefing by Inspector General – Certificates
Wed 21 April 2010	Briefing by CI and DI on Budget Hearings
Thurs 22 April 2010	Briefing by NIA on Budget Hearings & Report on FIFA World Cup Readiness
Wed 05 May 2010	Briefing by Judge of Interceptions on Statistics & State Security Agency Budget Vote
Wed 12 May 2010	Finalization of Strategic Plan Document and Consideration of JSCI Annual Report
Wed 19 May 2010	Deliberations on IG's Reports, Adoption of JSCI oversight report and update on the 2009/2010 Annual report
07 Jun – 16 Jun 2010	Constituency Period – 2010 FIFA World Cup
Fri 23 Jul 2010	Finalisation of the Tape Report and Annual Report
Wed 28 Jul 2010	Briefing by IG on Business and Strategic Plans
02 – 06 Aug 2010	Oversight Week CI, DI and AG
Wed 04 Aug 2010	Consideration and recommendations of the Restructuring Briefing.
Wed 11 Aug 2010	Consideration of Oversight Report

Wed 18 Aug 2010	Meeting with the President
Wed 25 Aug 2010	Briefing by NICOC – Establishment of BMA
Wed 01 Sep 2010	Briefing by OIC on Issues raised during Oversight
Wed 08 Sep 2010	Briefing by Minister of SSA
Wed 15 Sep 2010	Deliberations on Outstanding Issues
23 Sep – 08 Oct 2010	Constituency Period
Tue 19 Oct 2010	Briefing by AG and IG on restructuring Challenges of the Intelligence Services
Wed 20 Oct 2010	Briefing by NIA, SANAI and Cosec on Quarterly Reports
Wed 27 Oct 2010	Briefing by DI and CI on Quarterly Reports
Wed 03 Nov 2010	Briefing on Recruitment of the Researcher
Wed 10 Nov 2010	Briefings by the IG (annual report) and the Judge
Wed 17 Nov 2010	Considerations of outstanding committee reports
29 Nov – 10 Dec 2010	Constituency Period
13 Dec – Jan 2011	Leave Period
Wed 26 Jan 2011	Briefing on CI Investigations emanating from the Media

Wed 16 Feb 2013	Briefing by DI
Wed 23 Feb 2011	Briefing by OIGI on Draft Regulations
Wed 02 Mar 2011	Deliberations on IG\s draft regulations
Wed 09 Mar 2011	Deliberations on Outstanding matters
Wed 16 Mar 2011	Briefing on CI and DI Strategic Plans
Wed 23 Mar 2011	Briefing by Minister of SSA on Strategic Plans
Wed 30 Mar 2011	Budget hearings by NIA and Spending Centers


INTELLIGENCE COORDINATION
MINISTER OF STATE SECURITY
OIGI
JSC
STATE SECURITY AGENCY
DIRECTOR-GENERAL
DIRECTOR: FOREIGN BRANCH
DIRECTOR: DOMESTIC BRANCH
NATIONAL COMMUNICATIONS
INTELLIGENCE TRAINING
CORPORATE SERVICES

GLOSSARY OF ACRONYMS

AG	Auditor General
ANC	African National Congress
BCOCC	Border Control Operational Coordinating Committee
BMA	Border Management Agency
BPE	Best Practice Experts
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CI	Crime Intelligence: Division of the South African Police Services
CICF	Counter Intelligence Coordinating Forum
COMSEC	Electronic Communications Security Pty (Ltd)
COPE	Congress of the People
DA	Democratic Alliance
DB	Domestic Branch
DG	Director General
DDG	Deputy Director General
DI	Defence Intelligence: Division of the South African National Defence Force

DOD	Department of Defence
DPSA	Department of Public Service and Administration
EIA	Environmental Impact Assessment
FB	Foreign Branch
FIFA	Federation of International Football Association
FIS	Foreign Intelligence Service
FTP	Formative Training Programme
FF+	Freedom Front Plus
IA	Intelligence Academy
ICT	Information & Communication Technology
IFP	Inkatha Freedom Party
IGI	Inspector General of Intelligence
IIRAC	International Intelligence Review Agencies Conference
ISC	Intelligence Services Council on the Conditions of Services
JCPSC	Justice, Crime Prevention and Security Cluster
JSCI	Joint Standing Committee on Intelligence
LEA	Law Enforcement Agencies

MISS	Minimum Information Security Standards
MOU	Memorandum of Understanding
MTEF	Medium Term Expenditure Framework
MRC	Ministerial Review Commission
MV	Military Veterans
NA	National Assembly
NATJOINTS	National Joint Operating Committee
NC	National Communications
NCC	National Communication Centre
NCOP	National Council of Provinces
NIA	National Intelligence Agency
NICOC	National Intelligence Coordinating Committee
NIE	National Intelligence Estimates
NSC	National Security Council
OIC	Office for Interception Centres
OIGI	Office of the Inspector General of Intelligence

RICA	Regulations of Interception of Communications and Provision of Communication-Related Information Act
RSA	Republic of South Africa
SADC	South African Development Community
SANAI	South African National Academy of Intelligence
SANDF	South African National Defence Force
SAPS	South African Police Service
SAQA	South African Qualifications Authority
SASS	South African Secret Service
SLA	Service Legal Agreement
SOP	Standard Operating Procedures
SSA	State Security Agency
UDM	United Democratic Movement

National Assembly

1. Report of the Portfolio Committee on Human Settlements on the Housing Development Agency Regulations, dated 5 March 2014

The Portfolio Committee on Human Settlements, having considered the Housing Development Agency Regulations: 2008 tabled in terms of section 32 read together with section 7(3) of the Housing Development Agency Act, 2008 (Act No. 23 of 2008), referred to it, reports as follows:

1. Having noted that the Minister of Human Settlements is not empowered by the Act to regulate on offences and penalties, it is recommended that the Minister should ensure that regulation 23 is deleted.
2. The Committee inserted regulation 26(4) which re-enforces reference to offences and penalties as contemplated in section 37 of the Act.

Report to be considered.

1. REPORT OF THE STANDING COMMITTEE ON FINANCE ON THE 2014 FISCAL FRAMEWORK AND REVENUE PROPOSALS, DATED 5 MARCH 2014

1. Introduction

The Minister of Finance tabled the 2014 National Budget before Parliament on 26 February 2014 in line with section 27 of the Public Finance Management Act (PFMA), (Act 1 of 1999) and section 7(1) of the Money Bills Amendment Procedure and Related Matters Act 9 of 2009 (the Money Bills Act). Section 7(2) of the Money Bills Act requires the Minister to include, among other information, the proposed Fiscal Framework and Revenue Proposals in the tabled Budget.

According to section 8(3) of the Money Bills Act, the Standing and Select Committees on Finance must, within 16 days after the tabling of the Budget, report to the National Assembly (NA) and the National Council of Provinces (NCOP), respectively, on the proposed Fiscal Framework and Revenue Proposals. The Fiscal Framework gives effect to the national executive's macro-economic policy and includes; estimates of revenue, expenditure, borrowing, interest and debt servicing charges and an indication of the level of contingency reserves.

After the tabling of the Budget on 26 February 2014 and the engagement with the Minister of Finance on 27 February 2014, the Finance Committees jointly held public hearings on 04 March 2014. Submissions were received from National Union of Metalworkers South Africa (NUMSA), Federation of Union of South Africa (FEDUSA), South African Institute of Tax Practitioners (SAIT), South African Institute of Chartered Accountants (SAICA), PriceWaterHouse Coopers (PwC), the Manufacturing Circle, Business Unity South Africa (BUSA), the Financial and Fiscal Commission (FFC), Budget and Expenditure Management Forum (BEMF), Ernst & Young Advisory Services (EY), Metope Investment Managers and PPC manufacturers.

This report summarises the economic outlook; fiscal framework; revenue trends and tax proposals; government debt financing and the key issues emerging from the public hearings with the above-mentioned stakeholders.

2. The 2014 National Budget overview

The 2014 Budget reflects on some of government achievements over the past two decades, acknowledges the challenges that lie ahead and proposes plans to address these challenges. Key amongst the achievements is the sound institutional framework, which includes the Offices of the Public Protectors, Auditor General, the South African Reserve Bank, the Independent Electoral Commission and effective and independent courts. Strides had been made in providing access to education, housing, water, electricity, sanitation and other basic services. The challenges remain persistently high levels of unemployment, poverty and inequality. The economy continues to grow below potential and some of the basic services delivered are uneven and of poor quality. Government has adopted the National Development Plan (NDP) as its long term framework for economic growth and social development. The plan guides the allocation of public resources and recognises the need to diversify the economy, raise export competitiveness and partnerships to overcome some of the challenges identified.

Governments' budget priorities include investment in infrastructure, youth employment and improved service delivery. Examples of NDP priorities that are directly funded and supported over the medium term include building on existing partnerships; Community Works Programme (CWP); support for smallholder farmers and small, medium and micro enterprises; detailed expenditure reviews across government; employment tax incentives, Expanded Public Works Programmes (EPWP), Special Economic Zones (SEZs) and public infrastructure investment.

The global economy is not yet on the path to sustained recovery. World economy gathered momentum in the second half of 2013, led by a recovery in the advanced economies. The recovery in the US has prompted the US Federal Reserve to taper its quantitative easing programme. Growth in Europe, South Africa's major trading partner, remains subdued. Growth in emerging market and developing economies remain robust. Increased financial market and capital flow volatility remain a concern given recent US tapering.

Government's prudent macroeconomic framework cushioned the South African economy against the global economic turmoil and enabled it to continue growing. Fiscal imbalances remain but output and employment have returned to pre-crisis levels. Public finances appear sustainable and debt levels appear manageable over the medium term. A widened current account deficit remains a concern until exports increase and investment flows strengthen. The flexible exchange rate regime that South Africa adopted has helped to absorb the external shocks, amongst other things. The inflation outlook has deteriorated and rising interest rates will increase the cost of borrowing.

Given the risks that emerged, government is maintaining its expenditure ceiling, with no additional funds added to total spending. The proposed 2014 Budget framework makes provision for R1.25 trillion rand in the 2014/15. The Budget emphasises the need to contain costs and improve efficiencies across government. The framework balances continued growth in spending and fiscal consolidation. It is expected that the spending reviews and forensic investigations will help to cut waste and increase efficiency across all spheres of government.

South Africa's fiscal framework remains grounded in a sustainable countercyclical approach to managing revenue and expenditure. The budget deficit is expected to narrow in 2013/14 as a result of government's expenditure ceiling and strong revenue collections. Tax proposals for the 2014 Budget continue to prioritise economic growth, job creation and generating sufficient revenue to finance government spending.

3. Economic outlook

3.1 Global economic developments and outlook

According to the International Monetary Fund (IMF) global economic activity and world trade strengthened in 2013, particularly in the United States (US) and the United Kingdom (UK). The key drivers of improved activity had been attributed to export rebound in emerging market economies and higher inventory demand in developed economies. Global economic growth registered 3 per cent in 2013.

The IMF expects global growth to increase from 3.0 per cent in 2013 to 3.7 per cent in 2014, averaging 3.9 per cent in 2015, largely on account of recovery in advanced economies. The outlook for the Euro zone remain fragile and uneven, particularly economies in the periphery where the risk of deflation, strong fiscal consolidation and weak banking sectors are constraining the recovery. Growth in the Euro area is projected to strengthen to 1 per cent in 2014 and 1.4 per cent in 2015. Recovery will be uneven, with more modest growth for economies under stress held back by high debt and financial fragmentation.

The United States is expected to grow at a rate of 2.8 per cent in 2014, up from 1.9 per cent in 2013 and growth is projected at 3 per cent in 2015. Growth will be supported by final domestic demand and in part by a reduction in the fiscal drag as a result of the recent budget agreement. The US growth is being driven by a recovery in the housing market and robust private sector demand.

Growth in emerging markets is expected to increase to 5.1 per cent in 2014 and 5.4 per cent in 2015. Economic activity in sub-Saharan Africa remains robust, having averaged 5.1 per cent in 2013, with growth projected to increase to 6.1 per cent in 2014 and moderate slightly to 5.8 per cent in 2015.

The US Federal Bank has begun the process of cutting back in quantitative easing, signalling a recovery in the US. These developments have implications for emerging market and developing economies such as sharply depreciating currencies, capital outflows, slowing growth, rising inflation, significant current account and fiscal deficits and the deteriorating confidence.

Recovery in advanced economies will translate into moderately higher demand for South African exports. Slowing growth in China and its shift away from investment led growth may lower the prices of South Africa's commodity exports. Volatile capital flows have contributed to Rand depreciation, putting upward pressure on inflation. South Africa's net portfolio flows fell to R24.3 billion in 2013 compared to R88.8 billion in 2012.

Increased financial market and capital flow volatility remain a concern in emerging economies, given the US tapering in early 2014. There is a need to manage the risks of potential capital flows reversal. Economies with domestic weaknesses and larger current account deficits appear particularly exposed. Some of these risks could have implications for the South African economy through trade, capital flows and currency volatility. Domestic risks include further delays in introducing new infrastructure, protracted labour disputes and more pronounced inflationary pressures associated with the depreciation of the Rand.

Major risks to the global economic outlook are the reduction in US monetary stimulus; high debt levels in China, the rising level of government debt in Japan, very low inflation in advanced economies, particularly the Euro area and high current account and fiscal deficits in a number of emerging markets. Despite the expected strengthening of activity, global priorities remain ensuring robust growth and managing vulnerabilities. Given these risks, monetary policy stance should stay accommodative while fiscal consolidation continues (IMF 2014). The FFC sees the Budgets 2014 subject to the Euro area sovereign debt crisis, the US fiscal cliff and quantitative easing by the Federal Reserve and slowing emerging markets growth.

3.2 South African economic performance and outlook

The domestic economy is growing at a moderate pace but continues to perform below its potential. Over the medium term, new power plants and transport infrastructure will lift constraints to output; stronger global recovery will support exports and growth in sub-Saharan Africa will promote expanded trade and investment. The macroeconomic framework is resilient, supported by healthy public finances. Gross Domestic Product (GDP) growth is projected to improve from 1.9 per cent in 2013 to 2.7 per cent in 2014 and to 3.5 per cent in 2016.

