

**PARLIAMENT**  
OF THE  
**REPUBLIC OF SOUTH AFRICA**

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**ANNOUNCEMENTS,  
TABLINGS AND  
COMMITTEE REPORTS**

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WEDNESDAY, 17 NOVEMBER 2010

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## ANNOUNCEMENTS

### National Council of Provinces

#### The Chairperson

#### 1. Message from National Assembly to National Council of Provinces in respect of Bills passed by Assembly and transmitted to Council

(1) Bill passed by National Assembly and transmitted for concurrence on 17 November 2010:

(a) **Adjustments Appropriation Bill** [B 34—2010] (National Assembly—sec 77).

The Bill has been referred to the **Select Committee on Appropriations** of the National Council of Provinces.

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## COMMITTEE REPORTS

### National Assembly and National Council of Provinces

#### **Report of the Joint Committee on Ethics and Members' Interests on the Auditor-General's report on the alleged non-disclosure of members' interests:**

The Joint Committee on Ethics and Members' Interests, co-chaired by Mr L T Landers and Mr B L Mashile, met on 19 August 2010 to consider the report of the Auditor-General on the alleged non-disclosure of interests by members of Parliament.

#### **Attendance**

##### National Assembly

Kohler-Barnard, D  
Luyenge, Z  
Mangena, M S  
Ngcobo, B T  
Nhlengethwa, D G  
Van der Merwe, J H

##### National Council of Provinces

Mabe, B P  
Magadla, N W  
Moshodi, M L  
Rantho, D Z

##### Apologies

Bekker, J M  
Dreyer, A  
Radebe, B A

The Auditor-General's annual audit of Parliament for 2009-10 included a full audit of the 2009 Register of Members' Interests, focusing on the accuracy of disclosures by members of Parliament in respect of their interests in companies or close corporations. Members' disclosure of interests in 2009 was tested against the Company and Intellectual Property Rights Organisation (Cipro) database.

Upon examining the Auditor-General's findings, the Registrar determined that 31 members had not complied with the requirements of the Code of Conduct. After consultation with the co-chairpersons, the procedure used for the investigation of complaints in respect of non-disclosures was followed. This approach is consistent with previous practice when the Auditor-General found that members had not fully disclosed their interests.

On 20 July 2010, correspondence was sent to each member who had been identified with a request that they respond to the allegation that their disclosures for 2009 were not complete. Each member responded to the allegation, the details of which are set out below.

After consideration of the explanations received, the Committee agreed that in most cases the companies in question are dormant or never operated. Some members indicated that their omission had been an oversight. They had previously disclosed the interests and therefore there was no intent wilfully to mislead the Committee.

In its consideration of the matter, the Committee also noted that the disclosures that had been audited were the first of the 4<sup>th</sup> Parliament and the majority of members were newly elected.

The Committee further noted that in most instances the companies are dormant and members had not received any benefit from the company or companies concerned.

The Committee acknowledged that it has the mandate to assist members with compliance with the requirements of the Code of Conduct and that there should be ongoing briefings to ensure that members are properly informed.

The Committee reiterated, however, that the onus for full disclosure rests upon members. It agreed that members of Parliament are expected to comply fully with the requirements of the Code.

All members, with the exception of Mr Van der Merwe, agreed that the non-disclosure of interests is a breach of the Code of Conduct, even if the companies are dormant or if the non-disclosure had been an omission.

**The Committee therefore recommends the following penalties. All members who have been found guilty of breaching the Code must -**

- (a) **attend a compulsory briefing on the requirements of the Code of Conduct;**
- (b) **be informed in writing that the non-disclosure of interests is considered seriously;**
- (c) **correct their existing records in their 2010 disclosure; and**
- (d) **issued a warning that any future non-disclosure could result in the maximum penalty.**

Mr Van der Merwe was of the view that as there had been no wilful breach, members should only be required to correct their disclosures.

The Committee is aware that in some cases members did not disclose more than one company and though it may appear that the Committee has been lenient in the penalty imposed, it wanted to be consistent in its approach to all members and issue a uniform penalty to all who have not disclosed.

#### **1. BHENGU NR**

##### Company information

62 ARUBA, registration 1998/041240/23,

Member's response

The member tried to contact the other directors, but they too indicated that they have no knowledge of this company. The company has had no business dealings. The member indicated that she is in the process of checking with Cipro whether the registration was wrongful. To date the member has not been able to provide further information. She is in the process of resigning from the company.

Finding

Breach - cited as a member by Cipro. The member could not provide additional information to show that the company had been registered without her authorisation.

**2. BLAAI, BC**

Company information

SIYATHEMBANA TRADING 166, 2008/008778/07,

Member's response

The member responded that the exclusion had been an omission and that no benefits had been received. The member apologised for the oversight.

Finding

Breach - the member conceded that she had not disclosed.

**3. BOROTO, M G**

Company information

THEMBISILE TRANSPORT SERVICES, 2004/051764/23,

Member's response

The company never operated. The member was not aware that the company was registered. However, the member apologised for the non-disclosure.

Finding

Breach - the member had not complied with the requirements of the Code of Conduct for members of Parliament.

**4. CHAUKE, H P**

Company information

IKAMVA LETHU MKHONTO INVESTMENTS, 2008/012108/07,

PEOYARONA HOLDINGS, 2008/024876/07,

CAMEL ROCK TRADING 443, 2008/080286/23,

IMVUSA TRADING 2155, 2009/025821/23,

GOT THE EDGE 2, 2002/008570/23,

SIZISA UKHANYO TRADING, 2004/083348/23,

ABAPHUMEMELE, 2005/007898/23,

Member's response

The member indicated that the companies are dormant and he had received no benefit from them. He said that the non-disclosure was an omission.

Finding

Breach - the member conceded that he had not disclosed. The committee noted that seven companies had not been disclosed.

**5. DUMA, N M**Company information

SEKADUMA CONSTRUCTION, 2004/041736/23,

Member's response

The company is dormant. It was an omission, as it had been disclosed previously.

Finding

Breach – the member conceded that he had not disclosed.

**6. GOLOLO, C L**Company information

KGA KUNA MATATA TRADING, 2008/009917/23

SUNSHINE DUNES TRADING, 2003/003584/23,

SAMKEDZE TRADING ENTERPRISE, 2008/155839/23

Member's response

The companies were dormant and never operated. No benefits were received. The member apologised for the omission.

Finding

Breach – the member conceded that he had not disclosed.

**7. HOLOMISA, S P**Company information

KWA TSHEZI LODGE, 2000/028550/07,

Member's response

This company name has changed and member was informed that he was no longer a director. Following up to see why this was not affected.

Finding

Breach - it is the member's responsibility to ensure the correctness of his disclosure.

**8. KOMPHELA, B M**Company information

MATSAPA TRADING 618, 2008/166309/23,

Member's response

The member said that he had updated his disclosure on 5 September 2008. However, the information had not been included in the 2009 disclosure.

Finding

Breach – the member did not disclose.

**9. KOPANE, S P**

Company information

DELA CASA TRADING 550, 2008/014235/23,  
KHATHOLOHA BED AND BREAKFAST, 2008/019104/23,

Member's response

The companies are dormant and never operated.

Finding

Breach – the member did not disclose.

**10. KRUMBOCK, G R**

Company information

RUPERSASH SURVEYS, 1997/041207/23,

Member's response

The company is dormant. This was an oversight, as the company had been disclosed in previous years.

Finding

Breach – the member did not disclose.

**11. LUCAS, E J**

Company information

JABULANI SPARES, 1992/015723/23,  
JIL BUSINESS CONSULTANCIES, 1998/024076/23,  
VUSANI MINING RESOURCES, 2005/099750/23,  
CORPCLO 2210, 2004/044237/23,  
INKULULEKO INVESTMENTS, 1999/019975/07,  
INKULULEKO LEISURES, 2000/016649/07,  
INKULULEKO OFFICE AUTOMATION, 2000/009478/07,  
UNGOYE INVESTMENTS, 2005/004425/07,  
LANDA PETROLEUM, 2008/005772/07,

Member's response

The member apologised for the omission. He said that he was rationalising his representations to the companies at present. The Committee noted that nine companies had not been disclosed.

Finding

Breach – the member did not disclose.

**12. LUTHULI, A M**Company information

ALBERLITO HOSPITAL PROPERTIES, 2004/023093/07,  
ALBERLITO HOSPITAL, 2006/005938/07,

Member's response

The member, as alternate director, received no remuneration. She has resigned and the resignation has been accepted.

Finding

Breach – the member did not disclose.

**13. MABIJA, L**Company information

TATAMASASE TRADING CENTRE, 2008/025680/07,

Member's response

The Cipro document indicated that the member was appointed on 20 October 2010, i.e. after the date of disclosure.

Finding

No breach - the member was appointed on 20 October 2009, after the date of disclosure.

**14. MGABADELI, H C**Company information

VPZ CONSULTING, 2004/034742/23,

Member's response

The company is dormant and never operated.

Finding

Breach – the member did not disclose.

**15. MNGUNI, P B**Company information

ZIYAWA BUSINESS ENTERPRISE, 2003/006038/23,

Member's response

The company never operated and the member has no contact with other directors.

Finding

Breach – the member did not disclose.

**17. MOKGORO, G G**

Company information

MAJESTIC SILVER TRADING 40, 2005/003527/07,

Member's response

The member represents the interests of the Kuruman community in this company and does not receive any remuneration.

Finding

Breach – the member did not disclose.

**18. MOSS, L N**

Company information

SIYATHEMBANI PROPERTY AND EQUITY INVESTMENTS, 2008/002784/07,

Member's response

At the time of disclosure, the member was not aware that the registration of the company had been finalised.

Finding

Breach – the member did not disclose.

**19. MSIMANG, C T**

Company information

NASOU VIA AFRIKA, 1996/012379/07,  
TOWER CITY TRADING 263, 2003/053113/23,  
VIA AFRIKA INTERNATIONAL, 2006/023443/07,  
FUNDA NJALO TRAINING, 2007/056778/23,  
THABIZOLO PROMOTIONS, 2008/121362/23,

Member's response

NEG is a holding company of which Nasou via Africa and Via Africa are subsidiaries. NEG was disclosed. Funda Njalo is an NGO. Tower City only started operating in 2010. Thabazolo Promotions is dormant.

Finding

Breach in respect of Tower City Trading and Thabazolo Promotions, as they were not disclosed. The member is also in breach in respect of Funda Njalo, as it is registered as a close corporation and should therefore be disclosed.

**20. MSWELI, H S**

Company information

SIGAWULA CATERERS AND EVENTS MANAGEMENT, 2005/019097/23,

Member's response

The member did not realise that she was expected to disclose as the company is dormant.

Finding

Breach – the member conceded that she did not disclose.

**21. NDABANDABA, G**Company information

LOZANO PROPERTY INVESTMENTS, 1988/014254/23,

Member's response

The company is dormant. The member was not aware that the company still exists.

Finding

Breach - the member did not disclose.

**22. NTAPANE, Z S**Company information

SEE BEYOND TRADING, 2004/062859/23,

Member's response

The company is dormant and should have been deregistered. The member will deregister the company.

Finding

Breach - the member did not disclose.

**23. NZIMANDE, P M**Company information

EYETHU SONKE DRIVERS TRAINING, 2001/051404/23,

Member's response

The company is dormant and should have been deregistered. The member will follow it up with Cipro.

