



# national treasury

Department:  
National Treasury  
REPUBLIC OF SOUTH AFRICA

## ECONOMIC SERVICES

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Ref no: NT9/2/11/2/1/10/10-SCOPA (DTI)

Date: 9 December 2010

### TO: STANDING COMMITTEE ON PUBLIC ACCOUNTS

### VOTE 35: TRADE AND INDUSTRY (DTI) : 2004/05 UNAUTHORISED EXPENDITURE

#### Objective

To provide the Standing Committee on Public Accounts (SCOPA) with National Treasury's recommendation on the 2004/05 unauthorised expenditure by the Department of Trade and Industry.

#### Background

The department recently provided National Treasury with copies of previous documentation (letter Reference No: Fin5/2/10/4/1 dated 18 August 2005) in which the unauthorised expenditure for 2004/05 was reported to National Treasury. However, it appears that this documentation was mislaid and no reporting on this was done to SCOPA.

As reported by the department and reflected in the Annual Report as at 31 March 2005, the unauthorised expenditure by the department in 2004/05 amounted to R37.380 million and, according to the DTI, comprised the following items –

<b>Overspending of a vote:</b>	
• Compensation in terms of Bilateral Investment Treaty	R 6 154 213.30
• Staff debts written off	R 125 229.71
• General Export Incentive Scheme debts written off	R31 075 062.53
• Other debts written off	R 25 000.00
<b>Total unauthorised expenditure</b>	<b>R37 379 505.54</b>

Detailed information regarding the cause of the unauthorised expenditure is set out in Annexure A hereby enclosed. A copy of the unauthorised expenditure as reflected in the financial statements is enclosed as Annexure B.

An analysis of the unauthorised expenditure suggests that this expenditure was beyond the department's reasonable control. Irrecoverable debts are monitored closely by the department as a risk matrix to prevent any overspending of the vote.

#### Recommendation

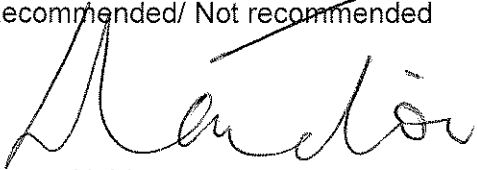
In line with the provision of Section 34(1)(a) of the Public Finance Management Act, 1999, it is recommended that the amount of R37.380 million be approved by SCOPA as a direct charge against the National Revenue Fund to cover the overspending of the DTI vote.

**Director: Economic Development, Public Enterprises and Trade & Industry**

Date: 14/12/10

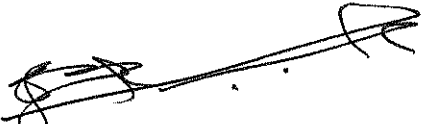
~~Recommended/ Not recommended~~

*Initially reviewed on 13/12/10*



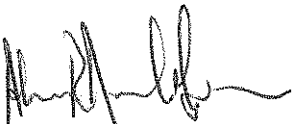
Devan Naidoo  
**Chief Director: Economic Services**  
Date:

~~Recommended/Not recommended~~



Matthew Simmonds  
**Acting Deputy Director-General: Budget Office**  
Date: *24/07/11*

~~Approved/Not approved~~



Andrew Donaldson  
**Deputy Director-General: Public Finance**  
Date: *25/1/2011*

**VOTE 35: TRADE AND INDUSTRY  
UNAUTHORISED EXPENDITURE**

**2004/05**

**1. Arbitration award against the DTI – R25,000.00**

An official was dismissed after a disciplinary hearing. The matter was referred to the CCMA and an award was granted as follows: R15,000.00 to the South African Labour Market & Allied Workers Union and R10,000.00 to the General Public Service Sectoral Bargaining Council (both these amounts were paid by the department on 25 August 2004).