The FFC proposes improvements in skills and education, investment in Research and Development (R&D) to unlock growth potential. The Commission further proposed that in order for government to address the negative sentiments of credit rating agencies, the economic growth rates set should be achieved. This could be achieved through full and effective implementation of the infrastructure programme and stabilising the public debt to GDP trend.

The Manufacturing Circle is of the view that growth imperatives and stabilisation of debt in 2016/17 will be manageable only if confirmed additions to generation capacity and shale gas exploration can be expedited and if government could improve implementation of infrastructure investments.

BUSA is concerned that National Treasury has for a number of years, forecast higher GDP growth rates than actual performance. Inflation had also been forecast lower than the actual outcomes. BUSA believes that government's forecast for GDP growth for 2014/15 fiscal year is high. SAICA is of the view that projected growth forecasts of 2.7 per cent and 3.5 per cent in 2014 and 2016, respectively, as optimistic given that growth declined from 2.5 per cent in 2012 to 1.9 per cent in 2013.

FEDUSA noted that the IMF forecast the SA economy to grow at a rate of 2.8 per cent in 2014 and 3.2 per cent in 2015 in light of the global and domestic economic developments. The South African Reserve Bank (SARB) adjusted its growth forecasts downwards relatively in line with the IMF. FEDUSA's concern is that National Treasury's growth forecasts are not in line with this and appear to be optimistic.

According to the National Treasury, risks to the domestic outlook include delays to the introduction of new infrastructure, protracted labour strikes and more pronounced inflationary pressures associated with the depreciation of the Rand. The FFC identified key domestic risks as labour unrest, inadequate education and skills base, insufficient infrastructural investment and service delivery, perceptions of rising corruption and stress on consumers to cope with increased inflationary pressures. The Commission proposed that, to address the labour unrests, Government should consider establishing levers that serve to strengthen accountability of both employers and unions in the collective bargaining framework.

The SAIT proposed four pillars needed to stimulate economic growth in South Africa, namely, entrepreneurship and the stimulation of the small business sector that has the capacity to reduce unemployment, foreign direct investment that is also crucial to stimulate jobs and build infrastructure in the country, innovation and investment in Research and Development that is needed to achieve innovation.

The Budget Review 2014 expects real growth in gross domestic expenditure to pick up from 2.8 per cent in 2013 to 3.4 per cent in 2015. Growth in household consumption expenditure moderated to an estimated 2.7 per cent in 2013, down from 3.5 per cent in 2012. Growth in household consumption depends on the economy's ability to create jobs, real disposable income growth, household indebtedness and consumer confidence and the interest rate environment. Growth in real household consumption expenditure is projected to increase from 2.7 per cent in 2013 to 3.4 per cent in 2016, supported by stronger employment growth prospects and reduced household debt levels.

The year on year inflation rate as measured by the Headline Consumer Price Index (CPI), averaged 5.7 per cent in 2013, from 5.6 per cent in 2012. The Rand exchange rate depreciation led to a revision of the Headline CPI, which is now expected to breach the upper end of the target band in 2014. Headline CPI is expected to average 5.9 per cent in 2015 as weaker Rand translates into higher petrol and food price and puts pressure on wage demands.

The SARB increased the interest rates by 50 basis points in January 2014 in response to deterioration in inflation outlook. The weakness of the Rand in part follows the general emerging market phenomenon but it is also reinforced by other factors such as declining terms of trade and on-going labour disputes. The Rand depreciated by 17.6 per cent against the US Dollar in 2013. In the short term, the weaker exchange rate poses a significant risk to the inflation outlook. A sustained real depreciation could provide a significant boost to export competitiveness.

The outlook for investment expenditure remains positive over the medium term. Growth in real Gross Fixed Capital Formation is forecast to grow at a rate of 4.2 per cent in 2014 reaching 6.0 per cent in 2016 in line with the global and domestic outlook.

Table 1: Macroeconomic projections 2009 to 2016

Calendar year	2010	2011	2012	2013	2014	2015	2016
Percentage change	**Actual**			**Estimate**	**Forecast**		
Final household consumption	4.4	4.9	3.6	2.7	2.8	3.2	3.4
Final government consumption	4.4	4.3	4.0	2.5	2.2	2.3	2.4
Gross fixed capital formation	-2.1	4.2	4.4	3.2	4.2	5.3	6.0
Gross domestic expenditure	3.9	4.6	4.0	2.8	2.8	3.4	3.8
Exports	9.0	6.8	0.4	4.8	5.6	6.3	7.0
Imports	11.0	10.0	6.0	7.3	5.3	6.1	7.0
Real GDP growth	**3.1**	**3.6**	**2.5**	**1.8**	**2.7**	**3.2**	**3.5**
GDP inflation	7.7	5.9	4.5	6.1	6.4	6.2	6.0
GDP at current prices (R billion)	**2,674**	**2,933**	**3,139**	**3,391**	**3,706**	**4,064**	**4,456**
CPI inflation	4.3	5.0	5.6	5.7	6.2	5.9	5.5
Current account balance (% of GDP)	-2.0	-2.3	-5.2	-6.1	-5.9	-5.8	-5.5

Source: Budget Review 2014, National Treasury

A larger trade deficit widened the current account deficit (a source of external vulnerability) to an estimated 6.8 per cent of GDP in the third quarter of 2013. Stronger export growth was offset by import growth. Along with deterioration in the terms of trade (largely driven by commodity price movements) these factors exerted pressure on the current account. The current account deficit is projected to narrow from 6.1 per cent in 2013 to 5.5 per cent in 2016 as export growth improves.

Import volumes recorded strong growth in 2013, led by machinery and appliances and oil. Growth in imports is projected to rise from 5.3 per cent in 2014 and reach 7 per cent of GDP in 2016 as demand recovers. Export growth is expected to increase from 5.6 per cent in 2014 to 7 per cent in 2016.

From the production side of the economy, growth was supported by favourable yields in agriculture, steady growth in financial and business services, telecommunications, transport and civil construction. Growth in the mining sector remained volatile in 2013 as industrial action, maintenance and other disruptions affected production. The mining sector is expected to remain under pressure following stoppages in the major platinum mines and the risk of these disruptions spreading to gold mines. Manufacturing production struggled to gain momentum in 2013, registering growth of 1.3 per cent. The Manufacturing sector also experienced maintenance stoppages and strikes in the motor vehicles and parts sub-sector. A broader economic recovery depends on improving the operating environment in mining and manufacturing.

The pace of job creation lags behind growth in the labour force, contributing to persistently high levels of joblessness. The rate of unemployment declined to 24.1 per cent in the third quarter of 2013, from 24.5 per cent a year earlier. Between September 2012 and September 2013, the economy created 14 000 jobs in the formal non-agricultural sector. Job losses in mining and manufacturing were offset by gains in the community, social and personal services sector. Moderate employment gains are expected over the medium term. The private sector will continue to be the major contributor to job creation. The public sector will continue to support job creation through initiatives such as EPWP, CWP, Employment Tax Incentive, Jobs Fund, National Youth Service Programme and Skills development.

SAICA's view is that the 2014 Budget should have started the implementation of structural reforms to grow the economy and create jobs. To address unemployment BEMF proposed that government implements the Basic Income Grant to inject more funds in communities to stimulate demand and entrepreneurial initiatives among poor communities. This organisation suggests that government should promote the Green economy. It also recommended that more investment be made to low carbon economy by investing more into the public transport system, energy saving homes and buildings, encourage local food production and small scale organic farming initiatives.

FEDUSA remain concerned that the unemployment rate according StatsSA persists to be high at 24.7 per cent in the third quarter of 2013, with youth unemployment standing at 55 per cent. NUMSA is pleased with the announcement that the rollout of the infrastructure programme accompanied by programmes to support the local manufacture of components, ranging from buses to energy components in order to support this industry and create more decent jobs.

4. Fiscal policy and outlook

South Africa's fiscal framework is grounded in a sustainable, countercyclical approach to managing revenue and expenditure over the medium term. Government will balance continued support for economic recovery with fiscal consolidation. Key social and economic programmes will be maintained, complemented by efforts to improve value for money. Spending will be well contained over the medium-term.

The fiscal outlook for the years ahead is challenging. With the onset of the 2009 recession, government was able to use the fiscal space built in preceding years to support the economy. Low international interest rates made it relatively cheap for government to finance its borrowing requirement. Moderate domestic inflation limited cost pressures on public sector budgets and rising commodity prices supported government revenues.

The changed environment has significant implications for the fiscus. Rising global interest rates, rand depreciation and weaker commodity prices have significant fiscal implications. Projected debt service costs for 2014/15 are R5 billion higher than estimated in October 2013. Economic growth remains below potential and the fiscal space has been eroded by rising debt. The terms of trade deteriorated and are unlikely to improve over the medium term. A weaker outlook for commodity prices has contributed to a downward revision of estimated tax revenue in 2015/16.

Rand depreciation has led to rising cost pressures, including the compensation budgets. Compensation accounts for almost 40 per cent of consolidated non-interest expenditure. It is projected that over the next three years, this item would grow by 1 per cent on average. If inflation exceeds current forecasts, the purchasing power of budgeted allocations will decline, while compensation budgets will automatically increase in terms of current public sector wage agreement. The FFC cautioned that the three year wage bargaining cycle is coming to an end and that government should plan to ensure moderate growth over the medium term.

Government is committed to maintaining an explicit nominal expenditure ceiling, while preserving the value of the social wage; reducing the budget deficit to stabilise debt; and improving the quality of spending and reducing waste. The ceiling commits government to spending limits of R1.03 trillion in 2014/15, R1.11 trillion in 2015/16 and R1.18 trillion in 2016/17. Expenditure growth has been substantially reduced.

Countercyclical response to global economic crisis resulted in large budget deficit. The deficit remained persistently high as revenue and growth forecasts were repeatedly revised downwards. The budget deficit is expected to narrow from 4.0 per cent of GDP in 2013/14 to 2.8 per cent of GDP in 2016/17. The BEMF suggested that the budget deficit be reviewed and recommends that government should allow the budget deficit to increase to 6 per cent from the current 4 per cent. According to the Forum, the additional 2 per cent will inject more funds in the fiscus to fund long term social projects.

Net debt is projected to stabilize at 44.3 per cent of GDP in 2016/17. Government responded by limiting expenditure growth, trimming the departmental budgets and reducing the contingency reserve. The contingency reserve allocation is reduced by R3 billion and R4 billion in 2014/15 and 2015/16, respectively.

The FFC cautioned that reducing the contingency reserves further is likely to increase the risk of having too low reserves should South Africa experience any shocks. SAICA's view is that over the next two years, this will limit government's ability to accommodate unforeseeable and unavoidable expenditure and to fund emerging priorities. Reprioritisation will be the defining feature of the budgeting during such a period. SAICA's view is that wasteful expenditure should be reduced and that cost controls across government should be implemented.

SAIT also noted that an important progress has been made to reduce wasteful spending but more needs to be done, and that a substantive review of government spending is required. SAIT is of the view that linking government priorities to specific programmes in a more direct manner and holding responsible persons accountable for their actions is a necessity.

The 2014 Budget also maintains tight controls of goods and services budgets. Several steps had been taken to support spending efficiency including expenditure reviews and cost containment measures. BUSA welcomes the fact that real growth in public spending is forecast to increase from 2 per cent in 2013 to 2.8 per cent in 2014 and then reduce to 1.8 per cent in 2016.

4.1 Fiscal Framework

The 2014 consolidated fiscal framework estimates budget deficit of 4.0 per cent of GDP in 2013/14 compared with 4.2 per cent projected in October 2013. Stronger revenue growth and under spending by national departments, provinces and public entities led to a narrower deficit. The deficit is projected to narrow to 2.8 per cent in 2016/17 as the economic growth and revenue collection pick up pace. The FFC is of the view that the 2014 budget deficit reduction is aggressive relative to the October 2013 forecasts and that the reduction could be enough to avoid further downgrades to the sovereign credit rating.

The consolidated fiscal framework makes R1.25 trillion available for spending in 2014/15, R1.35 trillion in 2015/16 and R1.45 trillion in 2016/17 financial year. Expenditure growth has been substantially reduced. Revenue of R1 099.5 trillion in 2014/15, R1 201.3 trillion in 2015/16 and R1 324.7 trillion in 2015/16 financial year has been set aside. The fastest growing item of the main budget expenditure is debt service costs. Projected debt service costs for 2014/15 have increased by R5 billion since October 2013. This reflects exchange rate depreciation, higher inflation and the increase in interest rates by the Reserve Bank. Debt outlook remains sustainable and debt service costs stabilise in 2015/16, and begin to decline as a share of GDP.

SAICA noted that the fastest-growing item of main budget expenditure is debt-service costs and that the projected debt-service costs for 2014/15 have increased by R5 billion since the October 2013 Medium Term Budget Policy Statement. SAICA is of the view that this reflects exchange rate depreciation, higher inflation and the increase in the Reserve Bank's repurchase rate from 5.0 per cent to 5.5 per cent in January 2013.