Finding

Breach - the member did not disclose.

**24. NYANDA, F N**Company information

THANDA VIVI CONSTRUCTION, 2002/017235/23,

Member's response

The company is dormant and the member received no benefit.

Finding

Breach - the member did not disclose.

**25. RASMENI, R N**

Company information

BUNU SISTERS TRADING AND PROJECTS, 2007/141468/23,

Member's response

The non-disclosure was an omission.

Finding

Breach - the member did not disclose.

**26. RWEXANA, S P**

Company information

AFRICAN WOMEN CO-ORDINATED INVESTMENTS, 2003/012102/07,

UNCEDO LWAMAKHOSIKAZI TRADING, 2007/183297/23,

ABAPHUMELELI TRADING, 2005/105361/23,

AFRICAN WOMEN COORDINATED INVESTMENTS, 2003/012102/07,

Member's response

The companies are dormant and did not operate.

Finding

Breach - the member did not disclose.

**27. SCHAFFER, D A**

Company information

MTS INSOLVENCY ADMINISTRATORS, 2009/028139/23,

Member's response

The non-disclosure was an omission. The member is not sure if the registration had been finalised at the time of disclosure.

Finding

Breach - the member did not disclose.

**28. SIBANYONI, J B**

Company information

MALUJU CIVIL ENGINEERING, 2004/054333/23,

Member's response

The company is dormant and never operated.

Finding

Breach - the member did not disclose.

**29. SIZANI, P S**Company information

WOODY CAPE DEVELOPMENT CORPORATION, 1998/042298/23,  
EAGLE SKILLS DEVELOPMENT AGENCY, 2003/104395/23,  
STONE SIZANI CONSULTING, 2004/063102/23,  
PURPLE MOSS DEVELOPMENTS, 2007/151336/23,  
BUYISIKAMVA HARDWARE SOULTIONS, 2005/053332/23,  
MENTACOR TRADING, 2002/011739/23,  
EXCEL INDUSTRIES SOUTH AFRICA, 2004/092613/23,

Member's response

The member had asked a private company to do a search of all interests registered at Cipro and that information was submitted. However, the company did not do a check of close corporations and therefore they had not been included in the member's submission. There was no intention to mislead the Committee.

Finding

Breach – the member did not disclose as required. The Committee noted that seven companies had not been disclosed.

**30. THOMPSON, B**Company information

LION'S HEAD TRANSPORT SERVICES, 2006/144197/23,

Member's response

The company is dormant.

Finding

Breach - the member did not disclose.

**31. TSHWETE, P**Company information

UNCEDO LWAMAKHOSIKAZI TRADING, 2007/183297/23,  
MELODY HILLS TRADING 196, 2008/228305/23,  
THUTHUKANI WOMEN INVESTMENT, 2008/231725/23,  
NKONKA ENERGY RESOURCES, 2009/018728/07,

Member's response

The companies are dormant, but their non-disclosure was an omission.

Finding

Breach – the member did not disclose.

**32. ZULU, M M**Company information

BANELE INVESTMENTS, 2004/067671/23,

Member's response

The member is in the process of resigning.

Finding

Breach - the member did not disclose.

Signed  
LT Landers

Signed  
BL Mashile

Report to be considered.

## COMMITTEE REPORTS

### National Assembly

#### 1. Report of the Portfolio Committee on Tourism on Oversight Visits to Northern Cape and Limpopo Provinces, dated 2 November 2010

Having undertaken oversight visits in Northern Cape and Limpopo provinces, the Portfolio Committee on Tourism reports as follows:

#### EXECUTIVE SUMMARY

The committee undertook an oversight visit to Northern Cape Province from 24 July 2010 to the 30 of July 2010 and the Limpopo Province from 2 August 2010 to 6 August 2010. The objectives of the visits were to:

- Assess the alignment and integration of tourism in the three spheres of government.
- Assess the level of stakeholder participation - both in the public and private sectors - and provincial government support.
- Analyse the contribution of the sector in job creation, with a focus on challenges, opportunities and prospects.
- Assess support for cultural and heritage tourism growth.
- Evaluate and assess the implementation of the Expanded Public Works Programme (EPWP) and its outputs and outcomes.
- Assess the support for sustainable livelihoods, particularly for people involved with Small, Medium and Micro Enterprises (SMME's).

The Northern Cape leg of the visit incorporated the following areas: Kimberley (Sol Plaatje District Municipality); Kuruman (John Taolo Gaetsewe District Municipality); and Upington (Siyanda District Municipality).

In Limpopo, the following areas were prioritised: Polokwane (Capricorn District Municipality); Thohoyandou/Mutale (Vhembe District Municipality; and Modjadji (Mopani District Municipality).

There has been a positive move taken by the Northern Cape Department of Tourism to redefine the province's tourism industry, positioning it as a premier tourism destination, with attractions such as extreme sports, nature, cultural exploration and escapism. The initiative undertaken by the provincial department seeks to address issues that were previously lacking in the Northern Cape, one of which was active marketing. This drive has been substantiated by proactive moves such as bidding for events that are of an extreme nature such as the Maloof Money Cup and the Bloodhound Super Sonic Car, with both events having been safely secured for hosting in the 2011/12 financial year. The provincial government envisages that the marketing of these mega events nationally and internationally will be critical, as the full attendance of these events could yield positive returns for tourism in the province.

It was encouraging to note that the province is on track in addressing the issue of tourism development as well as rural tourism development. In line with the national priorities of government to fast-track rural development, the province has embarked on tourism route development projects in the following areas: Namakwa; Siyanda; John Taolo Gaetsewe; Pixley Ka Seme; and Frances Baard.

Although it is not yet evident whether this project will fully address the issue of rural tourism, this move will nevertheless create a platform for people in rural communities to participate in the development of rural tourism.

The move to increase the budget from an all-time low of 2 million rand in 1994 to about 32 million rand in the 2010/2011 financial year suggests the importance of tourism contribution to rural development, as well as economic development in the province. This is evidenced by the average yearly growth of 17% of national visitors as well as 25% in international visitors. However, it needs to be highlighted that the budget allocation received by the tourism department remains inadequate for its mission to completely unlock the potential of tourism in the province.

There is a high drive of entrepreneurial activity in the province, especially in the accommodation and hunting industries. Nevertheless, it is important to note that interest generated in the two industries could lead to over-saturation if the demand to visit the province does not match the supply. This was observed in one of the meetings in Kuruman, where the industry sector complained that business was becoming minimal, which suggested that the area might be moving towards over-saturation. There is growing support for emerging entrepreneurs in the province, through awards such as the ETEYA (Emerging Tourism Entrepreneur of the Year Award) awards and the 'bubbling under' awards. The 'bubbling under' award is a sub-award to assist entrepreneurs who do not qualify for the ETEYA awards but bear potential to grow in the tourism sector.

Access to training by business operators who wish to send their staff for training remains a hurdle. The department has, to some extent, availed resources for training to individuals who have an interest in tourist guide training, foreign languages, and so forth. Training in the tourism sector need not only be available to post matriculants, but must be a practice that is entrenched from the early stages of child development, and from the primary school level, in order to promote and engender interest in the tourism sector in people from an early age.

Accessibility to tourist sites in the Northern Cape has proved to be problematic in spite of the growth of tourism industry. At the current juncture, there is only one airline carrier that ferries people to the Northern Cape. This contributes to the high-ticket prices, thus making it difficult for people to travel by air. In addition, the Northern Cape is the largest province in South Africa with a size of 361,830 km<sup>2</sup>, which makes travel by road very daunting and undesirable to international and domestic travellers. Hence, growth in visits to the province is negatively affected by limited transport accessibility.

There is a lack of cooperative governance between the three spheres of government, which has also proven to be a bottleneck in the growth of tourism in the Northern

Cape. The province seems to be affected by bureaucratic red tape issues. One of the matters that have yet to be addressed is the lack of road signage, which restricts access to roads. The establishment of the intergovernmental relations framework is the first step taken by the province to address issues of cooperative governance. This will allow the three spheres of government to work in partnerships to improve communication lines between municipalities and provinces, and national department.

In the Limpopo Province, nature reserves have taken centre stage as tourist attractions. This is evident in the development of the African Ivory Route, which includes a total of 54 provincial reserves. These reserves form an arch and follow the peripheral borders of the province along Botswana, Zimbabwe and Mozambique. The province has further embraced the initiative by the private sector of promoting the golfing sport in order to enhance their tourism package. The province has also formed a partnership with Entabeni; and this partnership involves the combining of the Entabeni game reserve with the Doorndraai Dam Nature Reserve, with prospects of further developing the reserves as a tourist attraction.

The constant threats of mining activities to the vitality and growth of tourist attractions, such as Mapungubwe and Nylsvlei remains a problematic issue that requires government intervention and cooperation between relevant stakeholders. Both these sites are of national importance with one being a world heritage site and the latter a Convention on Wetlands of International Importance site (or RAMSAR in short). Lake Fundudzi, one of the few true inland lakes in South Africa has been threatened with extinction through the filling up of sand. There is a need for intergovernmental cooperation between the Department of Tourism and the Department of Environmental Affairs to resuscitate the lake for the benefit of securing this national resource, as well as ensuring rural development.

The access roads leading to attractions in rural areas such as the Fundudzi Camp and the Modjadji Cycad Forest are in poor shape and pose a big challenge. There is a need for cooperation between municipalities and provincial governments who need to understand the importance of upgrading roads in order to facilitate easy access for tourists. There is a need for municipalities to recognise the importance of tourism to the growth and development of municipal areas. Municipalities need to effectively consider tourism in the municipal Integrated Development Plan. There seems to be challenges with a conflict of interest and the confusion of roles and responsibilities, with regards to community representatives who are also public officials. The latter should be pioneering the implementation of programmes and resolve bureaucratic red tape issues.

Stakeholder engagement in Limpopo is not at optimal standard, especially in the rural areas where dissemination of information remains a challenge. It is important to note that in Limpopo, industry stakeholders seem to be organised and clearly understand the challenges to the growth of tourism in the province. The completion of the EPWP programme in the Cycad Forest remains a challenge. The grading of accommodation run as businesses do not seem to be run in a consistent fashion, as the status of some of the bed and breakfast places do not seem to correspond to the quality. There is therefore a need for the grading council to look into this issue as it has serious repercussions on the credibility of grading institutions.

The importance of intergovernmental relations and cooperative governance is in the forefront for the growth of tourism in the country. There is a need for the tourism national strategy to be filtered down to municipal levels in order to ascertain growth in the tourism sector. In the same vein, it is important to engender a culture of innovation and that can only come about if space is created for an integrated approach involving feedback from the municipalities, and other stakeholders. Education and training remains a critical component for the development and growth of tourism in the two provinces. Although the current state of affairs in the two provinces is not completely fulfilling, there is a huge potential for the two provinces to advance in the tourism sector. There is therefore a need for the tourism budget allocations in the provinces to be increased for this potential to be unlocked. This will significantly increase the contribution of tourism to job creation and sustainable livelihoods, as part of the key national priorities of Government.