**2. Irrecoverable personnel and ex personnel debt – R125,229.71**

With the resignation of staff various debts are recorded, such as travel and subsistence, salary overpayments, tax, State guarantee and bursary debts. Most of these debts are recovered from their pension benefits but in some instances debts are not fully recovered due to the following reasons:

The recovery of the debt would be uneconomical;

Debtors cannot be traced

The recovery would cause undue hardship to the debtor or his or her dependants.

**3. Irrecoverable General Export Incentive Scheme debt – R31,075,062.53**

The Minister of Trade and Industry introduced the **General Export Incentive Scheme (GEIS)** in April 1990. The applicable companies claimed incentives from the Department under this scheme. GEIS was claimed and paid on the strength of a claim supported by an audit report. The Department within 5 years sent inspectors to verify the actual export documentation. At that stage overpayments were identified and legal actions were instituted against these companies. The irrecoverable debts were written off as follows:

- (i) Cape Country Wines: R157,302.00 - [Company could not be traced]
- (ii) Blue Continent Products: R292,181.07 - [Settlement offer was accepted]
- (iii) Snowchem: R33,608.58 - [Company could not be traced and debt prescribed]
- (iv) Riccro Exports: R758,446.00 - [Company could not be traced]
- (v) Gerald Garments: R402,818.00 - [Company closed down and Director has relocated back to Taiwan]
- (vi) Aga Pipe Suppliers: R83,156.72 - [Settlement offer was accepted]
- (vii) Glenvalve: R80,556.41 - [Settlement offer was accepted]
- (viii) Salvalve: R33,736.57 - [Settlement offer was accepted]
- (ix) Nantex Textiles: R439,260.45 - [Settlement offer was accepted]
- (x) Anglo American Farms: R299,770.58 - [Settlement offer was accepted]
- (xi) ABB Powertech Transformers: R1,783,096.58 - [Settlement offer was accepted]
- (xii) SA Business & Trade: R63,517.39 - [Settlement offer was accepted]
- (xiii) Sugar Technology & Equipment International: R377,353.56 - [Settlement offer was accepted]
- (xiv) Mono Pumps – A division of Abertech Industries: R19,082.11 - [Company could not be traced]
- (xv) The Natural Corporation: R7,407.95 - [Settlement offer was accepted]
- (xvi) Nestle SA: R4,105,911.63 - [Settlement offer was accepted]
- (xvii) Klipton Industries: R444,095.81 - [Settlement offer was accepted]
- (xviii) Simplicity Corporation: R750,582.00 - [Company had no moveable assets]

- (xix) RD&G Export Marketing: R2,542,696.00 - [Company had no moveable assets]
- (xx) Collondale Cannery: R8 271 652.47 - [Settlement offer was accepted]
- (xxi) Eternal Manufacturing: R10,108,852.00 - [Default judgement was granted which stand for 30 years]
- (xxii) Ballistic Body Armour: R19,978.65 - [Settlement offer was accepted]

#### **4. Claim against the DTI: Pumlani Lodge – R6,154,213.30**

W Schlaepfer (Pumlani Lodge Claim). The essence of the partial award was that there had been a violation of Article 3 of the Treaty by the Republic of South Africa, in that it failed to give full protection and security to the investor which failure led to the destruction of the investment of the claimant by:

The failure of the police and government authorities to prevent, detect, investigate and prosecute crime in relation to this property;

This failure included lack of patrols, spot checks, visible policing, adequate investigation and according to the respondent's own evidence, wholly inadequate resources for the task required;

Failures in the prosecution process up to and including trial, leading to an inadequate number of convictions and inadequate level of sentencing by the courts; and

The Tribunal found that the breaches of Article 3 caused the property to be damaged by criminal activity, which would not have occurred, but for the breaches.

The investor originally claimed an amount of 10,142,073 Swiss Francs which at the time that the claim was lodged was about R60 million. The final award in damages was R6,586,353.00 plus interest. The total amount paid by the DTI to the claimant on 2 February 2005 was R15,789,387.28 in respect of capital, legal costs and interest. The payment was partly funded by voted funds and the interest portion was regarded as a loss.