Table 2: Consolidated fiscal framework, 2010/11 to 2016/17

Rand billion/ percentage of GDP	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
	Outcomes			Estimates	Medium-term estimates		
Revenue	**762.9**	**842.3**	**909.3**	**1 010.5**	**1 099.3**	**1,201.3**	**1 324.7**
	27.8%	28.3%	28.4%	29.2%	29.0%	28.9%	29.1%
Non-interest expenditure	804.7	871.4	951.7	1 041.6	1 131.1	1 218.1	1 306.5
	29.6%	29.4%	29.9%	30.3%	30.0%	29.5%	28.8%
Interest payments	75.3	81.7	93.5	107.7	121.2	133.5	145.1
	2.7%	2.7%	2.9%	3.1%	3.2%	3.2%	3.2%
Expenditure	**880.0**	**953.1**	**1 045.2**	**1 149.3**	**1 252.3**	**1 351.6**	**1 451.7**
	32.0%	32.0%	32.7%	33.2%	33.1%	32.6%	31.9%
Budget balance	**-117.1**	**-110.8**	**-135.9**	**-138.8**	**-153.1**	**-150.3**	**-126.9**
	-4.3%	-3.7%	-4.3%	-4.0%	-4.0%	-3.6%	-2.8%

Source: 2014 Budget Review, National Treasury

Budget 2014 projects total consolidated government revenue of R887.8 billion in 2012/13 (R16.7 billion less in taxes), R985.7 billion in 2013/14 (revised down from R1.005 trillion in October 2012) and R1.091 trillion in 2014/15 compared to R1.118 trillion previously predicted.Total consolidated budget revenue is expected to stabilise at 29 per cent of GDP over the medium term. Government's tax revenue is highly dependent on the developments in economic conditions globally and domestically.

Tax revenue has performed well in 2013, leading to an upward revision of consolidated current revenue by R11.4 billion, since October 2013. The depreciation of the Rand has boosted profits in some sectors, leading to buoyant corporate income tax receipts. Above inflation wage settlements have sustained personal income tax and strong imports have boosted customs revenue.

Compensation accounts for 39.5 per cent of consolidated non-interest spending in 2013/14, down marginally from a high of 39.7 per cent in 2011/12. Transfers and subsidies account for 29.9 per cent of consolidated non-interest spending. Capital spending is the fastest-growing component of non-interest expenditure over the three-year period, followed closely by capital transfers.

Over the medium-term cost containment measures will be vital to ensure fiscal discipline in government. Strengthening oversight in government spending will play a key role in ensuring efficiencies and value for money. As part of strengthening oversight, National Treasury in partnership with the Department of Monitoring and Evaluation has launched a series of expenditure reviews to provide greater understanding of performance and identify ways to improve value for money.

Procurement reforms, through the office of the Chief procurement Officer, will be necessary to simplify procurement procedures, strengthen accountability and improve government's ability to detect corruption and maladministration. Improved service delivery will be achieved through efficient and effective spending of resources.

NUMSA welcomed proposals to establish a Chief Procurement Office and the establishment of the Parliamentary Budgetary Office (PBO), which will assist Parliament in ensuring that fiscal policy is aligned to government's five priorities of education, health, rural development and agrarian reform, taking forward the fight against crime and creating decent work. NUMSA further recommended that given the tight financial situation the country finds itself in, the Minister's proposals to combat excessive consultancy fees should be reinforced by a thorough evaluation of all projects

The Manufacturing Circle expected the National Treasury to announce, amongst others, a full fiscal review, support for innovative industrial policy to help dynamic local manufacturers to grow and enforcement of local procurement to grow the market for manufactured goods. The Manufacturing circle also expected an announcement of initiatives to cut administered costs to enhance manufacturing competitiveness. These measures are necessary to ensure that infrastructure maintenance and provisioning is funded, financed and costs are recouped efficiently; that price setting regulations and discount options for energy and other utilities are on par with competitor economies.

BEMF proposed that to fight corruption and poor financial management the government should implement Auditor Generals recommendations and use Municipal Finance Management Act (MFMA) and Public Finance Management Act (PFMA) to ensure those found guilty of corruption are held responsible.

Expenditure to GDP is estimated at 33.0 per cent in 2014/15, narrowing to 31.9 per cent in 2016/17. The wage bill has been one of the major concerns in government expenditure over the past year. The Minister of Finance, National Treasury and Parliament have put more emphasis on government departments to ensure that their personnel are within budget. Slower wage bill growth and robust expansion of capital budgets will result in a moderate improvement in the composition of spending by 2016/17. BUSA sees the limited government wage bill reduction as prudent given the above inflation increases in the past years and urges government to instil discipline in negotiating increases.

The FFC welcomed and noted the idea of setting an expenditure ceiling as effective in controlling expenditure and maintaining stability. In light of this, the Commission proposed that government should complement these with research on the scope of the ceiling, setting of the precise level of the ceiling and the assessment of government performance at all spheres against the ceiling and progressive realisation of constitutional mandates. In addition to that government should put the ceiling approach in legislation such PFMA and MFMA.

SAICA noted the Minister’s observation that in order to maintain the expenditure ceiling, additional allocations to priority areas and upward adjustments to the public-sector wage bill have been achieved through reprioritisation across departments.

4.2 Fiscal sustainability

Government's net debt as a share of GDP continues to grow, but is expected to level off at 44.3 per cent of GDP in 2016/17. Global interest rates are expected to rise but domestic rates on new debt issuances remain low by historical standards. Total government gross debt as a percentage of GDP reached 45.8 per cent in 2013/14, which is the highest level since the 1998/99 financial year. Gross foreign debt however remains low at 4.3 per cent of GDP. About 90.7 per cent of gross government debt is long dated domestic debt, which lowers the overall risk profile of government debt. As debt stabilises, government is committed to rebuilding fiscal space by reducing the ratio of government debt to GDP.

Government plans to rebuild fiscal strength and reduce public debt in order for the fiscus to respond well to any negative global economic shocks. Strong public finances would also enable government to invest more on social services and infrastructure. This will be done by reducing spending on debt servicing by reducing government's net debt position over time and switching to longer dated debt instruments. South Africa's debt stability will depend on increased economic growth, as well as fiscal balance and restraint. Sound fiscal policies and improved economic growth will enable proper debt servicing and stability, thus enabling the government to channel funds to priority service delivery areas.

Numerous factors impact directly on increasing government debt. These include a weaker rand exchange rate that has pushed the value of foreign debt up; an increase in inflation that has led to an increase in the value of inflation linked debt; and the deterioration in economic growth has also increased the debt-to-GDP ratio. All these factors will impact directly on the countries' ability to reach its objective to stabilise debt in the outer years of the MTEF.

During the 2013/14 MTBPS, total gross national loan debt was estimated at R1.5 trillion and was expected to grow by more than 30 per cent as a percentage of GDP over the MTEF, while gross foreign debt was expected to increase by more than 5 per cent as a percentage of GDP over the next three years.

Total public sector debt stood at 57.3 per cent of GDP in 2012/13 and it is expected to grow more slowly over the medium term. The public sector borrowing requirement is estimated at R227.2 billion or 6.6 per cent of GDP in 2013/14. The main budget deficit declines over the medium term, borrowing by state owned companies is projected to decline while local government borrowing remains low. Public sector borrowing requirement is expected to narrow to 4.3 per cent of GDP in 2016/17.

SAICA's main concern is that South Africa's debt is expected to increase from the 39.7 per cent for the 2013/14 year to 41.9 per cent in the 2014/15 year. Having noted that the fastest-growing item of main budget expenditure is debt-service costs, SAICA's view is that the key for stability is that South Africa's sovereign credit rating does not move downwards.

The costs of servicing government debt are influenced by the volume of debt, new borrowing and market variables such as interest, inflation and exchange rates. Debt service costs continue to grow over the medium term. The domestic bond market will remain the primary source of debt funding.

Risks to the fiscal outlook include economic uncertainty and a new round of public sector wage negotiations. If inflation remains stable, faster growth would enable government to attain its fiscal objectives. Deterioration in the economic outlook would require government to consider additional expenditure and revenue measures to ensure fiscal sustainability. Growth in employee compensation has slowed over the past two years but higher than expected inflation would add to the wage bill. A further deterioration in the inflation outlook, would add additional pressure on the budget.

5. Revenue trends and tax proposals

5.1 Revenue trends

South Africa has built a progressive tax system founded on the principles of equity, efficiency, simplicity, transparency and certainty. Consolidated budget revenue consists of tax revenue net of Southern African Customs Union transfers, departmental revenue, mineral royalties, social security fund revenue and provincial and public entity own revenue.

Total tax revenues have remained buoyant in 2013/14 and the revenue estimate presented in last year's budget has been revised upwards by R1 billion. Nominal total tax revenue declined from 27.6 per cent of GDP in 2007/08 to 24.4 per cent in 2009/10 as a result of the 2009 recession. Tax revenue is expected to recover to 25.9 per cent of GDP in 2013/14, supported by strong growth in corporate income tax and customs duties. Nominal total tax revenues are estimated to grow at an average of 10.4 per cent per year over the medium term, reaching 26.5 per cent of GDP in 2016/17. Optimistic tax revenue collections, however, depend on improved tax compliance and strong economic growth.

The revised tax revenue estimate is R85.2 billion or 10.5 per cent higher than actual tax revenue in 2012/13, and R4 billion above the estimate presented in the October 2013 Medium Term Budget Policy Statement. The marginal upward revision for 2013/14 compared to the 2013 Budget is the result of strong growth in corporate income tax and customs duty revenues, revised upwards by R7.1 billion and R3.2 billion respectively. Revenue has been revised marginally downwards in 2015/16, reflecting a weaker economic outlook.

This is the first time since the 2009 recession that nominal corporate income tax revenues will exceed the 2008/09 peak of R165.5 billion. Personal income tax has also been revised upwards by R2.7 billion compared with the 2013 Budget estimates. This positive performance has been offset by downward revisions in dividends tax revenue (R5.9 billion), VAT (R3.7 billion), the fuel levy (R1.7 billion) and excise duties (R2.3 billion). Fuel levy revenues have been revised downwards mainly due to increased diesel refunds. Mineral royalties are expected to generate R6.5 billion, about R600 million above the estimated amount.

PwC noted that tax revenue as a percentage of GDP continue to rise and are projected to continue to rise towards the 2007/08 peak of 27.6 per cent over the medium term. It cautions that a continued rise in the level of taxation may not be sustainable in the long term and that ideally the level of taxation should be reduced over time to promote economic growth. Contrary to PwC's views, BEMF recommends that tax revenue as a percentage of GDP should be increased to 30 per cent to raise additional revenue.

5.2 Tax proposals

Tax proposals for the 2014 Budget continue to prioritise economic growth, job creation and generating sufficient revenue to finance government spending in line with the National Development Plan (NDP) objectives of expanding the economy and reducing unemployment.

The main tax proposals for 2014/15 include:

- Personal income tax relief of R9.3 billion;
- Measures to encourage small enterprise development;
- Clarity on valuation of company cars for fringe-benefit tax purposes;

- Reforms to the tax treatment of the risk business of long-term insurers;
- Amending the rules for VAT input tax to combat gold smuggling;
- Increases in fuel and excise taxes;
- Measures to address acid mine drainage; and
- Adjustment of the proposed carbon tax and its alignment with desired emission-reduction outcomes to be identified by the Department of Environmental Affairs.

Direct taxes on Individuals

Personal income tax relief compensates for the effects of inflation, which pushes some individuals into higher tax brackets. About 69 per cent of taxpayers have taxable incomes below R250 000 per year. This group will receive 39 per cent the total amount of tax relief that arises from the increase in the rebates and income tax brackets. Other direct taxes on individuals include medical tax credits, tax preferred savings accounts and retirement savings reforms. Retirement fund taxation reforms provide additional relief and encourage savings, while tax preferred savings account is a measure to encourage household saving.

SAIT commended the Minister of Finance for reinforcing the need for individual retirement savings and look forward to more information to be released around the tax efficient savings vehicles to be implemented in 2015. SAIT is, however, disappointed that annual interest exemption has not been increased especially considering the recent increase in the interest rates.

SAICA indicated that whilst the income tax brackets were adjusted, not enough was done to compensate for wage inflation in the mining, manufacturing, construction, retail, logistics, and finance sectors. This resulted in individual tax burdens creeping up slightly.

Ernst & Young is grateful that the Minister of Finance did not increase tax rates for individuals, but cautions that the economy need revenue for the increasing funding needs and that expenditure must be brought under control if this trend is to continue. FEDUSA and the PwC also welcome Personal income tax relief of R9.3 billion that was granted to individuals and noted that this relief was relatively evenly distributed across taxpayers at all income levels and essentially compensated for the effects of inflation.

SAIT is of the view that encouraging foreign investment is one of the key aims of the NDP as foreign direct investment activities will assist in broadening the South African tax base as well as stimulating employment. SAIT is concerned that a high corporate tax rate is unlikely to encourage this type of investment, and although South Africa has reduced its company tax rate over the last few years, global trends suggest that the rate is still relatively high compared to other countries.

PwC supports the Retirement savings reforms proposed in a form of revisions to the retirement fund lump-sum withdrawal tables as these changes will effectively promote retirement savings and the benefits that flow there from. However, they are disappointed that no adjustments to the monetary cap of R350 000 on deductible contributions to retirement funds were proposed. For that reason, PwC views the monetary cap as a discouragement to retirement savings and will act as an absolute limit that individuals contribute to retirement funds.

SAICA is of the view that the review of the tax-preferred savings accounts, first mooted in the 2012 Budget Review as a measure to encourage household savings, will proceed, but unfortunately the budget provides no information other than what was previously announced. SAICA believes that tax free savings accounts should be implemented with effect from 1 March 2014.

Ernst & Young welcomes the introduction of a tax friendly savings regime for individuals (tax preferred savings accounts and also in support of the last year's legislative attempts steps to unify the retirement regime with revised percentage limits. Ernst & Young views 40 per cent taxable limit for interest deductions for foreign owned SA subsidiaries as problematic, and should be addressed despite silence in the budget. The proposed implementation date of January 2015 should be changed. PwC also support the tax preferred savings and investment accounts but advocate that consideration be given to increasing the annual and lifetime contribution limits in order to further incentivise savings.

Metope Investment Managers noted new amendments to tax that further define equity and debt instruments and understand the rationale behind proposed amendments, however, these amendments might have unintended consequence to Property Fund Industry. This was acknowledged in the relief given, but only to the big players.

According to Metope Investment Managers, flow through of income principles is important in the Property Industry for a number of reasons, amongst others; it enables pension funds to invest in property funds which encourage savings and investment in income generating assets. Very importantly, removing flow through of income principles will make property a relatively unattractive investment class. This is important for South Africa, because increasing its property market size will increase liquidity in the sector and attract foreign investment. This in turn will result in funding of new developments and greater infrastructure development for the country.