In relation to the role of Parliament, the following could be considered:

- Working with provincial legislatures to oversee the blockages created by red tape issues, (such as signage, access to funding, etc.), as well as ensuring the accessibility of tourism initiatives to previously disadvantaged individuals.
- There is a need for parliament to advocate for the review of funding mechanisms to SMMEs, as current mechanisms are not as accommodating of SMMEs in the tourism sector.
- Joint committee initiatives on tourism should be undertaken to oversee the challenges, and develop recommendations for the growth and development of the tourism sector.
- A need to constantly engage with industry and communities on issues of tourism for the purposes of contributing to tourism growth and development.

The following members formed part of the delegation:

<b>Political Party</b>	<b>Representative/s</b>
African National Congress	Mr D.M Gumede (Leaders of the delegation); Ms X.C Makasi; Ms T.J Tshivhase; Ms J. Manganye
Congress of the People	Ms M.A Njobe
Inkatha Freedom Party	Ms C.N Zikalala
	<b>Support staff:</b> Mr J. Boltina, Committee Secretary Ms J. Ntuli, Committee Researcher Mr M. Vumzonke, Committee Assistant

## 1. INTRODUCTION

In support of the national effort for development, the committee visited the Northern Cape and Limpopo from 26 July to 6 August 2010.

Part of the mandate of the Portfolio Committee on Tourism is to conduct oversight in its efforts to promote optimum benefits for the resources and capacities available to the three spheres of government.

The committee visited the two provinces, which are mainly rural that benefit the least from the industry, that is, at a national level. The committee felt that it was necessary to conduct a study tour so as to assess the nature of challenges and prospects for inclusive growth, particularly in the rural areas.

The committee's visit is in line with the following points that are relevant to national priorities:

- Inclusive growth that creates decent jobs, promotes sustainable livelihoods with meaningful participation of the historically disadvantaged communities and individuals.
- Involvement of rural communities in tourism growth and development in the mainstream industry.
- Assess the skills development in the industry.
- Impact of crime and corruption in the industry and response thereto.

The following national priorities informed the committee objectives, which are:

- To prioritise the provinces, which least benefit from the tourism industry.
- To align and integrate tourism in the three spheres of government.
- To assess the level of stakeholder participation - both in the public and private sectors - and provincial support.
- To provide an analysis of the contribution of the sector in job creation, which look at challenges, opportunities, and possible alternatives.
- To assess support for cultural and heritage tourism growth.
- To implement the Expanded Public Works Programme (EPWP) and its outputs and outcomes.
- To provide support for sustainable livelihoods, such as that of Small, Micro, Medium Enterprises (SMMEs), co-operatives and individuals.
- To assess the performance of government institutions that are meant to support the industry and its stakeholders e.g. ESKOM, municipalities, roads and department.
- To meet relevant stakeholders like development banks, FET's, and universities, among others.

The briefing session conducted in Parliament on 16 March 2010 was the basis upon which provincial oversight visits were conducted. This provided a broad national perspective on the state of tourism in the provinces and the challenges experienced at provincial and municipal levels.

Subsequent to that session, the committee visited the Northern Cape and Limpopo provinces to conduct oversight in terms of the objectives outlined above. In an attempt to obtain a balanced view on the state of tourism in the provinces, the committee visited various cities and attraction sites in Northern Cape to ascertain their state of tourism and the challenges.

The areas visited in the Northern Cape and Limpopo are reflected in Table 2:

Dates	Municipality	City
	Northern Cape Province	
27 July 2010	Sol Plaatjie District Municipality	Kimberley
28 July 2010	John Taolo Gaetsewe District Municipality	Kuruman
29 July 2010	Siyanda District Municipality	Upington
	Limpopo Province	
3 August 2010	Capricon District Municipality	Polokwane
4 August 2010	Vhembe District Municipality	Thohoyandou
5 August 2010	Mopani District Municipality	Modjadji

The process followed during the oversight visits included:

- Briefing sessions with district and local municipalities: Mayors outlined existing state of tourism and perspectives on challenges and opportunities.
- Three public hearings were held with tourism industry stakeholders.
- The committee undertook site visits to obtain first hand the challenges encountered by communities.
- Oversight visits were concluded by holding stakeholder engagement sessions which sought to work out the plan of government as a collective (local, provincial and national) on those issues raised by communities.

## **2. BRIEFING SESSIONS, SITE VISITS AND STAKEHOLDER ENGAGEMENTS**

### **2.1 Briefing by the Northern Cape Department of Economic Development and Tourism**

The department presented an overview of the status of provincial tourism. Economic growth rates improved steadily over the past few years and the contribution to gross domestic product was just over 2% in 2004. 92% of worlds' reserves of iron ore and manganese are found in this province. The province has the highest concentration of available solar energy. The economy relies heavily on mining, agriculture and tourism.

The tourism industry in the province confronts the following challenges:

- The provincial tourism industry is vulnerable to economic down cycles.
- Emerging small tourism enterprises struggle for survival as they have to compete with more established tourism enterprises.
- Established tourism enterprises are unable to make significant contribution to provincial tourist attraction development and promotion.
- Lack of growth in arrivals and market share makes rapid provincial tourism industry development and transformation very difficult.

Some of the reasons for underperformance by the tourism sector in provinces comprise the following:

- Constrained access: Expensive air tickets, flight frequencies and capacity, types of aircraft used, underdeveloped small town airports travel by vehicle, lack of reliable rail-based passenger service and quality roads.
- Inadequate product development: General lack of maintenance, quality, diversity, attractions, activities, service excellence, geographical spread.
- Poor product packaging: Lack of cooperation between communities, and the government. The private sector generally leaves individual/s to undertake work with no support, and this creates a sense of isolation. No tangible product to sell and to leave visitors with a 'wow' experience.
- Inadequate marketing and promotion: Insufficient brand building, over emphasis on exhibitions and advertising, lack of targeted selling approach and lack of efficient and effective tourist information distribution network.

## **2.2 Impact of the tourism industry development**

- Tourism destination development projects for 2010/11 budget year will eventually create 100 permanent jobs as projects are introduced in the market.
- Tourism Business Development projects for 2010/11 budget year will eventually create 10 permanent jobs as clients further develop their product and market awareness is raised.
- In Siyanda Region: 10 accommodation venues were established in 1992 and 124 accommodation establishments in 2010.
- Black-owned small tourism enterprises: 12 in 1995 and 80 in 2010.
- The provincial tourism industry contributes on average of R1,5 billion to the Northern Cape economy, making it one of the most valuable economic sectors in the province.
- The 2010 FIFA Soccer World Cup had its impact in that the Kimberley and Upington airports were upgraded and the N12 from Johannesburg to Three Sisters was reconstructed. It was highlighted that the bad state of this route was a main reason for Kimberley's tourism industry slowly failing and this factor is now no longer a concern.

### **2.3 Challenges facing provincial government**

- Municipal capacity and slow responses as project implementers.
- Own capacity to implement projects and monitor progress in terms of staff numbers, skills levels and work environment.
- Community dynamics – internal and political – tear communities apart and prevent them from becoming self –sustainable. (Owning land is the short cut to real wealth but in these cases, the poverty trap is still strong).
- Management of Expanded Public Works Programme –style employment creation. Few people want to work for the rates paid.
- Road sign application process and Road Sign Manual prescriptions for N and R routes working severely against the needs of the tourism industry.
- Land-use zoning process delays impact on tourism development and especially the pace of tourism industry transformation.

### **2.4 Bloodhound and skateboarding**

#### ***Bloodhound Super Sport Car (SSC):***

The car is designed and built to achieve 1000 minutes per hour (mph) (1600 kilometres) on land. This would create opportunities for Education through its Science, Technology and Engineering initiatives.

The Track: The Northern Cape Province is to assist the Bloodhound Team to build the World's Fastest Track at Hakskeenpan – 20 km (l) x 500 m (w).

Progress: A survey of the track has been concluded. An EIA study is currently being commissioned. Buy-in from the District and Local municipalities has been secured. The Departments of Education and Public Works were on board and the following elements were being investigated – preparation of the track; grading and maintenance; water tankers; camping facilities; maintenance camps; fencing; medical facilities and the erection of a grand stand (viewing platforms).

#### ***Skateboarding***

Skateboarding is the number 1 growing action sporting code in the world, which trumps other action sports when it comes to the number of participants, buying power of audience and the industry's overall influence on pop culture, fashion, movies and music. For the past 10 years, while traditional sports participation has stagnated, the fastest growing sport in America has been skate boarding and has more than 9 million participants.

How does this benefit South Africa, and specifically Kimberley? The journey begins with a vision which allows for infrastructure development that will bring the youth of the country together. This could transform empty roads into a pathway for locals and visitors afar to gather at a central point of contact to witness the top international and local skaters competing, but will also allow them the time to interact and teach other aspiring skaters to be the next skateboarding champions of the world.

Kimberley will be at the forefront of this extreme vision by ways of the Maloof Money Cup Skateboarding Championships.

This vision comprises the following components:

- Contractual elements: event description – international world class skateboarding event; with two qualifiers to be held in the United States and the final in Kimberley, South Africa.
- Commitment to infrastructure development: Design and construction of 1 400 square meters skatepark, vert ramp and concert stage.
- Media partnerships objective: To secure media coverage to facilitate adequate ROI for sponsors.
- Awareness campaigns establishing the brand: With the high celebrity status of the event in the United States and the alignment of the Maloofs, their identity needs to be entrenched into the South African market place. This will take place in the form of a national road-show, and will be multi-dimensional and aligned to public relations strategy.
- Content production: The value of capturing every aspect of the event would create an unquantifiable asset in terms of broadcasting and merchandising.
- Merchandise economic opportunities: There are countless ways of creating merchandising opportunities, which will encourage local involvement.

This will require the support of many sectors, to ensure that it becomes a reality for Kimberley and the Northern Cape. At the national level, the following interventions are required to assist the Northern Cape:

- Actively assist with finding a sustainable solution to address the access constraints to the Northern Cape by road, rail and air.
- Actively assist to develop tourism management capacity and skills levels at municipal level.
- Actively and urgently assist to review the Road Sign Manual to mitigate its severely negative impact on tourism development and promotion.
- Actively assist to secure funding for the development of a network of gateway tourist information centres. Recommended locations are Steinkopf, Nieuwoudtville, Victoria West, Honover, Garies and Kuruman.
- Actively assist with bringing harmony to communities in land restitution areas and guide them in best ways to make their land work for their own wealth and pride.
- Actively assist to raise the importance of tourism as a valuable economic sector in the Northern Cape.

An overview of the key issues emanating from public hearings with stakeholders in the tourism industry in Kimberley, Kuruman and Upington, reflected the following:

In Kimberley, the stakeholders complained that the Restitution of Land Rights Act (Act No. 22 of 1994) is generally perceived by people as a good gesture of restoring the dignity of communities that were dispossessed. Such a gesture should heal the wounds, uplift the socio-economic standard of life and pave the way for genuine

reconciliation. However, the moratorium placed on land is a challenge. Further challenges comprised the following:

- Training opportunities in the sector are inaccessible to many because of cost, geographic location or high level selectivity in admitting students to programmes and tourism training in higher education is assessed as having little industry relevance, and not adequately preparing people for the requirements of jobs.
- Lack of managing inter-departmental relations to support the tourism industry.
- Lack of feedback from government officials.
- Time taken is too long for people to get license permit.
- Registration of Guest Houses with MATCH.
- Tourist attraction areas: opening and closing time were not conducive to tourism.
- Tour Guide registration.
- Liquidation of businesses had increased by 10% because government takes too long to pay entrepreneurs.
- Attendance of international exhibitions – small businesses are taken to those exhibitions, yet there are no returns to their businesses.
- Market share is small because Northern Cape is inaccessible and it is very expensive to run a business.
- FET colleges.
- Lack of entertainment/there is lack of night life in Kimberley.
- SITA money / levies are inaccessible.
- Access roads are limited.