NOTES TO THE ANNUAL FINANCIAL STATEMENTS CONTINUED

for the year ended 31 March 2005

Annexure B

	Notes	2004/05 R'000	2003/04 R'000
<b>5. Goods and services continued</b>			
<b>5.1 External audit fees</b>			
Regulatory audits		3,153	3,081
Other audits		235	338
<b>Total external audit fees</b>		<b>3,388</b>	<b>3,419</b>
<b>5.2 Inventory</b>			
Domestic consumables		81	—
Food and food supplies		1	—
Fuel, oil and gas		9	—
Parts and other maintenance material		41	—
Stationery and printing		12,381	17,985
Medical supplies		8	—
<b>Total inventory</b>		<b>12,521</b>	<b>17,985</b>
<b>5.3 Travel and subsistence</b>			
Local		16,933	21,328
Foreign		20,157	21,937
<b>Total travel and subsistence</b>		<b>37,090</b>	<b>43,265</b>
<b>6. Financial transactions in assets and liabilities</b>			
Other material losses written off	6.1	16,194	444
Debts written off	6.2	31,196	38,508
		<b>47,390</b>	<b>38,952</b>
<b>6.1 Other material losses written off in Statement of Financial Performance</b>			
<b>Nature of losses</b>			
* Labour dispute		25 ✓	103
Fruitless expenditure		—	339
* Compensation in terms of bilateral investment treaty		R6 154 ✓	—
* Other		5 ✓	2
		<b>16,194</b>	<b>444</b>
<b>6.2 Bad debts written off</b>			
<b>Nature of debts written off</b>			
* Staff debts		98 ✓	86
* General Export Incentive Scheme		31,076 ✓	20,578
* Other		22 ✓	13
EMIA		—	11,456
HR recruitment		—	6,375
		<b>31,196</b>	<b>38,508</b>

\* ✓ = R 37 380

**NOTES TO THE ANNUAL FINANCIAL STATEMENTS CONTINUED**

*for the year ended 31 March 2005*

	Notes	2004/05 R'000	2003/04 R'000
<b>6. Financial transactions in assets and liabilities</b>			
<b>6.3 Details of theft and losses</b>			
Labour dispute		25	103
Fruitless expenditure		—	339
Compensation in terms of bilateral investment treaty		16,164	—
Staff debts		98	86
General Export Incentive Scheme		31,076	20,578
Export marketing and investment assistance		—	11,456
HR recruitment		—	6,375
Other		27	15
		<b>47,390</b>	<b>38,952</b>
<b>6.4 Recoverable revenue debts written off</b>			
General Export Incentive Scheme		(30,987)	(6,386)
Other		(45)	—
Staff		(11)	—
		<b>(31,043)</b>	<b>(6,386)</b>
<b>7. Unauthorised expenditure</b>			
<b>7.1 Reconciliation of unauthorised expenditure</b>			
Opening balance		35,171	3,201
Unauthorised expenditure — current year		* 37,380	32,246
Unauthorised expenditure approved by Parliament/Legislature — current expenditure		—	(276)
Unauthorised expenditure awaiting authorisation		<b>72,551</b>	<b>35,171</b>
<b>7.2 Unauthorised expenditure</b>			
<b>Incident</b>	<b>Disciplinary steps taken/criminal proceedings</b>		<b>Total</b>
1997/1998			
Second National Conference on Small Business [No Treasury approval for Bank]	Referred to SCOPA		202
1998/1999			
Appointment of consultants [Tender procedures not followed]	Referred to SCOPA		109
National Pavilions [Exceeded tender price]	Referred to SCOPA		1,477
1999/2000			
Removal Recruitment [Procurement procedures not followed]	Referred to SCOPA		62
Appointment of consultants [Tender procedure not followed]	Referred to SCOPA		25
National Pavilions [Exceeded tender price]	Referred to SCOPA		647
Award Ceremony [Tender procedure not followed]	Referred to SCOPA		27