According to the Unlisted Property Funds Working Group, the negative impacts of Section 8F (3)(d)(i) and 8FA(3)(d)(i) are: elements of protectionism which might crowd out smaller businesses or funds; existing players seriously may be affected by these changes; existing investors who may have geared themselves, may no longer offset income earned against interest payable and that in the current environment incubator funds it is very difficult to set up and bring to market/listing.

Metope Investment Managers proposed that the government should level the playing field between pension funds and non pension fund investors and remove clause 8F(3)(d)(i) and 8FA(3)(d)(i) from the Act. In the interim, this Group gives its undertaking to work hard to find a mutual satisfactory way of keeping the flow through of income principle for unlisted investors with appropriate regulatory rules to maintain the required protection for investors.

Direct taxes on businesses

Direct taxes on businesses include small and medium enterprise development, employment tax incentive, debt reduction rules, Public-private partnerships, long term insurance risk policies and foreign reinsurance. Government wants to encourage entrepreneurship through small and medium enterprise development as a way of growing a sustainable economy. Accordingly, government provides tax relief to foundations that promote entrepreneurial development through grants, make grants received by small and medium sized enterprises income tax exempt and enhance the flexibility of the venture capital company regime.

SAICA believes that, from an economic perspective, small businesses are an essential part of South Africa and should be developed and encouraged while at the same time keeping it simple. A long standing view of SAICA is that the tax administrative and compliance obligations of small businesses are burdensome. SAICA therefore welcomes the fact the budget review acknowledges that red tape and bureaucracy are hindrances to doing business, especially for small and medium-sized firms, and that government aims to streamline the regulatory regime.

SAICA also acknowledges that small businesses find it difficult to obtain finance in general and acknowledges the introduction of reforms that would reduce compliance costs and facilitate access to equity finance. SAICA also agrees with the view of the Tax Review Committee that the lower tax rates for small business corporations do not address tax compliance costs, and is pleased to see this being subject to public consultation.

SAIT noted that small businesses are the engines of job creation, but despite this sector's critical role in the economy, it is concerning that this sector faces various challenges such as the regulatory and legislative burden imposed on them in the form of tax legislation. SAIT welcomes the exemption of grants received by small and medium-sized enterprises, regardless of the source of the funds.

PwC welcomes relief for small businesses from both a tax burden and tax administration perspective but caution that other significant barriers remain, most notably in the form of red tape and labour rigidity.

BUSA supports the shale gas initiatives, less carbon intensive electricity production, water related infrastructure spending and tax measures recommended by the Davis Committee to promote SMMEs.

With regards to the imported e-commerce, Ernst & Young notes that foreigners providing local e-commerce services will be required to register for VAT but support the amendment related to individual consumers and business to business as the services would be zero rated.

Government introduced the employment tax incentive on 01 January 2014 to help reduce youth unemployment. Government will monitor implementation of the incentive and may if necessary strengthen measures to protect workers from practices that abuse its intent.

The Manufacturing Circle does not support the exclusive design of the Special Economic Zones (EPZs) and is of the view that the incentives should be extended to all compliant manufacturers to avoid market distortion and to enhance overall economic competitiveness. BUSA sees promotion of EPZs as a way that accelerates growth in these sectors and proposes that government expedites the legislative process and extend EPZs to existing plants to encourage expansion of domestic investment and exports. BUSA welcomes the employment tax incentive and the reasonable intake of this in January 2014.

SAICA and PwC proposes that the refund system related to the employment tax incentive become effective as soon as possible as opposed to during the fourth quarter of 2014 and be expanded to the EPZs and specific sectors. SAICA welcomed the government plans to expand the programme in the years ahead. SAIT acknowledges that the benefit of the employment tax incentive is really meaningful for the small business sector and welcomes the incentive.

FEDUSA welcomes the Incentive and hope this is a step towards decreasing unemployment as it offers employers incentives to hire people between the ages of 18 –29 years. The Federation encourages government to design the tax incentive scheme for Special Economic Zones with great care to avoid unintended consequences. BEMF is of the view that employment tax incentive is a tax cut to big business and will not contribute to increasing overall employment.

Indirect taxes

Tax proposals on indirect taxes include increases in excise duties on alcoholic beverages and tobacco products, inflationary adjustments to fuel taxes, measures to address acid mine drainage and a comprehensive policy package to address climate change and amending VAT rules to combat gold smuggling.

BEMF suggested that initiatives to reduce tax avoidance should be strongly supported by government. In addition to that the government should increase the number of basic goods which are VAT zero-rated and subject luxury goods to higher rate of VAT.

Government proposes to increase the excise duties on alcoholic beverages by between 6.2 per cent and 12 per cent in 2014. The specific excise duty rate for traditional African beer will remain unchanged. Government proposes to maintain this benchmark by increasing the excise duties on tobacco products by between 2.5 and 9 per cent.

Government proposes to limit the increase in the general fuel levy in line with inflation in 2014/15. PwC supports this decision. The proposed increase of 12c/litre is less than the increase applied in 2013/14. The proposed increase for the Road Accident Fund levy of 8c/litre is equal to the adjustment in 2013/14.

Regulatory and other measures have been put in place to address the serious environmental consequences of acid mine drainage. To complement current efforts and ensure that the mining sector makes a fair contribution to continuing acid mine drainage expenses, consultations will be initiated with all interested parties on the best mechanism to use, such as an environmental levy or equivalent instrument.

National Treasury and the Department of Environmental Affairs agree on the need to align the design of the carbon tax and the proposed desired emission-reduction outcomes. To allow for this process and ensure adequate time for consultation on draft legislation, implementation of the carbon tax is postponed to 2016. BUSA and PwC welcome the Minister's decision to delay implementation of the carbon tax for further consultation as a sensible one in the current circumstances.

SAIT notes that innovation is an important factor to stimulate economic growth and combat unemployment. According to SAIT, It was evident from the budget speech that there was limited support by Government to the private sector in the form of R&D tax deductions and R&D grants.

PPC recognises the need for a predictable and gradual transition to a climate change resilient economy in South Africa and supports South Africa's national and international climate change objectives and obligations. However the proposed carbon tax, in its current form, presents PPC with the following key areas of concern:

- Timing of the implementation
- Structure and design of the tax formulation
- Issues of clarity and certainty, and
- Differentiating the cement industry from other economic sectors

PPC argues that the Carbon Tax is premature due to the adverse economic impact it will have on industry in the country, especially given the current emerging market circumstances.

The carbon tax, as structured currently, will negatively impact PPC's profitability. Initially PPC may be able to pass the cost of the carbon tax onto the consumer. However this will not be sustainable in the long run because the carbon tax will make PPC's products uncompetitive against imports from countries that do not impose carbon taxes. This will result in the company eventually having to absorb the cost of the carbon tax which may ultimately severely impact the PPC's profitability and the viability of the business to operate.

PPC believes that the opportunity arising from the delay in implementing the carbon tax until 2016 must be utilized as an opportunity for robust and constructive stakeholder engagement and consultation. This is imperative in order to ensure that the carbon design, alignment and enabling legislation is sound and effective for differentiated sectors such as cement. Effective Border Exchange controls related to the import of cement from countries that do not impose a carbon tax are absolutely necessary to protect coastal manufacturing sites from unfair competition.

Tax administration

Over the next few months, a newly designed case sourcing system will be rolled out to improve internal efficiencies and compliance. Addressing non-compliance within the tobacco industry remains a priority. During 2013, 15 entities were identified as non-compliant with up to R1 billion worth of tobacco/cigarettes seized. Twelve criminal cases are being pursued. Consequences for non-compliance will result in withdrawal of licences and more inspections.

National Treasury will conduct research, over the next two fiscal years, on effective tax rates for companies in different sectors; review of the VAT zero-rating provision for housing subsidies to eliminate practical anomalies; review of how educational services and public transport are treated for VAT purposes; review of the sustainability of the local government fiscal framework; and a review of the taxation of cooperatives.

The FFC supports the establishment of the Davis Tax Committee to review the country's tax system as well as the range of environmental instruments under consideration. PwC had concerns with the alignment of unemployment insurance benefits and contributions, no adjustments to the monetary cap on deductible contributions to retirement funds have been proposed and there was no reference to the status of the proposed gambling taxes taxation of trusts in the 2014 Budget. PwC has also raised concerns about significant loss of resources in the legal tax unit at the National Treasury.

6. Committee discussions and observations

Having considered the 2014 National Budget and public submissions, the Committee observed the following observations from stakeholders, and furthermore the Standing Committee on Finance amongst others, observed the following:

6.1 The FFC proposal that to achieve the projected economic growth need to be achieved in order to dispel the negative view of the Credit Rating Agencies, the government must address the leadership in labour markets, improve skills and education;

6.2 The Committee wanted to know if the FFC had any interactions with the advisory bodies such as the Parliamentary Budget Office and requested the FFC's view on the PBO and how it can advance its support to Parliament. The Commission indicated that it has been assisting the PBO in building capacity and that its difficult to find suitable candidates with the relevant skills and that it will take long for the office to be fully functional based on the Commission's own experience;

6.3 The FFC's support of the NDP's assertion that 10 per cent of GDP should be spent on growth, given the positive economic relationship that exists between GDP growth and infrastructure spending. The Commission cautioned about the weaknesses in implementing the infrastructure programme;

6.4 It is the FFC's responsibility, amongst others, to ensure the allocation of resources, but lack of capacity hindered this and asked for the Commission's intervention. The Commission view problems at local government as structural in nature, requiring human resources with the right skills to address;

6.5 The FFC's view on contingency reserves and debt forecasts as a percentage of GDP beyond three years is that it is concerned that in an event of shocks, the country would not have a buffer given the level of reserves. According to international standards, debt optimality can reach 60 per cent as a percentage of GDP, therefore SA at 44 per cent, is lower; Furthermore, fiscal deficit narrowing is not sufficient, the economy should grow beyond 3 per cent to stabilize debt level to pre-crisis level;

6.6 NUMSA's view on Credit Rating Agencies that the country should not panic and should not make use of them as these agencies tend to hold South Africa ransom. The Committee indicated that Credit Rating Agencies price the countries debt, and therefore are needed;

6.7 State owned entities money had not been spent according to the 2014 Budget Review. The Committee raised the issue around the degree of under spending and whether it was as a result of labour unrests and contractors.

6.8 NUMSA has social responsibility and could assist government to become more productive. NUMSA's view was that the backlog on infrastructure cannot just be blamed on the Union;

6.9 Manufacturing Circle is concerned about the Rand's strength or volatility and that the exchange rate volatility is but one of the problems that the sector faces;

6.10 Metope Investment Managers proposal to get the smaller investors into the big property market, which is that a framework be created for unlisted investors, with rules, to protect the smaller investors;

6.11 The difference between listed and unlisted investors in terms of business is that whilst listed investors enjoy benefits such as power to get finance at good rates, amongst others, the unlisted investors have no such advantages;

6.12 The Budget Expenditure Monitoring Forum (BEMF) proposals include transition tax, increased in social infrastructure, social solidarity tax, increasing taxation as a percentage of GDP, given the impact that these may have on the economy. The Committee further encouraged the Forum to attend the individual budget vote meetings in the fifth Parliament to raise their concerns;

6.13 PwC's view regarding the proposed carbon tax, tax relief and tax incentives for SMMEs and that there were no tax provisions to support growth. PwC indicated that:

- A reform of the tax structure in terms of the level of taxation and tax mix is necessary;
- Personal Income Tax, Corporate Income Tax and the tax structure is out of sync with the international norms;
- There is a need to shift taxes away from income to consumption;
- It is not against the carbon tax but believe that a tax is not the only solution that government should explore;

- o With regard to personal income tax relief, PwC expected partial relief and is of the view that the surprise revenue collection from Corporate Income Tax led to the relief;
- o As far as it is concerned, the employment tax incentive is not available to SMMEs because if PAYE is not available therefore, the incentive is not applicable.

6.14 PwC's concern about the number of vacancies at the National Treasury's legal tax unit following 10 resignations of staff at senior level;

6.15 FEDUSA and BEMF's concern that the 2014 budget is not gender sensitive. FEDUSA indicated that the budget should have addressed gender based violence and that the European Union utilizes a toolkit to determine whether the budget is gender blind or sensitive;

6.16 SAICA's view on the contingency reserve is that given than only R4 billion had been set aside for the current financial year, SA is exposed to shocks. There is also a concern that these targets won't be met and proposed that government should cut government expenditure, reduce corruption and address wasteful expenditure;

6.17 Ernst & Young's view on e-commerce (making registration a minimum requirement) and the number of users registered for turnover tax (10 000);

6.18 SAIT's view that VAT be increased above 14 per cent and to compensate for the poor, some basic items could be zero rated;

6.19 The Committee observed that the recommendations made by the Tax Review Committee had been incorporated into the 2014 Budget; and

6.20 The Committee further noted that the bargaining cycle at the Public Service Cordinating Bargainig Council (PSCBC) for government employees is coming to an end relating to remuneration for public servants.

7. Recommendations

Having considered the 2014 Fiscal Framework and Revenue Proposals and conducted public hearings, the Standing Committee on Finance recommends that the House **accepts** the 2014 Fiscal Framework and Revenue Proposals.