In Kuruman, the following concerns were raised:

- Ineffective community participation in Local Economic Development (LED) and Integrated Development Planning (IDP) processes was a crucial matter that emerged.
- Lack of development of the tourist attraction areas.
- Lack of employment opportunities for locals. Community complained that all constructors working in Northern Cape were from outside the province. Procurement benefits were enjoyed by people outside the province.
- Lack of infrastructure development, including access roads.
- There was a suggestion of tourism route development.
- Provincial government takes too long to approve projects, for example, one person made a point that he has been sitting with a project for five years, no government officials wanted to take a decision.
- Hunters were frequent in the Northern Cape but this was limited only to 7 days and 90% of them would end up in Cape Town or Kruger National Park.
- There was also a complaint that some areas in Kuruman lack cell phone networks.
- A proposal was made that there should a district coordination structure to coordinate the tourism activities in the at district level.
- Lack of adequate budget.

In Upington, the following concerns were raised:

- Stakeholders complained about the lack of tourism road signs. At some point, there was a meeting in Kimberley where the matter was discussed and there seems to be no movement on the part of the government.
- The museum is dirty and not maintained and tourists are not guided.
- Government takes too long to pay entrepreneurs for services rendered and as a result, this was impacting negatively on their businesses.
- There is no signage for attraction sites/areas.
- There is a challenge with street names.
- There is a lack of recreational facilities and as a result, the youth are heavily involved in alcohol abuse.
- Lack of communication between government and stakeholders, in that, 3 years ago, a submission was made for the department to provide tour guides to assist tourists. To date, there has been no response. The local community is not updated on developments.
- Parks are dilapidated due to a lack of maintenance.
- Lack of tourism information desks at the airport.
- Inadequate budget for tourism.
- The Black community submitted that they are not benefiting in anyway in Upington. Stakeholders have however noticed that what is developing is the increase in numbers of Somalians and Indians that have opened up businesses in Upington.
- Lack of access to facilities for people with disabilities.

### 3. Committee observations

Most of the issues raised during the hearing by tourism industry stakeholders revolved around poor governance systems. Some of the issues include: lack of accountability by relevant authorities; lack of communication between local, district, province and the stakeholders on matters of development in the province. At times, meetings are called and subsequently cancelled at the last minute. At another level, the Northern Cape is a vastly spread province and is mainly rural. As a result, limited financial resources of municipalities are unable to fund all the services required by stakeholders.

#### 3.1 Limpopo

The process followed during the oversight visit in Limpopo Province included briefing sessions, site visits and stakeholder engagement.

The **Limpopo Department of Economic Development, Environment and Tourism** submitted the Draft Revised 5 year Provincial Tourism Growth strategy. The strategy document outlines three areas for further consideration: the current tourism status; opportunities and interventions still to be realised; and will increase Limpopo's competitive advantage.

Limpopo experienced a gradual growth in tourist numbers over the last few years. However, Limpopo is positioned as the fifth most visited province in South Africa and this indicates that there is still place for improvement. Hunting in Limpopo is seen as a major contributor to the number of tourist visits, length of stay and tourist spend. Historically, hunting has not been seen as a tourism sector, and therefore its contribution was not seen as important and therefore not included into the economic calculations determining growth. However, hunting's contribution was determined and should be acknowledged within the context of Limpopo and therefore be integrated within the tourism growth strategy. Private sector and government invested in tourism infrastructure projects that enhanced the implementation of tourism growth strategy.

Tourism products were developed and/or upgraded through private sector and government initiatives enhancing the tourism clusters. Tourism sector skills development programme implemented and capacitated 756 PDI's. 150 businesses recorded to be owned by PDI's. Tourism awareness created and two annual provincial events established (the Marula festival and the Limpopo Soccer Challenge). Limpopo recorded 773 registered tour guides; 1048 tourism establishments with 33229 beds, of which 47% have been graded. A provincial Tourism Bill has been drafted and promulgated as an Act in 2009.

The presenters noted the following opportunities and interventions that still need to be realised:

- The establishment of routes and basic infrastructure in rural areas still needs to be expanded and/or upgraded to ensure that tourists can safely travel to the remote corners of the province.
- The flow of tourists into rural areas will not only enhance Limpopo's unique product offerings but will contribute to the growth of economic opportunities in these areas.
- Polokwane, as a Host City during the 2010 World Cup, opportunities were identified around the offering of more recreational and entertainment activities, and expansion on the shopping experience Polokwane currently has to offer, business tourism through conferences and events, organised sport tourism that has also been identified as one of the national tourism focus areas and the establishment of an effective tourism information and event management office.
- A major intervention and opportunity for tourism lies within the transport sector. This includes rail and air transport. An intervention strategy to increase the Airlift from and to Polokwane – linking with routes to SADC countries and visa versa will enhance the tourism strategy.
- It has been acknowledged that the communication between government and tourism industry is not at a desired level. It is known that to grow tourism, interactive liaison and cooperation between all role players are required. The streamlining of communication channels and the establishment of partnerships between government, the private sector and communities therefore requires further attention.
- The lack of implementing an integrated spatial and land use development plan on provincial level has led to various ad hoc developments that are in direct conflict with other land uses. This directly impacts on tourism planning and this needs to

be put on the agenda as an issue that needs serious intervention at provincial and local government level.

Limpopo has the following tourism advantage:

A growing interest in natural heritage and opportunities to experience high-quality natural environments has been identified as important factors of competitiveness in the Travel and Tourism Industry. Limpopo's competitive advantage as a tourism destination is based on its natural (scenic beauty, wilderness landscape and diverse wildlife), culture and heritage resources base and is therefore positioned to cater for this interest. This is substantiated by the following factors:

- 4.1 million (approximately 30%) hectares in Limpopo is dedicated to game farming and provincial nature reserves (48) that offer various consumptive and non-consumptive tourism opportunities.
- The Kruger National Park, South Africa's prime eco-tourism destination adds an additional 1.9 million hectares to this natural experience.
- Three National Parks converge in Limpopo: the Kruger National Park, Marakele National Park and the Mapungubwe National Park (also part of the Mapungubwe World Heritage Site).
- Limpopo is also home to three registered UNESCO Biosphere Reserves, namely the Kruger to Canyons Biosphere Reserve, the Waterberg Biosphere Reserve and the Vhembe Biosphere Reserve.
- Limpopo is the furthestest part to two transfrontier conservation areas, namely the Greater Limpopo transfrontier conservation area and the Mapungubwe transfrontier conservation area.
- Limpopo has two Ramsar sites, 28 registered natural heritage sites and still many un-proclaimed cultural and natural areas.
- Furthermore, Limpopo is home to three national centres of endemism, namely the Soutpansberg Centre, the Wolkberg Centre, and the Sekhukhune Centre.

The indicators identified by the World Economic Forum to measure the competitiveness of the natural resources base of nations are determined according to the:

***Number of UNESCO natural World Heritage sites.***

- The total known species (animals, birds, and frogs) included on the IUCN Red List.
- Endangered species (as a % of total known species) on the IUCN Red List.
- Index of ratified environmental treaties (total number of treaties ratified by each country based on a sample of 25 most relevant treaties).
- Nationally protected areas (a % of the total land area).

***Priority Tourism Projects***

In order to cope with extremely limited resources against a requirement of approximately R3 billion to develop the much needed tourism infrastructure to realize

the potential of tourism in the province, there is a need to facilitate large scale private investment, and projects had to be prioritized. The following criteria were used:

- The long term sustainability of the project.
- Important anchor project for tourism growth.
- Current status of the project.
- Potential job creation for PDI's and SMMEs within the short and long term.
- Specialized maintenance and small upgrades to ensure a consistent quality standard on 12 provincial owned resorts.
- Critical nature reserve infrastructure required to support the tourism investment on the reserve.
- Community beneficiation and new landowner support to enhance the social impact of the project.
- The strategic link with the objectives of the tourism growth strategy.

Main challenges to overcome facing tourism in Limpopo province

- Using the existing (limited) marketing budget allocated for tourism, posed various challenges to enable Limpopo to optimise the opportunities offered through hosting the 2010 FIFA World Cup, not to mention the implementation of a desired marketing strategy for Limpopo.
- Prolonged land reform processes, linked to inadequate after care programmes in wildlife and tourism business sector hampers investment opportunities in tourism.
- Lack of adequate integrated land use planning at a provincial level resulted in uncoordinated development that directly impacts on provincial tourism icons and therefore on tourism growth.
- Lack of tourism units/managers within municipal structures hamper tourism planning and development at a local level.
- Poor secondary road infrastructure and proper signage impacts on the access to tourism products based in rural areas.
- Airlift – lack of low –cost airline services to Polokwane (direct flights to SADC countries) impacts negatively on tourist arrivals to Limpopo.

#### **4. SITE VISITS**

##### **4.1 Greater Entabeni Safari Conservancy and Doorndraai Dam**

The Entabeni Safari Project is a dream in the process of being realised to create a unique paradise using the ancient building blocks which historically occurred in the Waterberg. The aim of the project is to restore the full historic biodiversity of the area in a beautiful setting framed by the majestic Waterberg and the lake formed by the Doorndraai Dam.

The project is undertaken by merging the 12 500 hectares Entabeni Private Game Reserve and the public Doorndraai Nature Reserve of almost 8 000 hectares to create a 22 000 hectares nature reserve. The nature reserve would be expanded over time by adding adjacent private and public properties until it is able to cater for the full historic biodiversity of the area on an ecologically self-sustaining basis.

The project forms part of the Waterberg Savannah Biosphere Reserve and already offers all five members of the Big Five as well as an array of other wildlife. Currently, there are six (3 to 5 star) game lodges, game drives, scarce game breeding centre and a major golf estate built on the scale.

#### **4.2 Nylsvley Nature Reserve (Ramsar Site Project)**

This project was designated a Ramsar site in July 1998. Ramsar is an international convention that seeks to recognise and urge protection for globally important wetlands. The reserve is one of about 20 sites currently registered in South Africa and one of 1600 in the world and is also listed by Bird Life International as an 'Important Bird Area'.

Much of this recognition stems from the variety and abundance of waterbirds that are attracted to the floodplain during flooding. More than 100 waterbirds species have been recorded – more than that recorded in any other South African wetland. Many of these species are rare or highly localized elsewhere in the country. Nylsvley is an important breeding ground for them in wet years and the 380 species recorded makes it one of the most bird –rich reserves for its size which is 4 000 hectares, in South Africa.

The committee was informed of the following threats to Nylsvley and its Ramsar status:

- Unrestricted development in the catchment area.
- Water (including human waste) being pumped into the Nyl River from Modimolle.
- Proposed prospecting for coal in catchment area.

#### **4.3 Mapungubwe National Park (World Heritage Site)**

The ancient city of Mapungubwe meaning 'hill of the jackal' is an Iron Age archaeological site in the Province on the border between South Africa, Zimbabwe and Botswana. It is close to the point where Limpopo and Shashe Rivers meet. One thousand years ago, Mapungubwe appears to have been the centre of the largest kingdom in the African sub-continent.

Archaeological enquiry uncovered the remnants of numerous dwellings, which had been built on the ruins of predecessors over many generations, resulting in a series of habitation phases. It is said that radiocarbon dates show that the first buildings were erected below the hill at the beginning of the 11th century AD.

Greefswald farm remained the property of the State from the 1930s. Management of the farm was taken over by the provincial Department of Nature Conservation in 1992 and control was transferred to SANParks in 1999. Mapungubwe was declared a World Heritage Site by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in July 2003.

The park is also part of the proposed Transfrontier Conservation Area Initiative (TFCA), with the Memorandum of Understanding (MoU) signed in June 2006.

#### **4.4 Engagement with Nwanedi (Project) Community Representatives**

Stakeholder concerns focused mainly on the following areas of service delivery:

- Expansion of tourism infrastructure and services.
- Upgrading of access roads to Gumela Gate.
- Upgrading of existing facilities to 3 star grading.
- Upgrading of tourist roads.
- Unresolved land claims. This poses a challenge because even those who wish to invest are unable to invest in the project.
- Training and Development programme for the locals to sustain the businesses.
- The road which is inaccessible does not belong to the municipality, but to the Provincial Government.
- Part of the challenge is that the land is a communal land, and once a portion is developed, a Chief will demand that developed area.
- New water purification unit.
- Rehabilitation of old mines.
- Hiking trails.
- Poaching is a challenge due to lack of rangers, those present are old people who were expected to retire.
- Marketing of the Nwanedi Resort is a challenge because it is located inside the Nature Reserve.
- The complex nature of the contract entered into between LIMDEV (Development cooperation) and the 'Black Tsepisi' needs to be reviewed.
- Many complaints note that the 'White Tsepisi' was only paying R46 000 per annum or royalties.

#### **4.5 The African Ivory Route Safari Camps**

The committee was informed that the province was running the programme to convert villagers and township residents into tourists by sending them on an adventure into their own country and culture. Tourism was not very popular in the province, especially among the black people. The aim is for the African Ivory Route to benefit its communities.

Of the ten cultural camps based in villages along the route, where tourists get to see traditional dances, eat local food, enjoy traditional music and storytelling, and interact with villagers, the committee was able to visit only two camps namely: Fundudzi and Modjadji Camps.

#### **4.6 Meeting with community leaders at Fundudzi Camp**

The following issues were raised:

- Stakeholders in the community complained that they were still waiting for the department to hand over the camp to the community as promised.

- The ownership, management and control of the camp is still a challenge.
- The size of the camp is not known by the community and there is no security in the camp.
- Water availability is a challenge.
- Lack of communication between the province, district and local level of government.
- There is a lack of infrastructure development, including access roads.
- Lack of maintenance.
- Budget allocation needs to be increased.
- Lack of clear marketing strategy of the camp.
- The community wants to make the camp traditional.
- It was also indicated that the Fundudzi Lake may run out of water in 3 to 5 years time. The lake is gradually being filled with sand now.

The community is of the view that the camp has a potential because it is enjoined by the sacred lake Fundudzi, the Holy Forest, the Thathe Dam and the tea estate.

The provincial department indicated that the government is of the view that the project should be handed over to the community once there is sufficient revenue for the project to sustain itself. Progress should be handled in terms of phases on the ground and the capacity available within the community. The government still believes that the project is not fully functional to be handed over to the community. The camps are currently operated by LIPSA on behalf of the community. LIPSA is a parastatal contracted to develop small businesses, and already there are 4 operations guide trained by the parastatal.

#### **4.7 Meeting with community leaders at Modjadji Nature Reserve & Giyani Tourism Association**

Key issues raised at Modjadji Nature Reserve:

- The cultural and traditional tourism can contribute to provincial Gross Domestic Product (GDP).
- The project in the Nature Reserve is incomplete.
- The Royal Palace is dilapidating, with no improvement.
- The traditional offices are too small to accommodate many people.
- The Kraal was established in 1910 and has a rich history.
- Modjadji Lodge was donated by government 10 years ago and has not been maintained.

Key issues raised by Giyani Tourism Association:

- Lack of coordination and expansion of tourism and support infrastructure.
- Lack of enhanced route development link.
- Lack of development products.
- Packaging of the products.
- Lack of marketing strategy and information centres.
- The community expressed a need for the possibility of reopening the Giyani Airport.

## 5. CONCLUSION AND RECOMMENDATIONS

While the legal and policy framework for service delivery has been strengthened continuously since 1994, capacity and resource constraints continue to hamper implementation particularly at local government level.

The committee acknowledges that many of the challenges manifest themselves most directly at local government level, long term and fundamental solutions can only be found if all the three spheres of government work together.

At the same time, the committee recognises the critical importance of changing both the mindset and practical conduct of government and all the other social partners. Through such partnerships, the committee aims to ensure that tourism reaches new heights of growing the economy, reducing unemployment, poverty and promoting greater equity and social cohesion.

Therefore, as planned, the committee should return to these provinces to assess the situation in order to evaluate the progress made in relation to the shortcomings and challenges identified in various projects. This element of monitoring and evaluation should be an integral part of all future oversight visits as it is the only reliable way of ensuring the long term success and sustainability of the interventions proposed during these visits.

Once again, the department is called upon to establish a monitoring mechanism to assess progress in provinces and intervene with corrective and support measures where applicable.

Based on the stakeholder engagements, submissions by provincial authorities and site visits held, the following commonalities were identified and the committee recommends that:

- **Institutional arrangements:** The implementation of the Tourism Growth Strategy requires substantial institutional support and the Constitution defines tourism as a Schedule 4 competence, which means that national and provincial governments jointly have authority over tourism activities. This implies that national and provincial governments have the power to structure and arrange tourism at national and provincial adhering to the principles of cooperative governance. Tourism should be institutionalized at local government level.
- **Tourism and Local Government:** Local government does not have legislature and or regulatory powers pertaining to tourism, but local tourism is a local authority function. Local authorities are important contributors to the success of tourism activities in terms of community driven tourism philosophy. Their efforts should be coordinated within the provincial tourism strategy.
- **Tourism Budgets:** The successful implementation of the tourism growth strategy requires substantial financial resources. The current national and provincial tourism budgets are extremely limited and are not able to allow for the successful implementation of the tourism strategy. It also does not compare favourably with

the budgets of other provinces. Innovative models will have to be found to supplement the current budget.

- **Marketing:** The committee found that using the existing or limited marketing budget allocated for tourism, posed various challenges to enable the provinces to optimize on the opportunities on offer.
- **Strengthen partnerships:** The provincial tourism industry has been identified as an important intervention to enable tourism growth. A provincial structure to enhance this partnership, and to create an effective communication channel between the different tourism structures in the province, is proposed to enhance the provincial growth strategy.
- **Land Reform/Claims/Restitution processes:** The prolonged land reform processes linked to inadequate after care programmes in the wildlife and tourism business sector hampers investment opportunities in tourism.
- **Lack of adequate integrated land use planning:** At the provincial level this aspect resulted in uncoordinated development that directly impacts on provincial tourism icons and therefore on tourism growth.
- **Signage:** Poor secondary road infrastructure and proper signage impacts on the access to tourism products based in rural areas.
- **Airlift:** Lack of low –cost airline services to Upington, Kimberley and Polokwane impacts negatively on tourist arrivals to these provinces. Provinces expressed the view that it is very expensive to travel both by air or road.
- **Skills Development:** The committee found that there is a need for dedicated resources to be set aside to recapitalize FET colleges to ensure that they develop and offer appropriate training programmes to support rural economies with tourism being at the centre of development. Need to support FET colleges and Sector Education and Training Authorities to be linked to with business, industry and other advanced education and training programmes.
- **Small, Micro and Medium – sized Enterprises (SMMEs):** All spheres of government should work towards strengthening competitiveness and promotion of SMMEs and cooperatives as they remain the cornerstone for growth of the economy and the creation of decent work opportunities. Government to facilitate market access and entry into value chain by small business and cooperatives and reduce the regulatory burden on small businesses.
- **Provincial and Local Government capacity:** The improvement of provincial and local government capacity to plan for and maintain infrastructure to ensure continued efficient delivery of economic and social services.

#### APPRECIATION

The committee would like to extend the special appreciation to the MEC responsible for tourism in the provinces, portfolio committees of the provincial legislatures, provincial Heads of Departments, projects managers and the rest of officials who provided support throughout the provincial oversight.

#### **Report to be considered.**

2. Report of the Portfolio Committee on Justice and Constitutional Development on the Notice on Remuneration of Magistrates, dated 17 November 2010:

The Portfolio Committee on Justice and Constitutional Development, having considered the request for approval by Parliament of the draft Notice and Schedule determining the rate, with effect from 1 April 2010, at which salaries, allowances and benefits are payable to Magistrates annually, tabled on 16 November 2010 and referred to it, recommends that the House, in terms of section 12(3) of the Magistrates Act (No 90 Of 1993), approves the Notice.

**Report to be considered**

3. Report of the Portfolio Committee on Justice and Constitutional Development on the Notice on Remuneration of Constitutional Court Judges and Judges, dated 17 November 2010:

The Portfolio Committee on Justice and Constitutional Development, having considered the request for approval by Parliament of the draft Notice and Schedule determining the rate, with effect from 1 April 2010, at which salaries, allowances and benefits are payable to Constitutional Court Judges and Judges annually, tabled on 16 November 2010 and referred to it, recommends that the House in terms of section 2(4) of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No 47 of 2001), approves the Notice.

**Report to be considered**

4. Report of the Portfolio Committee on Communications on the request for filling of vacancies in Media Development and Diversity Agency (MDDA) Board, dated 17 November 2010.

The request from the Minister in the Presidency: Performance Monitoring and Evaluation as well as Administration, to fill three vacancies at MDDA was referred to the Portfolio Committee on Communications on 22 September 2010 (see ATC 22 September 2010).

The Committee called for nominations and received 22 CV's. The Committee subsequently shortlisted the following candidates:

Mr Brian Makeketa  
Mr Siviwe Minyi  
Dr Simangaliso S Malinga  
Mr Tahir Zakariya Sema  
Mr Tyrone August  
Ms Nomonde Gongxeka  
Ms Louise Carol Vale  
Mr Dinkwanyane Kgalema Mohuba  
Ms Phelisa Nkomo  
Ms Nadia Bulbulia

On 16 November 2010, the Portfolio Committee on Communications interviewed all the above candidates except for Dr Simangaliso Malinga, who could not attend due to death in his family. No exceptions could be made for Dr Malinga due to the urgency of the appointments.

The Committee thereafter deliberated on the matter. Consequently, the Committee unanimously recommends that the following candidates be appointed to serve on the MDDA Board:

1. Ms Louise Carol Vale
2. Ms Nadia Bulbulia
3. Ms Phelisa Nkomo

Report to be considered.

5. The Report of the Portfolio Committee on Trade and Industry on the visit to the World Trade Organisation on 19 – 23 July 2010, dated 17 November 2010

The Committee having visited the World Trade and Organisation, as well as other organisation, reports as follow:

**1. Introduction**

South Africa is a strong proponent of multilateralism as the necessary inter-governmental response to managing globalisation and the deepening interdependence of national economies. The marginalisation of many countries in the global economy, particularly those in Africa, and the question of coherence in global economic policy-making constitute key challenges confronting the international community, in the context of an integrating global economy.