The Standing Committee on Finance further recommends as follows:

7.1 National Treasury should brief Parliament on a quarterly basis on the Employment Tax Incentives and monitor the implementation of this incentive to identify any unintended consequences. National Treasury should share with Parliament some achievements of this incentive (since it was promulgated into law) as well as detailed progress made into the incentive;

7.2 The Minister of Finance should develop further measures to enhance and monitor the implementation of entrepreneurship, SMME development and sustainability, increasing black participation in this sector, given the potential of small businesses to create jobs;

7.2 The Minister of Finance, together with other relevant government departments, should prioritise the implementation, monitoring and evaluation of programmes that target job creation;

7.4 The Minister of Finance should report on the reduction in core spending plans, including financing new policy initiatives from savings, efficiency gains and reprioritisation over the next three years; analysis of personnel spending and phasing out of projects that are ineffective or no longer aligned with policy priorities. This report should be submitted within 90 days of the adoption of this report by the House;

7.5 The Minister of Finance should report on government's need to continue its strong focus on rooting out corruption, improving the efficiency and effectiveness of public spending and enhancing accountability of public officials with respect to performance. This report should be submitted within 90 days of the adoption of this report by the House;

7.6 The Committee noted the expenditure review process and recommends that in addition to that, National Treasury should enhance Monitoring and Evaluation programmes in departments to track progress made in achieving government objectives at policy level and report to Parliament;

7.7 National Treasury should encourage other government departments to assess the relevance of their programmes in terms of their efficiency and effectiveness in achieving intended policy objectives and also consider discontinuing some and introducing new programmes;

7.8 The Committee supports the implementation of cost containment measures and recommends that these measures are enforced in provinces and municipalities to encourage other innovative means to contain expenditure synchronised with improved service delivery. National Treasury should ensure that these measures are enforced and should report to Parliament within 90 days of the adoption of this report by the House;

7.9 The Committee noted significant progress regarding the appointment of the Chief Procurement Officer in the National Treasury, and the role played by National Treasury in combating corruption. However, the establishment of this directorate should be accelerated;

7.10 National Treasury should strengthen support to local government to ensure successful rollout of infrastructure and improved oversight. National Treasury should furthermore share with the House the impact of its established partnership with the Department of Monitoring and Evaluation on expenditure reviews to ensure greater understanding of performance and value for money;

7.11 SARS and National Treasury should simplify the process in order to fast-track registration for VAT on e-commerce services and ensure all businesses in this sector are registered as required by law;

7.12 National Treasury should provide Parliament with an analysis of infrastructure spending as a percentage of GDP over the medium term and, where possible, for the years beyond the MTEF. This analysis should be submitted within 90 days of the adoption of this report by the House;

7.13 National Treasury should provide Parliament with an update on the timeframe for the final implementation of the Special Economic Zones, including all tax incentives that have been announced for these zones. This report should be submitted within 90 days of the adoption of this report by the House;

7.14 National Treasury should report back to Parliament on the budgeted surpluses in the Unemployment Insurance and Workers Compensation Funds and the options for handling them. This report should be submitted within 90 days of the adoption of this report by the House;

7.15 The Minister of Finance should ensure that National Treasury and SARS are adequately resourced, and should report to the House on the vacancies and measures available to fill critical positions specifically within the legal drafting unit. This report should be submitted within 90 days of the adoption of this report by the House; and

7.16 SARS should ensure that the 2014 Taxation Laws Amendment Bill makes provision for an increase in tax deductable for employees from the announced R350 000 annual ceiling, as contained in the 2013 Taxation Laws Amendment Bill.

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Report to be considered.

National Council of Provinces

1. REPORT OF THE SELECT COMMITTEE ON FINANCE ON THE 2014 FISCAL FRAMEWORK AND REVENUE PROPOSALS, DATED 5 MARCH 2014

1. Introduction

The Minister of Finance tabled the 2014 National Budget before Parliament on 26 February 2014 in line with section 27 of the Public Finance Management Act (PFMA), (Act 1 of 1999) and section 7(1) of the Money Bills Amendment Procedure and Related Matters Act 9 of 2009 (the Money Bills Act). Section 7(2) of the Money Bills Act requires the Minister to include, among other information, the proposed Fiscal Framework and Revenue Proposals in the tabled Budget.

According to section 8(3) of the Money Bills Act, the Standing and Select Committees on Finance must, within 16 days after the tabling of the Budget, report to the National Assembly (NA) and the National Council of Provinces (NCOP), respectively, on the proposed Fiscal Framework and Revenue Proposals. The Fiscal Framework gives effect to the national executive's macro-economic policy and includes; estimates of revenue, expenditure, borrowing, interest and debt servicing charges and an indication of the level of contingency reserves.

After the tabling of the Budget on 26 February 2014 and the engagement with the Minister of Finance on 27 February 2014, the Finance Committees jointly held public hearings on 04 March 2014. Submissions were received from National Union of Metalworkers South Africa (NUMSA), Federation of Union of South Africa (FEDUSA), South African Institute of Tax Practitioners (SAIT), South African Institute of Chartered Accountants (SAICA), PriceWaterHouse Coopers (PwC), the Manufacturing Circle, Business Unity South Africa (BUSA), the Financial and Fiscal Commission (FFC), Budget and Expenditure Management Forum (BEMF), Ernst & Young Advisory Services (EY), Metope Investment Managers and PPC manufacturers.

This report summarises the economic outlook; fiscal framework; revenue trends and tax proposals; government debt financing and the key issues emerging from the public hearings with the above-mentioned stakeholders.

2. The 2014 National Budget overview

The 2014 Budget reflects on some of government achievements over the past two decades, acknowledges the challenges that lie ahead and proposes plans to address these challenges. Key amongst the achievements is the sound institutional framework, which includes the Offices of the Public Protectors, Auditor General, the South African Reserve Bank, the Independent Electoral Commission and effective and independent courts. Strides had been made in providing access to education, housing, water, electricity, sanitation and other basic services. The challenges remain persistently high levels of unemployment, poverty and inequality. The economy continues to grow below potential and some of the basic services delivered are uneven and of poor quality. Government has adopted the National Development Plan (NDP) as its long term framework for economic growth and social development. The plan guides the allocation of public resources and recognises the need to diversify the economy, raise export competitiveness and partnerships to overcome some of the challenges identified.

Governments' budget priorities include investment in infrastructure, youth employment and improved service delivery. Examples of NDP priorities that are directly funded and supported over the medium term include building on existing partnerships; Community Works Programme (CWP); support for smallholder farmers and small, medium and micro enterprises; detailed expenditure reviews across government; employment tax incentives, Expanded Public Works Programmes (EPWP), Special Economic Zones (SEZs) and public infrastructure investment.

The global economy is not yet on the path to sustained recovery. World economy gathered momentum in the second half of 2013, led by a recovery in the advanced economies. The recovery in the US has prompted the US Federal Reserve to taper its quantitative easing programme. Growth in Europe, South Africa's major trading partner, remains subdued. Growth in emerging market and developing economies remain robust. Increased financial market and capital flow volatility remain a concern given recent US tapering.

Government's prudent macroeconomic framework cushioned the South African economy against the global economic turmoil and enabled it to continue growing. Fiscal imbalances remain but output and employment have returned to pre-crisis levels. Public finances appear sustainable and debt levels appear manageable over the medium term. A widened current account deficit remains a concern until exports increase and investment flows strengthen. The flexible exchange rate regime that South Africa adopted has helped to absorb the external shocks, amongst other things. The inflation outlook has deteriorated and rising interest rates will increase the cost of borrowing.

Given the risks that emerged, government is maintaining its expenditure ceiling, with no additional funds added to total spending. The proposed 2014 Budget framework makes provision for R1.25 trillion rand in the 2014/15. The Budget emphasises the need to contain costs and improve efficiencies across government. The framework balances continued growth in spending and fiscal consolidation. It is expected that the spending reviews and forensic investigations will help to cut waste and increase efficiency across all spheres of government.

South Africa’s fiscal framework remains grounded in a sustainable countercyclical approach to managing revenue and expenditure. The budget deficit is expected to narrow in 2013/14 as a result of government’s expenditure ceiling and strong revenue collections. Tax proposals for the 2014 Budget continue to prioritise economic growth, job creation and generating sufficient revenue to finance government spending.

3. Economic outlook

3.1 Global economic developments and outlook

According to the International Monetary Fund (IMF) global economic activity and world trade strengthened in 2013, particularly in the United States (US) and the United Kingdom (UK). The key drivers of improved activity had been attributed to export rebound in emerging market economies and higher inventory demand in developed economies. Global economic growth registered 3 per cent in 2013.

The IMF expects global growth to increase from 3.0 per cent in 2013 to 3.7 per cent in 2014, averaging 3.9 per cent in 2015, largely on account of recovery in advanced economies. The outlook for the Euro zone remain fragile and uneven, particularly economies in the periphery where the risk of deflation, strong fiscal consolidation and weak banking sectors are constraining the recovery. Growth in the Euro area is projected to strengthen to 1 per cent in 2014 and 1.4 per cent in 2015. Recovery will be uneven, with more modest growth for economies under stress held back by high debt and financial fragmentation.

The United States is expected to grow at a rate of 2.8 per cent in 2014, up from 1.9 per cent in 2013 and growth is projected at 3 per cent in 2015. Growth will be supported by final domestic demand and in part by a reduction in the fiscal drag as a result of the recent budget agreement. The US growth is being driven by a recovery in the housing market and robust private sector demand.

Growth in emerging markets is expected to increase to 5.1 per cent in 2014 and 5.4 per cent in 2015. Economic activity in sub-Saharan Africa remains robust, having averaged 5.1 per cent in 2013, with growth projected to increase to 6.1 per cent in 2014 and moderate slightly to 5.8 per cent in 2015.

The US Federal Bank has begun the process of cutting back in quantitative easing, signalling a recovery in the US. These developments have implications for emerging market and developing economies such as sharply depreciating currencies, capital outflows, slowing growth, rising inflation, significant current account and fiscal deficits and the deteriorating confidence.

Recovery in advanced economies will translate into moderately higher demand for South African exports. Slowing growth in China and its shift away from investment led growth may lower the prices of South Africa's commodity exports. Volatile capital flows have contributed to Rand depreciation, putting upward pressure on inflation. South Africa's net portfolio flows fell to R24.3 billion in 2013 compared to R88.8 billion in 2012.

Increased financial market and capital flow volatility remain a concern in emerging economies, given the US tapering in early 2014. There is a need to manage the risks of potential capital flows reversal. Economies with domestic weaknesses and larger current account deficits appear particularly exposed. Some of these risks could have implications for the South African economy through trade, capital flows and currency volatility. Domestic risks include further delays in introducing new infrastructure, protracted labour disputes and more pronounced inflationary pressures associated with the depreciation of the Rand.

Major risks to the global economic outlook are the reduction in US monetary stimulus; high debt levels in China, the rising level of government debt in Japan, very low inflation in advanced economies, particularly the Euro area and high current account and fiscal deficits in a number of emerging markets.

Despite the expected strengthening of activity, global priorities remain ensuring robust growth and managing vulnerabilities. Given these risks, monetary policy stance should stay accommodative while fiscal consolidation continues (IMF 2014). The FFC sees the Budgets 2014 subject to the Euro area sovereign debt crisis, the US fiscal cliff and quantitative easing by the Federal Reserve and slowing emerging markets growth.

3.2 South African economic performance and outlook

The domestic economy is growing at a moderate pace but continues to perform below its potential. Over the medium term, new power plants and transport infrastructure will lift constraints to output; stronger global recovery will support exports and growth in sub-Saharan Africa will promote expanded trade and investment. The macroeconomic framework is resilient, supported by healthy public finances. Gross Domestic Product (GDP) growth is projected to improve from 1.9 per cent in 2013 to 2.7 per cent in 2014 and to 3.5 per cent in 2016.

The FFC proposes improvements in skills and education, investment in Research and Development (R&D) to unlock growth potential. The Commission further proposed that in order for government to address the negative sentiments of credit rating agencies, the economic growth rates set should be achieved. This could be achieved through full and effective implementation of the infrastructure programme and stabilising the public debt to GDP trend.

The Manufacturing Circle is of the view that growth imperatives and stabilisation of debt in 2016/17 will be manageable only if confirmed additions to generation capacity and shale gas exploration can be expedited and if government could improve implementation of infrastructure investments.

BUSA is concerned that National Treasury has for a number of years, forecast higher GDP growth rates than actual performance. Inflation had also been forecast lower than the actual outcomes. BUSA believes that government's forecast for GDP growth for 2014/15 fiscal year is high. SAICA is of the view that projected growth forecasts of 2.7 per cent and 3.5 per cent in 2014 and 2016, respectively, as optimistic given that growth declined from 2.5 per cent in 2012 to 1.9 per cent in 2013.

FEDUSA noted that the IMF forecast the SA economy to grow at a rate of 2.8 per cent in 2014 and 3.2 per cent in 2015 in light of the global and domestic economic developments. The South African Reserve Bank

(SARB) adjusted its growth forecasts downwards relatively in line with the IMF. FEDUSA's concern is that National Treasury's growth forecasts are not in line with this and appear to be optimistic.

According to the National Treasury, risks to the domestic outlook include delays to the introduction of new infrastructure, protracted labour strikes and more pronounced inflationary pressures associated with the depreciation of the Rand. The FFC identified key domestic risks as labour unrest, inadequate education and skills base, insufficient infrastructural investment and service delivery, perceptions of rising corruption and stress on consumers to cope with increased inflationary pressures. The Commission proposed that, to address the labour unrests, Government should consider establishing levers that serve to strengthen accountability of both employers and unions in the collective bargaining framework.

The SAIT proposed four pillars needed to stimulate economic growth in South Africa, namely, entrepreneurship and the stimulation of the small business sector that has the capacity to reduce unemployment, foreign direct investment that is also crucial to stimulate jobs and build infrastructure in the country, innovation and investment in Research and Development that is needed to achieve innovation.

The Budget Review 2014 expects real growth in gross domestic expenditure to pick up from 2.8 per cent in 2013 to 3.4 per cent in 2015. Growth in household consumption expenditure moderated to an estimated 2.7 per cent in 2013, down from 3.5 per cent in 2012. Growth in household consumption depends on the economy's ability to create jobs, real disposable income growth, household indebtedness and consumer confidence and the interest rate environment. Growth in real household consumption expenditure is projected to increase from 2.7 per cent in 2013 to 3.4 per cent in 2016, supported by stronger employment growth prospects and reduced household debt levels.