While multilateral rules are important, established rules are often imbalanced and prejudicial to the developmental interests of developing countries. This requires reform of current systems of global economic governance. The reform of global institutions should be aimed at ensuring greater transparency and inclusiveness in the workings and outcomes of these institutions. There is a growing appreciation that the legitimacy and sustainability of these institutions is in ensuring that the developmental interests of developing countries are advanced as these regions will constitute the sources of global growth and prosperity in the world economy.

Our world is changing rapidly and there are profound and unmistakable shifts exposed by the recent economic crisis that reveal a shift in global economic dynamics. There is also a growing recognition that developing states and economies hold the key to the future of developed countries.

In this globalising world economy, the WTO has moved to centre stage in an evolving system of global economic governance. The establishment of the WTO marked the emergence of a strengthened rules-based international trading system that provides enhanced certainty and security for market access. The WTO reduces the scope for unilateral trade measures and aims to ensure that economic interactions, including the resolution of disputes, are governed by a system of rules, and not solely by the interplay of economic power. This is the essential contribution of the WTO to global economic governance. Nevertheless, the outcome of the Uruguay Round responded mainly to the concerns and interests of developed countries. From the perspective of developing countries, WTO agreements exhibit a range of imbalances and deficiencies that are prejudicial to their trade and development interests. Further, the agreements, designed in the main by industrialised countries, reflect the concerns of sophisticated economies and presuppose an institutional, human and financial base that is often lacking in developing countries.

The Committee's recognition that South Africa's support for launch of the Doha Round of negotiations was based on assessment that negotiations opened up the possibility to

decisively address issues of development in the world trading system. To achieve sustained global economic growth, developing countries must pursue industrialization in sectors where they possess comparative advantage. Given the Committee's position crystallized after deliberating on the Trade Policy in the first part of the year the Committee took a decision to go to Geneva for an intensive Study Visit to reach a broader understanding from a wide range of stakeholders including the WTO directorate.

### **1.1 Developmental outcomes developing countries want from Doha Round**

Processes and consequences of globalisation are fundamentally altering the way countries integrate into the global economy through trade<sup>1</sup>. The need to achieve more balanced global trading relations, in the context of the Doha Round of negotiations, is imperative if South Africa wants to achieve its developmental goals. Government policy therefore should be aligned with its global partners in order to achieve the developmental outcomes.

Given the issues under debate within the Doha Round – services, agriculture, intellectual property, new issues such as investment, competition, trade facilitation, government procurement as well as a focus on Africa and development issues – in preparation for the conclusion of the Round it become imperative that the Portfolio Committee on Trade and Industry meets its counterparts. This is to develop a common position around these matters to secure a developmental outcome that would benefit the South-South countries. Therefore capacity building for Members on WTO principles, negotiations strategies and processes was imperative to ensure that Members of the South African Parliament are able to formulate a position in preparation for the final negotiations.

In light of the above, the Committee's Revised Strategic Plan for 2010/11 emphasised greater oversight over trade negotiations and the implementation of IPAP2, as well as its capacity building. Being a strategic committee, it must ensure that it is aware of the progress and implications of all negotiations with respect to the World Trade Organisation's trade negotiations, as well as other bilateral or multilateral trade agreements. This is to ensure a developmental outcome of the Doha Round of negotiations.

Currently the WTO is in the process of finalising preparation for the next round of Doha negotiations. These negotiations would focus on finalising the mandates on the various areas of negotiation.

During the Committee's recent hearings on the South African Trade Policy and Strategic Framework, it expressed the need that Parliament should be given adequate time to formulate and develop a position that should be considered when the executive negotiate international and regional trade agreements. A conclusion reached by the Committee was that Parliament should consider reviewing its rules relating to how it processes or deals with international trade agreements, so that Parliament is involved at an earlier stage during the negotiation process. In this regard, Parliament would need to

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<sup>1</sup> Tralac (Trade Law Centre for Southern Africa) (2010)

allocate adequate resources for its involvement during the negotiation process of international trade agreements.

Furthermore, the Committee is currently processing the Intellectual Property Laws Amendment Bill [B8-2010]. During the initial engagement on the Bill, the Committee concluded that the Bill is highly complex and that the Committee should proceed in processing it with caution. There was also recognition that assistance from experts on Intellectual Property laws and Indigenous Knowledge was required.

## **1.2 Preparation Process for Study Visit**

In light of the above and in line with its strategic objectives, the Committee embarked on an extensive engagement with the South African Trade Mission, as well as the World Trade Organisation (WTO), South Centre and the United Nations Conference on Trade and Development (UNCTAD), in Geneva from 19 – 23 July 2010. This study tour was to ensure that Parliament was in a position to play a more active role in developing a position on key areas under discussion. Furthermore, with the assistance of the mission – organisations such as World Intellectual Property Organisation (WIPO) and the International Centre for Trade and Sustainable Development (ICTSD) was identified that could assist the Committee in developing a deeper understanding of Intellectual Property laws and the protection of Indigenous/Traditional Knowledge.

The following Members of Parliament and the Secretariat participated in the study tour in Geneva:

1. Ms J Fubbs (ANC) – Leader of the delegation
2. Mr B Radebe (ANC)
3. Ms H Line (ANC)
4. Mr X Mabasa (ANC)
5. Mr N Gcwabaza (ANC)
6. Mr S Marais (DA)
7. Mr A van der Westhuizen (DA)
8. Ms C Kotsi (COPE)
9. Adv A Alberts (FF+)
10. Mr A Hermans – Committee Secretary
11. Ms M Herling – Content Advisor
12. Mr L Mahlangu – Researcher

A report on the interaction with the various organisations during our oversight visit follows below. Section 2 provides a description of each of the organisations visited. The inputs from the Committee's engagements with these organisations are incorporated in Sections 3, 4 and 5.

## **2. International Organisations visited**

### **2.1 World Intellectual Property Organisation<sup>2</sup>**

The World Intellectual Property Organization (WIPO) is a specialized agency of the United Nations. It is dedicated to developing a balanced and accessible international intellectual property (IP) system, which rewards creativity, stimulates innovation and contributes to economic development while safeguarding the public interest.

WIPO was established by the WIPO Convention in 1967 with a mandate from its Member States to promote the protection of IP throughout the world through cooperation among states and in collaboration with other international organizations.

### **2.2 United Nations Conference on Trade and Development<sup>3</sup>**

Established in 1964, United Nations Conference on Trade and Development (UNCTAD) promotes the development-friendly integration of developing countries into the world economy. UNCTAD has progressively evolved into an authoritative knowledge-based institution whose work aims to help shape current policy debates and thinking on development, with a particular focus on ensuring that domestic policies and international action are mutually supportive in bringing about sustainable development.

The organization works to fulfil this mandate by carrying out three key functions:

- It functions as a forum for intergovernmental deliberations, supported by discussions with experts and exchanges of experience, aimed at consensus building.
- It undertakes research, policy analysis and data collection for the debates of government representatives and experts.
- It provides technical assistance tailored to the specific requirements of developing countries, with special attention to the needs of least developed countries and of economies in transition. When appropriate, UNCTAD cooperates with other organizations and donor countries.

In performing its functions, the Secretariat works together with member Governments and interacts with organizations of the United Nations system and regional commissions, as well as with governmental institutions, non-governmental organizations, the private sector, including trade and industry associations, research institutes and universities worldwide.

### **2.3 World Trade Organisation<sup>4</sup>**

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to create a rules-based framework for producers of goods and

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<sup>2</sup> For additional information please visit WIPO at [www.wipo.int](http://www.wipo.int)

<sup>3</sup> For additional information please visit UNCTAD at [www.unctad.org](http://www.unctad.org)

<sup>4</sup> For additional information please visit WTO at [www.wto.org](http://www.wto.org)

services, exporters, and importers to conduct their business. The WTO also administers agreements and provides a dispute settlement mechanism for countries.

#### **2.4 South Centre<sup>5</sup>**

The South Centre was established through an Intergovernmental Agreement (Treaty). It is an intergovernmental organization of developing countries which aims to promote and enhance South-South co-operation. Its establishment came as a result of a need to organise and mobilise South-South expertise to develop a position to enhance its bargaining power. Its core focus is to provide intellectual and policy support required by developing countries for collective and individual action in international fora.

According to Article II of the Intergovernmental Agreement, the Centre has the following core objectives:

- To promote South solidarity, South consciousness and mutual knowledge and understanding among the countries and peoples of the South.
- To promote various types of South-South co-operation and action, South-South links, networking and information exchange.
- To contribute to South-wide collaboration in promoting common interests and co-ordinated participation by developing countries in international forums dealing with South-South and North-South matters, as well as with other global concerns.
- To foster convergent views and approaches among countries of the South with respect to global economic, political and strategic issues related to evolving concepts of development, sovereignty and security.
- To contribute to better mutual understanding and co-operation between the South and the North on the basis of equity and justice for all and, to this end, to the democratization and strengthening of the United Nations and its family of organizations.

#### **2.5 International Centre for Trade and Sustainable Development<sup>6</sup>**

Founded in Geneva in September 1996, the International Centre for Trade and Sustainable Development (ICTSD) aims to influence the international trade system such that it advances the goal of sustainable development. As an independent, non-profit, and non-governmental organization, ICTSD engages a broad range of actors in ongoing dialogue on trade and sustainable development policy. In advancing its mission, the Centre has become a leading broker of knowledge and information on trade policy and sustainable development.

With a global network of governmental, non-governmental, and inter-governmental partners, ICTSD plays a unique, systemic role as a provider of original, non-partisan reporting and facilitation services. ICTSD advances trade policy that supports sustainable development by structuring interaction between policy-makers and key influencers who are often excluded from policymaking processes. ICTSD helps parties better understand the technical and political contexts that underlie their interests and the

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<sup>5</sup> For additional information please visit the Centre at [www.southcentre.org](http://www.southcentre.org)

<sup>6</sup> For additional information please visit UNCTAD at [www.unctad.org](http://www.unctad.org)

interests of those with whom they interact on policy issues. In this way, ICTSD builds bridges between groups with seemingly disparate agendas, enabling them to identify and progress on issues where their interests and priorities coincide.

ICTSD empowers stakeholders in trade policy through information, networking, dialogue, well-targeted research, and capacity building. It also identifies knowledge gaps in international trade rule- and policy-making from a sustainable development perspective; it mobilizes the best expertise around the world through dialogue and research to address those gaps in a solution-oriented way; it processes the knowledge generated through these processes so that it is applied and relevant for international policy making processes; and it delivers this knowledge to sustainable development constituencies in a timely manner.

To effectively fulfill these roles, ICTSD has developed a reflective, responsive, and opportunistic strategy. This three-pronged approach enables ICTSD to remain ahead of the game and to anticipate policy developments. At the same time, the Centre is responsive to external developments in its politically dynamic environment and adapts its programmes accordingly. Finally, it is opportunistic in exploiting strategic windows of opportunity in order to advance its mission.