The year on year inflation rate as measured by the Headline Consumer Price Index (CPI), averaged 5.7 per cent in 2013, from 5.6 per cent in 2012. The Rand exchange rate depreciation led to a revision of the Headline CPI, which is now expected to breach the upper end of the target band in 2014. Headline CPI is expected to average 5.9 per cent in 2015 as weaker Rand translates into higher petrol and food price and puts pressure on wage demands.

The SARB increased the interest rates by 50 basis points in January 2014 in response to deterioration in inflation outlook. The weakness of the Rand in part follows the general emerging market phenomenon but it is also reinforced by other factors such as declining terms of trade and on-going labour disputes. The Rand depreciated by 17.6 per cent against the US Dollar in 2013. In the short term, the weaker exchange rate poses a significant risk to the inflation outlook. A sustained real depreciation could provide a significant boost to export competitiveness.

The outlook for investment expenditure remains positive over the medium term. Growth in real Gross Fixed Capital Formation is forecast to grow at a rate of 4.2 per cent in 2014 reaching 6.0 per cent in 2016 in line with the global and domestic outlook.

Table 1: Macroeconomic projections 2009 to 2016

Calendar year	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**
Percentage change	**Actual**			**Estimate**	**Forecast**		
Final household consumption	4.4	4.9	3.6	2.7	2.8	3.2	3.4
Final government consumption	4.4	4.3	4.0	2.5	2.2	2.3	2.4
Gross fixed capital formation	-2.1	4.2	4.4	3.2	4.2	5.3	6.0
Gross domestic expenditure	3.9	4.6	4.0	2.8	2.8	3.4	3.8
Exports	9.0	6.8	0.4	4.8	5.6	6.3	7.0
Imports	11.0	10.0	6.0	7.3	5.3	6.1	7.0
Real GDP growth	**3.1**	**3.6**	**2.5**	**1.8**	**2.7**	**3.2**	**3.5**
GDP inflation	7.7	5.9	4.5	6.1	6.4	6.2	6.0
GDP at current prices (R billion)	**2,674**	**2,933**	**3,139**	**3,391**	**3,706**	**4,064**	**4,456**
CPI inflation	4.3	5.0	5.6	5.7	6.2	5.9	5.5
Current account balance (% of GDP)	-2.0	-2.3	-5.2	-6.1	-5.9	-5.8	-5.5

Source: Budget Review 2014, National Treasury

A larger trade deficit widened the current account deficit (a source of external vulnerability) to an estimated 6.8 per cent of GDP in the third quarter of 2013. Stronger export growth was offset by import growth. Along with deterioration in the terms of trade (largely driven by commodity price movements) these factors exerted pressure on the current account. The current account deficit is projected to narrow from 6.1 per cent in 2013 to 5.5 per cent in 2016 as export growth improves.

Import volumes recorded strong growth in 2013, led by machinery and appliances and oil. Growth in imports is projected to rise from 5.3 per cent in 2014 and reach 7 per cent of GDP in 2016 as demand recovers. Export growth is expected to increase from 5.6 per cent in 2014 to 7 per cent in 2016.

From the production side of the economy, growth was supported by favourable yields in agriculture, steady growth in financial and business services, telecommunications, transport and civil construction. Growth in the mining sector remained volatile in 2013 as industrial action, maintenance and other disruptions affected production. The mining sector is expected to remain under pressure following stoppages in the major platinum mines and the risk of these disruptions spreading to gold mines. Manufacturing production struggled to gain momentum in 2013, registering growth of 1.3 per cent. The Manufacturing sector also experienced maintenance stoppages and strikes in the motor vehicles and parts sub-sector. A broader economic recovery depends on improving the operating environment in mining and manufacturing.

The pace of job creation lags behind growth in the labour force, contributing to persistently high levels of joblessness. The rate of unemployment declined to 24.1 per cent in the third quarter of 2013, from 24.5 per cent a year earlier. Between September 2012 and September 2013, the economy created 14 000 jobs in the formal non-agricultural sector. Job losses in mining and manufacturing were offset by gains in the community, social and personal services sector. Moderate employment gains are expected over the medium term. The private sector will continue to be the major contributor to job creation. The public sector will continue to support job creation through initiatives such as EPWP, CWP, Employment Tax Incentive, Jobs Fund, National Youth Service Programme and Skills development.

SAICA's view is that the 2014 Budget should have started the implementation of structural reforms to grow the economy and create jobs. To address unemployment BEMF proposed that government implements the Basic Income Grant to inject more funds in communities to stimulate demand and entrepreneurial initiatives among poor communities. This organisation suggests that government should promote the Green economy. It also recommended that more investment be made to low carbon economy by investing more into the public transport system, energy saving homes and buildings, encourage local food production and small scale organic farming initiatives.

FEDUSA remain concerned that the unemployment rate according StatsSA persists to be high at 24.7 per cent in the third quarter of 2013, with youth unemployment standing at 55 per cent. NUMSA is pleased with the announcement that the rollout of the infrastructure programme accompanied by programmes to support the local manufacture of components, ranging from buses to energy components in order to support this industry and create more decent jobs.

4. Fiscal policy and outlook

South Africa's fiscal framework is grounded in a sustainable, countercyclical approach to managing revenue and expenditure over the medium term. Government will balance continued support for economic recovery with fiscal consolidation. Key social and economic programmes will be maintained, complemented by efforts to improve value for money. Spending will be well contained over the medium-term.

The fiscal outlook for the years ahead is challenging. With the onset of the 2009 recession, government was able to use the fiscal space built in preceding years to support the economy. Low international interest rates made it relatively cheap for government to finance its borrowing requirement. Moderate domestic inflation limited cost pressures on public sector budgets and rising commodity prices supported government revenues.

The changed environment has significant implications for the fiscus. Rising global interest rates, rand depreciation and weaker commodity prices have significant fiscal implications. Projected debt service costs for 2014/15 are R5 billion higher than estimated in October 2013. Economic growth remains below potential and the fiscal space has been eroded by rising debt. The terms of trade deteriorated and are unlikely to improve over the medium term. A weaker outlook for commodity prices has contributed to a downward revision of estimated tax revenue in 2015/16.

Rand depreciation has led to rising cost pressures, including the compensation budgets. Compensation accounts for almost 40 per cent of consolidated non-interest expenditure. It is projected that over the next three years, this item would grow by 1 per cent on average. If inflation exceeds current forecasts, the purchasing power of budgeted allocations will decline, while compensation budgets will automatically increase in terms of current public sector wage agreement. The FFC cautioned that the three year wage bargaining cycle is coming to an end and that government should plan to ensure moderate growth over the medium term.

Government is committed to maintaining an explicit nominal expenditure ceiling, while preserving the value of the social wage; reducing the budget deficit to stabilise debt; and improving the quality of spending and reducing waste. The ceiling commits government to spending limits of R1.03 trillion in 2014/15, R1.11 trillion in 2015/16 and R1.18 trillion in 2016/17. Expenditure growth has been substantially reduced.

Countercyclical response to global economic crisis resulted in large budget deficit. The deficit remained persistently high as revenue and growth forecasts were repeatedly revised downwards. The budget deficit is expected to narrow from 4.0 per cent of GDP in 2013/14 to 2.8 per cent of GDP in 2016/17. The BEMF suggested that the budget deficit be reviewed and recommends that government should allow the budget deficit to increase to 6 per cent from the current 4 per cent. According to the Forum, the additional 2 per cent will inject more funds in the fiscus to fund long term social projects.

Net debt is projected to stabilize at 44.3 per cent of GDP in 2016/17. Government responded by limiting expenditure growth, trimming the departmental budgets and reducing the contingency reserve. The contingency reserve allocation is reduced by R3 billion and R4 billion in 2014/15 and 2015/16, respectively.

The FFC cautioned that reducing the contingency reserves further is likely to increase the risk of having too low reserves should South Africa experience any shocks. SAICA's view is that over the next two years, this will limit government's ability to accommodate unforeseeable and unavoidable expenditure and to fund emerging priorities. Reprioritisation will be the defining feature of the budgeting during such a period. SAICA's view is that wasteful expenditure should be reduced and that cost controls across government should be implemented.

SAIT also noted that an important progress has been made to reduce wasteful spending but more needs to be done, and that a substantive review of government spending is required. SAIT is of the view that linking government priorities to specific programmes in a more direct manner and holding responsible persons accountable for their actions is a necessity.

The 2014 Budget also maintains tight controls of goods and services budgets. Several steps had been taken to support spending efficiency including expenditure reviews and cost containment measures. BUSA welcomes the fact that real growth in public spending is forecast to increase from 2 per cent in 2013 to 2.8 per cent in 2014 and then reduce to 1.8 per cent in 2016.

4.1 Fiscal Framework

The 2014 consolidated fiscal framework estimates budget deficit of 4.0 per cent of GDP in 2013/14 compared with 4.2 per cent projected in October 2013. Stronger revenue growth and under spending by national departments, provinces and public entities led to a narrower deficit. The deficit is projected to narrow to 2.8 per cent in 2016/17 as the economic growth and revenue collection pick up pace. The FFC is of the view that the 2014 budget deficit reduction is aggressive relative to the October 2013 forecasts and that the reduction could be enough to avoid further downgrades to the sovereign credit rating.

The consolidated fiscal framework makes R1.25 trillion available for spending in 2014/15, R1.35 trillion in 2015/16 and R1.45 trillion in 2016/17 financial year. Expenditure growth has been substantially reduced. Revenue of R1 099.5 trillion in 2014/15, R1 201.3 trillion in 2015/16 and R1 324.7 trillion in 2015/16 financial year has been set aside. The fastest growing item of the main budget expenditure is debt service costs. Projected debt service costs for 2014/15 have increased by R5 billion since October 2013. This reflects exchange rate depreciation, higher inflation and the increase in interest rates by the Reserve Bank. Debt outlook remains sustainable and debt service costs stabilise in 2015/16, and begin to decline as a share of GDP.

SAICA noted that the fastest-growing item of main budget expenditure is debt-service costs and that the projected debt-service costs for 2014/15 have increased by R5 billion since the October 2013 Medium Term Budget Policy Statement. SAICA is of the view that this reflects exchange rate depreciation, higher inflation and the increase in the Reserve Bank's repurchase rate from 5.0 per cent to 5.5 per cent in January 2013.

Table 2: Consolidated fiscal framework, 2010/11 to 2016/17

Rand billion/ percentage of GDP	**2010/11**	**2011/12**	**2012/13**	**2013/14**	**2014/15**	**2015/16**	**2016/17**
	Outcomes			**Estimates**	**Medium-term estimates**		
Revenue	**762.9**	**842.3**	**909.3**	**1 010.5**	**1 099.3**	**1,201.3**	**1 324.7**
	27.8%	28.3%	28.4%	29.2%	29.0%	28.9%	29.1%
Non-interest expenditure	804.7	871.4	951.7	1 041.6	1 131.1	1 218.1	1 306.5
	29.6%	29.4%	29.9%	30.3%	30.0%	29.5%	28.8%
Interest payments	75.3	81.7	93.5	107.7	121.2	133.5	145.1
	2.7%	2.7%	2.9%	3.1%	3.2%	3.2%	3.2%
Expenditure	**880.0**	**953.1**	**1 045.2**	**1 149.3**	**1 252.3**	**1 351.6**	**1 451.7**
	32.0%	32.0%	32.7%	33.2%	33.1%	32.6%	31.9%
Budget balance	**-117.1**	**-110.8**	**-135.9**	**-138.8**	**-153.1**	**-150.3**	**-126.9**
	-4.3%	-3.7%	-4.3%	-4.0%	-4.0%	-3.6%	-2.8%

Source: 2014 Budget Review, National Treasury

Budget 2014 projects total consolidated government revenue of R887.8 billion in 2012/13 (R16.7 billion less in taxes), R985.7 billion in 2013/14 (revised down from R1.005 trillion in October 2012) and R1.091 trillion in 2014/15 compared to R1.118 trillion previously predicted. Total consolidated budget revenue is expected to stabilise at 29 per cent of GDP over the medium term. Government's tax revenue is highly dependent on the developments in economic conditions globally and domestically.

Tax revenue has performed well in 2013, leading to an upward revision of consolidated current revenue by R11.4 billion, since October 2013. The depreciation of the Rand has boosted profits in some sectors, leading to buoyant corporate income tax receipts. Above inflation wage settlements have sustained personal income tax and strong imports have boosted customs revenue.

Compensation accounts for 39.5 per cent of consolidated non-interest spending in 2013/14, down marginally from a high of 39.7 per cent in 2011/12. Transfers and subsidies account for 29.9 per cent of consolidated non-interest spending. Capital spending is the fastest-growing component of non-interest expenditure over the three-year period, followed closely by capital transfers.

Over the medium-term cost containment measures will be vital to ensure fiscal discipline in government. Strengthening oversight in government spending will play a key role in ensuring efficiencies and value for money. As part of strengthening oversight, National Treasury in partnership with the Department of Monitoring and Evaluation has launched a series of expenditure reviews to provide greater understanding of performance and identify ways to improve value for money.

Procurement reforms, through the office of the Chief procurement Officer, will be necessary to simplify procurement procedures, strengthen accountability and improve government's ability to detect corruption and maladministration. Improved service delivery will be achieved through efficient and effective spending of resources.

NUMSA welcomed proposals to establish a Chief Procurement Office and the establishment of the Parliamentary Budgetary Office (PBO), which will assist Parliament in ensuring that fiscal policy is aligned to government's five priorities of education, health, rural development and agrarian reform, taking forward the fight against crime and creating decent work. NUMSA further recommended that given the tight financial situation the country finds itself in, the Minister's proposals to combat excessive consultancy fees should be reinforced by a thorough evaluation of all projects

The Manufacturing Circle expected the National Treasury to announce, amongst others, a full fiscal review, support for innovative industrial policy to help dynamic local manufacturers to grow and enforcement of local procurement to grow the market for manufactured goods. The Manufacturing circle also expected an announcement of initiatives to cut administered costs to enhance manufacturing competitiveness. These measures are necessary to ensure that infrastructure maintenance and provisioning is funded, financed and costs are recouped efficiently; that price setting regulations and discount options for energy and other utilities are on par with competitor economies.