### **3. Intellectual Property Rights Issues**

Currently before the Committee is the Intellectual Property Laws A/B [B8-2010] that seek to amend the Performers' Protection (No. 11 of 1967), Copyright (No. 98 of 1978), Trade Marks (No. 194 of 1993) and Designs (No. 195 of 1993) Acts. During its initial engagement on the Bill with the local experts, the Department of Science and Technology, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, and the Eastern Cape branch of Contralesa, the Committee agreed that the issues are highly complex and that it would require further engagement with local and international experts before it could hold public hearings on the Bill. WIPO was identified as one of the organisations it would like to visit to gain a better understanding and insight on the protection of indigenous knowledge, as well as the ICTSD.

During the Committee's visit in Geneva, the Committee met with WIPO and ICTSD to engage on the most current debates on Intellectual Property.

The session at WIPO focussed on the following:

- The current challenges faced by WIPO.
- The implementation of WIPO's development agenda.
- Work Programme on copyrights.
- Work programme on Traditional Knowledge.
- Trade Marks and Geographic indications.

### 3.1 Current challenges faced by WIPO

Mr John Tarpey, Director of the Communications Division: Global Issues Sector, briefed the Committee on the functioning of WIPO and in particular the International Regime in Intellectual Property (IP). WIPO is a treaty-based organisation which administers 24 Intellectual Property Treaties. He informed the Committee that the digital age brought new challenges for the intellectual property regime with WIPO striving to meet the needs and expectations of all Member States.

This requires an efficient IP system that would encourage innovations and find solutions to the emergence of complex issues. Critical for WIPO is to find creative ways to leverage innovation to overcome problems associated with the current challenges faced by WIPO such as climate change, public health and food security. What must be developed is a global IP infrastructure that would address the needs of the IP system. The Developmental Agenda of WIPO intensified efforts to facilitate the use of IP in developing and least developing states.

### 3.2 Work programme on Patents

Mr James Pooley, Deputy Director-General of the Innovation and Technology Sector, briefed the Committee on WIPO's work programme on the Standing Committee on the Law of Patents (SCP) with the key focus on the Patent Law Treaty. The SCP was established in 1998 to negotiate the Patent Law Treaty (PLT) which was adopted in 2000.

In order to harmonise substantive aspects of patent law, focusing on issues such as the definition of prior art, novelty, inventive steps/non-obvious and industrial applicability/utility, the drafting and interpretation of claims, and the requirement of sufficient disclosure of an invention, opened discussions in 2001 on a draft Substantive Patent Law Treaty (SPLT). Agreement remains elusive on negotiations with respect to the SPLT with the resumption of its work in 2008 with the discussion of a report on the international patent system. One of the issues under discussion was the "exceptions from patentable subject matter and limitations to the rights, inter alia research exemptions and compulsory licences"<sup>7</sup>. The exception would facilitate the advancement of technical knowledge and innovation that could help address public health needs in developing countries.

The ICTSD was of the view that too strong IP Rules could stifle follow-up innovation and that too weak IP rules would not act as an effective incentive for innovators and inventors. What is required is a rich and vibrant public domain that promotes creativity and innovation. The key is to find an appropriate balance between private rights and public interest.

Public policy tension exists with patents, and similarly with traditional knowledge, in terms of public interest in both disclosure and not limiting access. Patents are a means of commercialising technology-related innovation moving towards strategic innovation. Currently, there are moves to open innovation that includes cooperation and

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<sup>7</sup> ICTSD, Policy Brief Number 7, March 2010

partnerships, as well as network innovation, that looks at problem-solving within a network.

### 3.3 Implementation of WIPO development agenda

Mr Geoffrey Onyeama and Mr Irfan Baloch briefed the Committee on the implementation of the developmental agenda of WIPO. The agenda was approved in 2007 to incorporate a developmental dimension and process of norm setting to consider development issues.

In the Committee's engagement with the ICTSD, views were expressed that the developmental agenda developed mainly through two sources. Firstly, through pressure from non-governmental organisations (NGOs) in the way patents were used to limit access to medicine, and secondly, through a group of developing countries that recognised the danger of the harmonisation and consolidation of regulatory authority over the international patents system that would adversely affect their national interest<sup>8</sup>.

The emergence of China, India and Brazil as major developing economies necessitated changes at WIPO to maintain and advance the modest successes achieved at the WTO in generating sensitivity towards social objectives. According to the ICTSD, the WIPO Developmental Agenda (DA) should facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation. The DA should promote a pro-competitive intellectual property licensing practise through greater interaction between Intellectual Property Rules/Regimes and competition policies.

During the Committee's engagement with the ICTSD, it purported that the IP is not an end in itself but a means to promote creativity and innovation.

Currently, there are 45 recommendations for the Developmental Agenda which should get the buy-in of both developed and developing countries to ensure mainstreaming of developments in IP systems. This is also to promote a balanced IP system to promote innovation, investment in research and development and the access to knowledge and cultural goods.

In their engagement with the ICTSD, the Centre identified a key role for parliamentarians in implementing WIPO's DA as well as IP laws within respective countries. Parliamentarians should:

- Scrutinise the implications of new IP laws on public policy objectives and human rights obligations in relation to the protection of the environment and access to knowledge.
- Ensure that national IP legislation takes advantage of the flexibilities available to developing countries under international and regional norms and that its cost does not outweigh its expected benefits.
- Promote informed law making based on empirical evidence and a diverse range of views on IP from different stakeholders (government, private sector and consumers/civil society);

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<sup>8</sup> Frederick M Abbott; The Political Economy of the WIPO Developmental Agenda

- Solicit experts' advice but ensure no conflict of interest.
- Build in periodical reviews of IP legislation.

### **3.4 Work Programme on copyright**

Mr Richard Owens, WIPO, briefed the Committee on the work programme of the Standing Committee on Copyright and Related Rights (SCCR) which focussed on developing international norms and standards in the area of copyright and related rights. He informed the Committee that the SCCR is currently considering the protection of broadcasting organisations and of audiovisual performances, as well as the expectations and limitations, related to special needs individuals. This includes access to content for visually impaired individuals, access by education institutions, archives, and libraries.

Also included in the agenda of the SCCR is how to define and measure the contribution of the “creative industries” to GDP and employment. Defining “creative industries” remains a concern as there is a large amount of employment and value-addition from creation to consumption.

Development and proliferation of digital technologies has brought to the fore the need to maintain the balance between the protection available to rights owners and the needs of specific user groups such as the visually impaired. Currently, audiovisual performances are not included in the WIPO Copyrights Treaty, and the WIPO Performance and Phonograms also known as the WIPO Internet Treaties. The development of best practices for visually-impaired individuals is required to produce a new digital version of the product.

With respect to who the copyright belongs to, WIPO was of the view that the author would be the initial owner of rights but in some countries a commissioned or employed author is not considered the owner but rather the commissioner of the work. This can, however, be limited to certain uses of the work. WIPO also informed the Committee that no copyright exists beyond a certain timeframe but that the rearrangement of work may give rise to independent protection.

### **3.5 Trade Marks and Geographic indications**

Ms Binayang Wang, the Deputy Director-General of the Brands and Design Sector, briefed the Committee on the work of the Standing Committee on Trade Marks, Industrial designs and Geographical Indications (SCT). The SCT focuses on the international development of the law of trademarks, industrial designs and geographical indications, including the harmonization of national laws and procedures.

Currently, WIPO is responsible for three registers, which are:

- The Madrid System for the International registration of Marks, which allows a trade mark owner the possibility of having his/her trade mark protected in several countries.
- The Hague System for the international Registration of Industrial Design provides a mechanism for registering a design in countries and/or in intergovernmental

organizations. It allows the owner of an industrial design the possibility to have his/her design protected in several countries.

- The Lisbon System for the International Registration of Appellation of Origin (AO) Registry. This system offers a means of obtaining protection for an AO in the contracting parties to the Lisbon Agreement through a single registration.

Ms Wang informed the Committee that the signing of the Singapore Treaty of Law of Trade Marks in 2006 harmonised administrative rules for trade mark registration. This treaty also recognised the different needs of developing countries by providing technical assistance and other support to strengthen the institutional capacity of developing countries.

Revenue earned through a trade mark is returned to a member state but a sharp decline in registration of trade marks has been experienced with a sharp increase in industrial design. Currently, advanced work on industrial design and trade mark and the internet environment is underway. The Madrid System is used in South Africa although it is not a signatory yet.

### **3.6 Work programme on Traditional Knowledge**

Ms Olga Aguirre briefed the Committee on Traditional knowledge (TK), genetic resources (GR), and traditional cultural expressions (TCE). She informed the Committee that TK, GR and TCE are economic and cultural assets of the indigenous and local communities and their countries. WIPO focuses on the role that IP principles and systems can play in protecting TK and TCE from misappropriation. Ensuring that the necessary commercial benefits are derived from TK and TCE for the indigenous and local communities is very important. Although existing standards of IP may not protect TK, the evolution of IP may in future provide the necessary protection to TK. Currently, IP has become a global issue that affects many other areas including the challenge of domestic and international coordination of IP.

The creation of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore in 2000 was to provide a forum for discussion among member states on IP issues in the context of access to genetic resources and benefit sharing, the protection of TK and the protection of expression of folklore.

In his presentation, Mr Ahmed Abdel Latif of the ICTSD highlighted the recent case against South Africa on the use of drugs arguing that it was a landmark for IP. International pharmaceutical companies challenged the 1997 South African law which would give government the power to circumvent expensive patented medicines and produce or import cheap alternatives for HIV/AIDS and other diseases. The challenge still remains with regarding to domestic and international coordination on IP issues. Rebalancing the global IP landscape from focusing on protecting rights but also promoting social rights and improving the quality of life through exceptions and flexibilities remains a challenge.

The ICTSD, in their presentation to the Committee, identified ongoing challenges in the protection of TK which are as follows:

- Recent cases of bio-piracy – two recent cases from South Africa – Rooibos and honeybush noted that the recent patent applications by Nestle were in conflict with both South African law and the Convention of Biological Diversity.
- With respect to Pelargonium – A German firm filed a patent which related to a method for extracting substances with medicinal properties of Pelargonium. The patent was revoked after opposition from non-governmental organisations.

Currently, there is no agreement on the protection of TK given the examples of Rooibos and pelargonium.

#### **4. United Nations Conference on Trade and Development (UNCTAD)**

UNCTAD is part of the United Nations and focuses on research and policy analysis related to trade and trade-related policies and focuses on developing countries. Programmes to assist developing countries include training for areas such as managing customs borders, debt management and investment policy frameworks. Work undertaken by UNCTAD is to assist countries to integrate into the global system. UNCTAD is seen as an alternative to the aggressive pro-market view of the traditional Bretton Woods institutions.

UNCTAD is of the view that the Millennium Development Goals (MDGs) refers to the minimum levels of development but do not focus on the real issues for development. UNCTAD recognises the need for an alternative development path and that the “business as usual” approach will not deliver on MDG goals. To achieve the MDGs, the economic agenda of developing countries should focus on the following:

- Domestic resource mobilisation which require public as well as private investment linked to the productive capacities of the economy;
- Addressing inequalities and ensuring redistribution of income;
- Enhancing the developmental role of the State in achieving employment and reducing inequalities; and
- Developing policies supportive of international architecture.

In response to a question by the Committee with respect to the global economic architecture and how one could rectify the current global imbalance, UNCTAD said that it would not abolish the existing institutions but rather re-visit their original mandates and rules.