BEMF proposed that to fight corruption and poor financial management the government should implement Auditor Generals recommendations and use Municipal Finance Management Act (MFMA) and Public Finance Management Act (PFMA) to ensure those found guilty of corruption are held responsible.

Expenditure to GDP is estimated at 33.0 per cent in 2014/15, narrowing to 31.9 per cent in 2016/17. The wage bill has been one of the major concerns in government expenditure over the past year. The Minister of Finance, National Treasury and Parliament have put more emphasis on government departments to ensure that their personnel are within budget. Slower wage bill growth and robust expansion of capital budgets will result in a moderate improvement in the composition of spending by 2016/17. BUSA sees the limited government wage bill reduction as prudent given the above inflation increases in the past years and urges government to instil discipline in negotiating increases.

The FFC welcomed and noted the idea of setting an expenditure ceiling as effective in controlling expenditure and maintaining stability. In light of this, the Commission proposed that government should complement these with research on the scope of the ceiling, setting of the precise level of the ceiling and the assessment of government performance at all spheres against the ceiling and progressive realisation of constitutional mandates. In addition to that government should put the ceiling approach in legislation such PFMA and MFMA.

SAICA noted the Minister's observation that in order to maintain the expenditure ceiling, additional allocations to priority areas and upward adjustments to the public-sector wage bill have been achieved through reprioritisation across departments.

4.2 Fiscal sustainability

Government's net debt as a share of GDP continues to grow, but is expected to level off at 44.3 per cent of GDP in 2016/17. Global interest rates are expected to rise but domestic rates on new debt issuances remain low by historical standards. Total government gross debt as a percentage of GDP reached 45.8 per cent in 2013/14, which is the highest level since the 1998/99 financial year. Gross foreign debt however remains low at 4.3 per cent of GDP. About 90.7 per cent of gross government debt is long dated domestic debt, which lowers the overall risk profile of government debt. As debt stabilises, government is committed to rebuilding fiscal space by reducing the ratio of government debt to GDP.

Government plans to rebuild fiscal strength and reduce public debt in order for the fiscus to respond well to any negative global economic shocks. Strong public finances would also enable government to invest more on social services and infrastructure. This will be done by reducing spending on debt servicing by reducing government's net debt position over time and switching to longer dated debt instruments. South Africa's debt stability will depend on increased economic growth, as well as fiscal balance and restraint. Sound fiscal policies and improved economic growth will enable proper debt servicing and stability, thus enabling the government to channel funds to priority service delivery areas.

Numerous factors impact directly on increasing government debt. These include a weaker rand exchange rate that has pushed the value of foreign debt up; an increase in inflation that has led to an increase in the value of inflation linked debt; and the deterioration in economic growth has also increased the debt-to-GDP ratio. All these factors will impact directly on the countries' ability to reach its objective to stabilise debt in the outer years of the MTEF.

During the 2013/14 MTBPS, total gross national loan debt was estimated at R1.5 trillion and was expected to grow by more than 30 per cent as a percentage of GDP over the MTEF, while gross foreign debt was expected to increase by more than 5 per cent as a percentage of GDP over the next three years.

Total public sector debt stood at 57.3 per cent of GDP in 2012/13 and it is expected to grow more slowly over the medium term. The public sector borrowing requirement is estimated at R227.2 billion or 6.6 per cent of GDP in 2013/14. The main budget deficit declines over the medium term, borrowing by state owned companies is projected to decline while local government borrowing remains low. Public sector borrowing requirement is expected to narrow to 4.3 per cent of GDP in 2016/17.

SAICA's main concern is that South Africa's debt is expected to increase from the 39.7 per cent for the 2013/14 year to 41.9 per cent in the 2014/15 year. Having noted that the fastest-growing item of main budget expenditure is debt-service costs, SAICA's view is that the key for stability is that South Africa's sovereign credit rating does not move downwards.

The costs of servicing government debt are influenced by the volume of debt, new borrowing and market variables such as interest, inflation and exchange rates. Debt service costs continue to grow over the medium term. The domestic bond market will remain the primary source of debt funding.

Risks to the fiscal outlook include economic uncertainty and a new round of public sector wage negotiations. If inflation remains stable, faster growth would enable government to attain its fiscal objectives. Deterioration in the economic outlook would require government to consider additional expenditure and revenue measures to ensure fiscal sustainability. Growth in employee compensation has slowed over the past two years but higher than expected inflation would add to the wage bill. A further deterioration in the inflation outlook, would add additional pressure on the budget.

5. Revenue trends and tax proposals

5.1 Revenue trends

South Africa has built a progressive tax system founded on the principles of equity, efficiency, simplicity, transparency and certainty. Consolidated budget revenue consists of tax revenue net of Southern African Customs Union transfers, departmental revenue, mineral royalties, social security fund revenue and provincial and public entity own revenue.

Total tax revenues have remained buoyant in 2013/14 and the revenue estimate presented in last year's budget has been revised upwards by R1 billion. Nominal total tax revenue declined from 27.6 per cent of GDP in 2007/08 to 24.4 per cent in 2009/10 as a result of the 2009 recession. Tax revenue is expected to recover to 25.9 per cent of GDP in 2013/14, supported by strong growth in corporate income tax and customs duties. Nominal total tax revenues are estimated to grow at an average of 10.4 per cent per year over the medium term, reaching 26.5 per cent of GDP in 2016/17. Optimistic tax revenue collections, however, depend on improved tax compliance and strong economic growth.

The revised tax revenue estimate is R85.2 billion or 10.5 per cent higher than actual tax revenue in 2012/13, and R4 billion above the estimate presented in the October 2013 Medium Term Budget Policy Statement. The marginal upward revision for 2013/14 compared to the 2013 Budget is the result of strong growth in corporate income tax and customs duty revenues, revised upwards by R7.1 billion and R3.2 billion respectively. Revenue has been revised marginally downwards in 2015/16, reflecting a weaker economic outlook.

This is the first time since the 2009 recession that nominal corporate income tax revenues will exceed the 2008/09 peak of R165.5 billion. Personal income tax has also been revised upwards by R2.7 billion compared with the 2013 Budget estimates. This positive performance has been offset by downward revisions in dividends tax revenue (R5.9 billion), VAT (R3.7 billion), the fuel levy (R1.7 billion) and excise duties (R2.3 billion). Fuel levy revenues have been revised downwards mainly due to increased diesel refunds. Mineral royalties are expected to generate R6.5 billion, about R600 million above the estimated amount.

PwC noted that tax revenue as a percentage of GDP continue to rise and are projected to continue to rise towards the 2007/08 peak of 27.6 per cent over the medium term. It cautions that a continued rise in the level of taxation may not be sustainable in the long term and that ideally the level of taxation should be reduced over time to promote economic growth. Contrary to PwC's views, BEMF recommends that tax revenue as a percentage of GDP should be increased to 30 per cent to raise additional revenue.

5.2 Tax proposals

Tax proposals for the 2014 Budget continue to prioritise economic growth, job creation and generating sufficient revenue to finance government spending in line with the National Development Plan (NDP) objectives of expanding the economy and reducing unemployment.

The main tax proposals for 2014/15 include:

- Personal income tax relief of R9.3 billion;
- Measures to encourage small enterprise development;
- Clarity on valuation of company cars for fringe-benefit tax purposes;
- Reforms to the tax treatment of the risk business of long-term insurers;
- Amending the rules for VAT input tax to combat gold smuggling;
- Increases in fuel and excise taxes;
- Measures to address acid mine drainage; and
- Adjustment of the proposed carbon tax and its alignment with desired emission-reduction outcomes to be identified by the Department of Environmental Affairs.

Direct taxes on Individuals

Personal income tax relief compensates for the effects of inflation, which pushes some individuals into higher tax brackets. About 69 per cent of taxpayers have taxable incomes below R250 000 per year. This group will receive 39 per cent the total amount of tax relief that arises from the increase in the rebates and income tax brackets. Other direct taxes on individuals include medical tax credits, tax preferred savings accounts and retirement savings reforms. Retirement fund taxation reforms provide additional relief and encourage savings, while tax preferred savings account is a measure to encourage household saving.

SAIT commended the Minister of Finance for reinforcing the need for individual retirement savings and look forward to more information to be released around the tax efficient savings vehicles to be implemented in 2015. SAIT is, however, disappointed that annual interest exemption has not been increased especially considering the recent increase in the interest rates.

SAICA indicated that whilst the income tax brackets were adjusted, not enough was done to compensate for wage inflation in the mining, manufacturing, construction, retail, logistics, and finance sectors. This resulted in individual tax burdens creeping up slightly.

Ernst & Young is grateful that the Minister of Finance did not increase tax rates for individuals, but cautions that the economy need revenue for the increasing funding needs and that expenditure must be brought under control if this trend is to continue. FEDUSA and the PwC also welcome Personal income tax relief of R9.3 billion that was granted to individuals and noted that this relief was relatively evenly distributed across taxpayers at all income levels and essentially compensated for the effects of inflation.

SAIT is of the view that encouraging foreign investment is one of the key aims of the NDP as foreign direct investment activities will assist in broadening the South African tax base as well as stimulating employment. SAIT is concerned that a high corporate tax rate is unlikely to encourage this type of investment, and although South Africa has reduced its company tax rate over the last few years, global trends suggest that the rate is still relatively high compared to other countries.

PwC supports the Retirement savings reforms proposed in a form of revisions to the retirement fund lump-sum withdrawal tables as these changes will effectively promote retirement savings and the benefits that flow there from. However, they are disappointed that no adjustments to the monetary cap of R350 000 on deductible contributions to retirement funds were proposed. For that reason, PwC views the monetary cap as a discouragement to retirement savings and will act as an absolute limit that individuals contribute to retirement funds.

SAICA is of the view that the review of the tax-preferred savings accounts, first mooted in the 2012 Budget Review as a measure to encourage household savings, will proceed, but unfortunately the budget provides no information other than what was previously announced. SAICA believes that tax free savings accounts should be implemented with effect from 1 March 2014.

Ernst & Young welcomes the introduction of a tax friendly savings regime for individuals (tax preferred savings accounts and also in support of the last year’s legislative attempts steps to unify the retirement regime with revised percentage limits. Ernst & Young views 40 per cent taxable limit for interest deductions for foreign owned SA subsidiaries as problematic, and should be addressed despite silence in the budget. The proposed implementation date of January 2015 should be changed. PwC also support the tax preferred savings and investment accounts but advocate that consideration be given to increasing the annual and lifetime contribution limits in order to further incentivise savings.

Metope Investment Managers noted new amendments to tax that further define equity and debt instruments and understand the rationale behind proposed amendments, however, these amendments might have unintended consequence to Property Fund Industry. This was acknowledged in the relief given, but only to the big players.

According to Metope Investment Managers, flow through of income principles is important in the Property Industry for a number of reasons, amongst others; it enables pension funds to invest in property funds which encourage savings and investment in income generating assets. Very importantly, removing flow through of income principles will make property a relatively unattractive investment class. This is important for South Africa, because increasing its property market size will increase liquidity in the sector and attract foreign investment. This in turn will result in funding of new developments and greater infrastructure development for the country.

According to the Unlisted Property Funds Working Group, the negative impacts of Section 8F (3)(d)(i) and 8FA(3)(d)(i) are: elements of protectionism which might crowd out smaller businesses or funds; existing players seriously may be affected by these changes; existing investors who may have geared themselves, may no longer offset income earned against interest payable and that in the current environment incubator funds it is very difficult to set up and bring to market/listing.

Metope Investment Managers proposed that the government should level the playing field between pension funds and non pension fund investors and remove clause 8F(3)(d)(i) and 8FA(3)(d)(i) from the Act. In the interim, this Group gives its undertaking to work hard to find a mutual satisfactory way of keeping the flow through of income principle for unlisted investors with appropriate regulatory rules to maintain the required protection for investors.

Direct taxes on businesses

Direct taxes on businesses include small and medium enterprise development, employment tax incentive, debt reduction rules, Public-private partnerships, long term insurance risk policies and foreign reinsurance. Government wants to encourage entrepreneurship through small and medium enterprise development as a way of growing a sustainable economy. Accordingly, government provides tax relief to foundations that promote entrepreneurial development through grants, make grants received by small and medium sized enterprises income tax exempt and enhance the flexibility of the venture capital company regime.

SAICA believes that, from an economic perspective, small businesses are an essential part of South Africa and should be developed and encouraged while at the same time keeping it simple. A long standing view of SAICA is that the tax administrative and compliance obligations of small businesses are burdensome. SAICA therefore welcomes the fact the budget review acknowledges that red tape and bureaucracy are hindrances to doing business, especially for small and medium-sized firms, and that government aims to streamline the regulatory regime.

SAICA also acknowledges that small businesses find it difficult to obtain finance in general and acknowledges the introduction of reforms that would reduce compliance costs and facilitate access to equity finance. SAICA also agrees with the view of the Tax Review Committee that the lower tax rates for small business corporations do not address tax compliance costs, and is pleased to see this being subject to public consultation.

SAIT noted that small businesses are the engines of job creation, but despite this sector's critical role in the economy, it is concerning that this sector faces various challenges such as the regulatory and legislative burden imposed on them in the form of tax legislation. SAIT welcomes the exemption of grants received by small and medium-sized enterprises, regardless of the source of the funds.

PwC welcomes relief for small businesses from both a tax burden and tax administration perspective but caution that other significant barriers remain, most notably in the form of red tape and labour rigidity.

BUSA supports the shale gas initiatives, less carbon intensive electricity production, water related infrastructure spending and tax measures recommended by the Davis Committee to promote SMMEs.

With regards to the imported e-commerce, Ernst & Young notes that foreigners providing local e-commerce services will be required to register for VAT but support the amendment related to individual consumers and business to business as the services would be zero rated.

Government introduced the employment tax incentive on 01 January 2014 to help reduce youth unemployment. Government will monitor implementation of the incentive and may if necessary strengthen measures to protect workers from practices that abuse its intent.

The Manufacturing Circle does not support the exclusive design of the Special Economic Zones (EPZs) and is of the view that the incentives should be extended to all compliant manufacturers to avoid market distortion and to enhance overall economic competitiveness. BUSA sees promotion of EPZs as a way that accelerates growth in these sectors and proposes that government expedites the legislative process and extend EPZs to existing plants to encourage expansion of domestic investment and exports. BUSA welcomes the employment tax incentive and the reasonable intake of this in January 2014.

SAICA and PwC proposes that the refund system related to the employment tax incentive become effective as soon as possible as opposed to during the fourth quarter of 2014 and be expanded to the EPZs and specific sectors. SAICA welcomed the government plans to expand the programme in the years ahead. SAIT acknowledges that the benefit of the employment tax incentive is really meaningful for the small business sector and welcomes the incentive.

FEDUSA welcomes the Incentive and hope this is a step towards decreasing unemployment as it offers employers incentives to hire people between the ages of 18 –29 years. The Federation encourages government to design the tax incentive scheme for Special Economic Zones with great care to avoid unintended consequences. BEMF is of the view that employment tax incentive is a tax cut to big business and will not contribute to increasing overall employment.

Indirect taxes

Tax proposals on indirect taxes include increases in excise duties on alcoholic beverages and tobacco products, inflationary adjustments to fuel taxes, measures to address acid mine drainage and a comprehensive policy package to address climate change and amending VAT rules to combat gold smuggling.

BEMF suggested that initiatives to reduce tax avoidance should be strongly supported by government. In addition to that the government should increase the number of basic goods which are VAT zero-rated and subject luxury goods to higher rate of VAT.

Government proposes to increase the excise duties on alcoholic beverages by between 6.2 per cent and 12 per cent in 2014. The specific excise duty rate for traditional African beer will remain unchanged. Government proposes to maintain this benchmark by increasing the excise duties on tobacco products by between 2.5 and 9 per cent.

Government proposes to limit the increase in the general fuel levy in line with inflation in 2014/15. PwC supports this decision. The proposed increase of 12c/litre is less than the increase applied in 2013/14. The proposed increase for the Road Accident Fund levy of 8c/litre is equal to the adjustment in 2013/14.

Regulatory and other measures have been put in place to address the serious environmental consequences of acid mine drainage. To complement current efforts and ensure that the mining sector makes a fair contribution to continuing acid mine drainage expenses, consultations will be initiated with all interested parties on the best mechanism to use, such as an environmental levy or equivalent instrument.

National Treasury and the Department of Environmental Affairs agree on the need to align the design of the carbon tax and the proposed desired emission-reduction outcomes. To allow for this process and ensure adequate time for consultation on draft legislation, implementation of the carbon tax is postponed to 2016. BUSA and PwC welcome the Minister's decision to delay implementation of the carbon tax for further consultation as a sensible one in the current circumstances.

SAIT notes that innovation is an important factor to stimulate economic growth and combat unemployment. According to SAIT, It was evident from the budget speech that there was limited support by Government to the private sector in the form of R&D tax deductions and R&D grants.

PPC recognises the need for a predictable and gradual transition to a climate change resilient economy in South Africa and supports South Africa's national and international climate change objectives and obligations. However the proposed carbon tax, in its current form, presents PPC with the following key areas of concern:

- Timing of the implementation
- Structure and design of the tax formulation
- Issues of clarity and certainty, and
- Differentiating the cement industry from other economic sectors

PPC argues that the Carbon Tax is premature due to the adverse economic impact it will have on industry in the country, especially given the current emerging market circumstances.

The carbon tax, as structured currently, will negatively impact PPC's profitability. Initially PPC may be able to pass the cost of the carbon tax onto the consumer. However this will not be sustainable in the long run because the carbon tax will make PPC's products uncompetitive against imports from countries that do not impose carbon taxes. This will result in the company eventually having to absorb the cost of the carbon tax which may ultimately severely impact the PPC's profitability and the viability of the business to operate.

PPC believes that the opportunity arising from the delay in implementing the carbon tax until 2016 must be utilized as an opportunity for robust and constructive stakeholder engagement and consultation. This is imperative in order to ensure that the carbon design, alignment and enabling legislation is sound and effective for differentiated sectors such as cement. Effective Border Exchange controls related to the import of cement from countries that do not impose a carbon tax are absolutely necessary to protect coastal manufacturing sites from unfair competition.

Tax administration

Over the next few months, a newly designed case sourcing system will be rolled out to improve internal efficiencies and compliance. Addressing non-compliance within the tobacco industry remains a priority. During 2013, 15 entities were identified as non-compliant with up to R1 billion worth of tobacco/cigarettes seized. Twelve criminal cases are being pursued. Consequences for non-compliance will result in withdrawal of licences and more inspections

National Treasury will conduct research, over the next two fiscal years, on effective tax rates for companies in different sectors; review of the VAT zero-rating provision for housing subsidies to eliminate practical anomalies; review of how educational services and public transport are treated for VAT purposes; review of the sustainability of the local government fiscal framework; and a review of the taxation of cooperatives.

The FFC supports the establishment of the Davis Tax Committee to review the country's tax system as well as the range of environmental instruments under consideration. PwC had concerns with the alignment of unemployment insurance benefits and contributions, no adjustments to the monetary cap on deductible contributions to retirement funds have been proposed and there was no reference to the status of the proposed gambling taxes taxation of trusts in the 2014 Budget. PwC has also raised concerns about significant loss of resources in the legal tax unit at the National Treasury.

6. Committee discussions and observations

Having considered the 2014 National Budget and public submissions, the Committee observed the following observations from stakeholders, and furthermore the Select Committee on Finance amongst others, observed the following:

6.1 The FFC proposal that to achieve the projected economic growth need to be achieved in order to dispel the negative view of the Credit Rating Agencies, the government must address the leadership in labour markets, improve skills and education;

6.2 The Committee wanted to know if the FFC had any interactions with the advisory bodies such as the Parliamentary Budget Office and requested the FFC's view on the PBO and how it can advance its support to Parliament. The Commission indicated that it has been assisting the PBO in building capacity and that its difficult to find suitable candidates with the relevant skills and that it will take long for the office to be fully functional based on the Commission's own experience;

6.3 The FFC's support of the NDP's assertion that 10 per cent of GDP should be spent on growth, given the positive economic relationship that exists between GDP growth and infrastructure spending. The Commission cautioned about the weaknesses in implementing the infrastructure programme;

6.4 It is the FFC's responsibility, amongst others, to ensure the allocation of resources, but lack of capacity hindered this and asked for the Commission's intervention. The Commission view problems at local government as structural in nature, requiring human resources with the right skills to address;

6.5 The FFC's view on contingency reserves and debt forecasts as a percentage of GDP beyond three years is that it is concerned that in an event of shocks, the country would not have a buffer given the level of reserves. According to international standards, debt optimality can reach 60 per cent as a percentage of GDP, therefore SA at 44 per cent, is lower; Furthermore, fiscal deficit narrowing is not sufficient, the economy should grow beyond 3 per cent to stabilize debt level to pre-crisis level;

6.6 NUMSA's view on Credit Rating Agencies that the country should not panic and should not make use of them as these agencies tend to hold South Africa ransom. The Committee indicated that Credit Rating Agencies price the countries debt, and therefore are needed;

6.7 State owned entities money had not been spent according to the 2014 Budget Review. The Committee raised the issue around the degree of under spending and whether it was as a result of labour unrests and contractors.

6.8 NUMSA has social responsibility and could assist government to become more productive. NUMSA's view was that the backlog on infrastructure cannot just be blamed on the Union;

6.9 Manufacturing Circle is concerned about the Rand's strength or volatility and that the exchange rate volatility is but one of the problems that the sector faces;

6.10 Metope Investment Managers proposal to get the smaller investors into the big property market, which is that a framework be created for unlisted investors, with rules, to protect the smaller investors;

6.11 The difference between listed and unlisted investors in terms of business is that whilst listed investors enjoy benefits such as power to get finance at good rates, amongst others, the unlisted investors have no such advantages;

6.12 The Budget Expenditure Monitoring Forum (BEMF) proposals include transition tax, increased in social infrastructure, social solidarity tax, increasing taxation as a percentage of GDP, given the impact that these may have on the economy. The Committee further encouraged the Forum to attend the individual budget vote meetings in the fifth Parliament to raise their concerns;

6.13 PwC's view regarding the proposed carbon tax, tax relief and tax incentives for SMMEs and that there were no tax provisions to support growth. PwC indicated that:

- A reform of the tax structure in terms of the level of taxation and tax mix is necessary;
- Personal Income Tax, Corporate Income Tax and the tax structure is out of sync with the international norms;

- o There is a need to shift taxes away from income to consumption;
- o It is not against the carbon tax but believe that a tax is not the only solution that government should explore;
- o With regard to personal income tax relief, PwC expected partial relief and is of the view that the surprise revenue collection from Corporate Income Tax led to the relief;
- o As far as it is concerned, the employment tax incentive is not available to SMMEs because if PAYE is not available therefore, the incentive is not applicable.

6.14 PwC's concern about the number of vacancies at the National Treasury's legal tax unit following 10 resignations of staff at senior level;

6.15 FEDUSA and BEMF's concern that the 2014 budget is not gender sensitive. FEDUSA indicated that the budget should have addressed gender based violence and that the European Union utilizes a toolkit to determine whether the budget is gender blind or sensitive;

6.16 SAICA's view on the contingency reserve is that given than only R4 billion had been set aside for the current financial year, SA is exposed to shocks. There is also a concern that these targets won't be met and proposed that government should cut government expenditure, reduce corruption and address wasteful expenditure;

6.17 Ernst & Young's view on e-commerce (making registration a minimum requirement) and the number of users registered for turnover tax (10 000);

6.18 SAIT's view that VAT be increased above 14 per cent and to compensate for the poor, some basic items could be zero rated;

6.19 The Committee observed that the recommendations made by the Tax Review Committee had been incorporated into the 2014 Budget; and

6.20 The Committee further noted that the bargaining cycle at the Public Service Cordinating Bargainig Council (PSCBC) for government employees is coming to an end relating to remuneration for public servants.

7. Recommendations

Having considered the 2014 Fiscal Framework and Revenue Proposals and conducted public hearings, the Select Committee on Finance recommends that the House **accepts** the 2014 Fiscal Framework and Revenue Proposals.

The Select Committee on Finance further recommends as follows:

7.1 National Treasury should brief Parliament on a quarterly basis on the Employment Tax Incentives and monitor the implementation of this incentive to identify any unintended consequences. National Treasury should share with Parliament some achievements of this incentive (since it was promulgated into law) as well as detailed progress made into the incentive;

7.2 The Minister of Finance should develop further measures to enhance and monitor the implementation of entrepreneurship, SMME development and sustainability, increasing black participation in this sector, given the potential of small businesses to create jobs;

7.3 The Minister of Finance, together with other relevant government departments, should prioritise the implementation, monitoring and evaluation of programmes that target job creation;

7.4 The Minister of Finance should report on the reduction in core spending plans, including financing new policy initiatives from savings, efficiency gains and reprioritisation over the next three years; analysis of personnel spending and phasing out of projects that are ineffective or no longer aligned with policy priorities. This report should be submitted within 90 days of the adoption of this report by the House;

7.5 The Minister of Finance should report on government's need to continue its strong focus on rooting out corruption, improving the efficiency and effectiveness of public spending and enhancing accountability of public officials with respect to performance. This report should be submitted within 90 days of the adoption of this report by the House;

7.6 The Committee noted the expenditure review process and recommends that in addition to that, National Treasury should enhance Monitoring and Evaluation programmes in departments to track progress made in achieving government objectives at policy level and report to Parliament;

7.7 National Treasury should encourage other government departments to assess the relevance of their programmes in terms of their efficiency and effectiveness in achieving intended policy objectives and also consider discontinuing some and introducing new programmes;

7.8 The Committee supports the implementation of cost containment measures and recommends that these measures are enforced in provinces and municipalities to encourage other innovative means to contain expenditure synchronised with improved service delivery. National Treasury should ensure that these measures are enforced and should report to Parliament within 90 days of the adoption of this report by the House;

7.9 The Committee noted significant progress regarding the appointment of the Chief Procurement Officer in the National Treasury, and the role played by National Treasury in combating corruption. However, the establishment of this directorate should be accelerated;

7.10 National Treasury should strengthen support to local government to ensure successful rollout of infrastructure and improved oversight. National Treasury should furthermore share with the House the impact of its established partnership with the Department of Monitoring and Evaluation on expenditure reviews to ensure greater understanding of performance and value for money;

7.11 SARS and National Treasury should simplify the process in order to fast-track registration for VAT on e-commerce services and ensure all businesses in this sector are registered as required by law;

7.12 National Treasury should provide Parliament with an analysis of infrastructure spending as a percentage of GDP over the medium term and, where possible, for the years beyond the MTEF. This analysis should be submitted within 90 days of the adoption of this report by the House;

7.13 National Treasury should provide Parliament with an update on the timeframe for the final implementation of the Special Economic Zones, including all tax incentives that have been announced for these zones. This report should be submitted within 90 days of the adoption of this report by the House;

7.14 National Treasury should report back to Parliament on the budgeted surpluses in the Unemployment Insurance and Workers Compensation Funds and the options for handling them. This report should be submitted within 90 days of the adoption of this report by the House;

7.15 The Minister of Finance should ensure that National Treasury and SARS are adequately resourced, and should report to the House on the vacancies and measures available to fill critical positions specifically within the legal drafting unit. This report should be submitted within 90 days of the adoption of this report by the House; and

7.16 SARS should ensure that the 2014 Taxation Laws Amendment Bill makes provision for an increase in tax deductable for employees from the announced R350 000 annual ceiling, as contained in the 2013 Taxation Laws Amendment Bill.

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Report to be considered.