#### **5. World Trade Organisation**

The Committee was welcomed by Ambassador Faizel Ismail and one of the deputy directors-general of the WTO, Ms Valentine Rugwabiza. Ms Rugwabiza highlighted

that South Africa's role in the WTO is widely recognised. South Africa has been active in the Doha Development Agenda (DDA) negotiations, advocating for a number of developing issues on behalf of its respective coalitions during the negotiations. She expressed her confidence in South Africa's ability to diversify and grow its exports, trading partners and investment. Mr Ismail emphasised that South Africa is committed to the principle of multilateralism, as well as the WTO reflecting fair and balanced rules for developing nations. He also outlined that during its involvement in the negotiations, its key considerations are its own needs including for economic restructuring, access to markets and a fair deal for the nation.

Ms Rugwabiza welcomed the interest shown by the South African Parliament to understand the functioning of the WTO and the developments in the DDA. She shared that the role of parliamentarians was recognised as ensuring that all stakeholders' interests are taken into account in the WTO negotiations. In this regard, WTO has been providing parliamentarians with regular newsletters and there will be a joint activity with IPU and WTO in November 2010 in Cameroon.

The sessions at the World Trade Organisation (WTO) focused on the following areas:

1. Overview of Doha negotiations.
2. Agriculture negotiations.
3. Non-Agriculture Market Access Negotiations.
4. WTO Technical Assistance.
5. Negotiations for Trade in Services.
6. Development Issues in the Doha Developmental Agenda (DDA) Negotiations.
7. Overview of the Trade-related Intellectual Property Rights (TRIPS) Negotiations and the TRIPS and Public Health Agreement.
8. Negotiations relating to Rules, including Regional Trade Agreements.
9. Roundtable Discussion with key ambassadors on the DDA.

These are discussed below in further detail.

### **5.1 Overview of Doha negotiations**

WTO negotiations have two critical processes or principles namely that negotiations are a single undertaking and can only be concluded when consensus has been reached by all members. Negotiations are held on the basis of transparency and inclusiveness. However, the main negotiations and drafting of the text occur in smaller groups which should be representative of the member countries.

The WTO negotiating structure consists of the Ministerial Conference, which provides political direction; the General Council; and the Trade Negotiations Committee, which establishes different groups or bodies to negotiate on its behalf chaired by ambassadors. The current agreements that are operating were agreed to during the Uruguay Round.

The Doha Round was launched in 2001 to ensure that developing countries' needs were met by focusing on developmental issues. Most of the world's economies (more than 153 countries) are involved in the Doha Round negotiations. However, countries that

are waiting for accession are only allowed to participate in the negotiations but not in the decision-making process.

The Doha negotiations cover 19 to 21 subjects including agriculture (including the cotton dossier), services, industrial products under the Non-Agricultural Market Access (NAMA) dealing with both tariffs and non-tariff barriers (NTBs), intellectual property (especially a multilateral system for the declaration of geographical indications (GIs) for wines and spirits), WTO Rules on anti-dumping, subsidies (including fishery subsidies) and regional trade agreements, trade and environment, services, trade facilitation, dispute settlement and electronic commerce. The following issues and progress have been made under the key subjects:

- Agriculture holds the key to concluding this Round. It covers issues of market access; domestic support and export subsidies; flexibilities for sensitive and special products (number of products and treatment of products); cotton subsidies and food security. Most of the technical work is completed and in the process of cleaning ten decision points.
- NAMA deals with NTBs as well as industrial tariff reductions; comparing flexibilities between NAMA and agriculture; sectorals (creating duty-free sectors where tariff are cut below what is expected on a voluntary basis; particular focus on certain emerging markets); and case specific flexibilities including for South Africa. Texts have been on the table for two years.
- Services focus on fastest growing sectors, studies on possible outcomes; market access using a country to country request and offer approach; 71 members have made offers and there is a least developed countries (LDC) waiver; and rule-making based on the General Agreement on Trade in Services (GATS) including domestic regulation, emergency safeguard measures, government procurement and subsidies.
- Development considers promotion of economic development and poverty alleviation; the Marrakesh declaration; recognition of LDCs; incorporation of a development element at all levels; special and differential treatment is currently not legally binding and effective (para 44) and is being reviewed to become more precise, effective and operational. In addition, the provision of duty-free, quota-free access of all LDC products to developing countries; the requirement for technical assistance from developed countries and secure and predictable funding.
- TRIPS is focused on the legal effects of GIs for wines and spirits where registration in a multilateral system is mandatory and the impact in terms of fees for developing countries; extension of protection for other products linked to GIs; review of article related to plant varieties; benefit sharing and disclosure in biodiversity and traditional knowledge where the origin of any genetic material used in an innovation must be declared.
- Trade facilitation is a North and South issue. It focuses on technical assistance; the release of goods and capacity to reform custom systems. The group is in the process of reducing disagreements within the draft text and is one of the areas that is advancing well.
- Environment considers national coordination; a list of specific environmental agreements/requirements that must be adhered to; regular information exchange; granting of observer status; dispute settlement; the reduction or elimination of tariffs and NTBs for environmental goods.

- Rules related to anti-dumping; subsidies and regional trade agreements (RTAs) are being negotiated. In terms of the RTAs, the transparency of these negotiations; rules governing RTAs are not very clear, namely Article 24 of GATT 1994; Article 5 of GATS and the enabling clause are being considered. There is much political sensitivity in this area.
- The dispute settlement understanding is not part of the single undertaking.

According to the WTO administration, about 80 percent of the technical work is completed but political will is required to conclude the Round. There is uncertainty about when the Round would be concluded given the number of countries involved and the requirement for consensus on a single undertaking. It is expected that the 2010 deadline will probably not be met. The fact that the world has changed since the mandate was determined in 2001 has dampened enthusiasm regarding the developmental agenda of the Round.

## 5.2 Agriculture negotiations

The driving force behind the agriculture negotiations is the political imperative to ensure food security within countries. The ability to feed one's nation and the moral obligation to feed other nations when necessary requires policy choices by each sovereign state. These policy choices range from food self-sufficiency to food security. The difficulty with food self-sufficiency, namely producing all of the basic food needs, is that a country needs to utilise resources that may not exist in the country and could become very expensive. This may result in trade-offs from productive uses to less productive uses, which may lead to lower purchasing power. On the other hand, food security involves trade and the ability to purchase food, which focuses on efficiently allocating resources to maximise food security and purchasing power.

Countries that do not have a comparative advantage in agriculture but persist to ensure food security through self-sufficiency inhibit the ability of other countries, usually developing countries, to exercise their comparative advantage in this regard and this is the crux of promoting the DDA. The Uruguay Round began reductions in export subsidies for agriculture, which set the stage for the DDA. However, these reductions may not have led to lower farm support, as developed countries have then shifted support into other structures that are WTO compliant. These subsidies constrain developing countries from entering global markets through tariffs and high domestic support.

The new agreement seeks to make the agricultural trading system more level by reducing the impediments. Three essential pillars are necessary to complete modalities, namely:

- Trade distorting domestic support to be reduced. An 80 percent reduction by the European Union and restricting the United States to \$14 billion in domestic support is sought.
- Increasing market access by lowering tariffs by 54 percent in developed countries given certain flexibilities, e.g. dairy and movement of livestock products. This will

create greater opportunities; however, the necessary logistics infrastructure for distribution is required to take advantage of these possibilities.

- Decreasing tariffs.

Agriculture is more important for developing countries for social reasons than for developed countries. Political difficulties are a constraint in concluding the text. Trade restrictions are to be introduced to protect developing countries in special cases.

Other support for developing countries to enhance development in agriculture could include Aid for Trade where an agreement with a developed country is concluded to share technology and skills and government support for the sector.

### **5.3 Non-Agricultural Market Access**

The Doha Declaration of 2001 indicated that the NAMA negotiations should focus on products of export interest to developing countries as well as address tariff peaks and escalations and NTBs on such products.

The 2004 July framework which the Round from the breakdown in Cancun in 2003 further indicated that there would be formula cuts, differentiated between developed and developing countries who would receive flexibilities, while small vulnerable economies would do even less and least developed countries would be exempted from any cuts at all.

At the Hong Kong Ministerial 2003, additional flexibilities for small and vulnerable economies were agreed to, as well as a adoption of the Swiss type formula. Also In Hong Kong the NAMA11 group of developing countries was formed with South Africa as the co-ordinator. This focussed on proposed a development agenda, delivery on less than reciprocity in NAMA.

In 2008, new text was developed which included proposed conditional flexibilities for South Africa and its SACU (Southern African Customs Union) members with a focus on NTBs and a legal approach to this.

South Africa has a bound rate for its industrial tariffs of 15.7 percent and an average applied rate of 7.6 percent. Because of its classification as a “developed country” in the Uruguay Round, SA has a bound rate lower than that of comparable countries.

The draft NAMA modalities that were Proposed, but not agreed, in 2008 would result in cuts for South Africa in applied industrial tariffs of 30 percent or more and 23 percent pf tariff lines – a level of commitment greater than that required of any other member in any areas of negotiation.

Moreover because of SACU these cuts would apply to Botswana, Lesotho, Swaziland and Namibia which has 3 small vulnerable economies and one least developed country would not otherwise have to undergo formula cuts.

The outstanding issues are the case specific flexibilities for South Africa, Venezuela and Argentina where these should receive additional flexibilities.

#### **5.4 WTO Technical Assistance**

In terms of WTO technical assistance, developing countries are allowed the following assistance annually, which is demand driven:

- Two training sessions per developing country per annum and three per LDC per year, which is requested through the relevant government department.
- Assistance to parliamentarians.

#### **5.5 Negotiations for Trade in Services**

Trade in services are estimated to constitute 70 percent of world GDP. Services have evolved from being produced by governments to being commercially produced. This evolution has mainly been because of technological advancement and globalisation. The purpose of GATS is to institutionalise this transformation.

Four modes of supply of trade in services are defined, namely cross border through telecommunications, consumption abroad i.e. movement of consumer to the host country, commercial presence i.e. the establishment of a company or legal entity within the export market and the supply of a service through the presence of a natural person that is temporarily residing in the importing country. Commercial presence constitutes 50 to 55 percent of international trade in services.

The liberalisation of services under the GATS refers to granting market access and national treatment (treating all countries' services sectors similarly to the domestic services sector). Therefore, liberalisation cannot be done without regulation.

The GATS has a very flexible structure in the sense that liberalisation commitments have been scheduled per member per sector in accordance with its regulatory capacity and does not cover air travel and government services. Liberalisation of trade in services would be progressively done with individual countries determining their progress and the conditions for the liberalisation per sector can be prescribed in their schedules. Countries tend to liberalise out of self-interest beyond their WTO commitments.

Competition is a key issue with trade in services, as a sound domestic industry requires access to capital, the latest technology and the knowledge to compete. Furthermore, the quality and cost of the services chain determines an economy's ability to access global markets and its global competitiveness, as well as impacting on society's quality of life.

The following challenges are faced in the domestic regulation of services:

- Detailed and specific rules must be devised and defined including licensing, consumer protection, ensuring competition, safety and standards and minimising discretionary decision-making as an invitation for corruption.
- Dynamic regulatory framework is required.
- Institutional framework must be appropriately selected, independent and transparent.

In the Doha Round, negotiations are conducted through a request-offer process on a bilateral basis. Individual countries would target specific markets where they have an interest in through a request. The receiving country would then submit an offer based on what it is prepared to allow. A signalling conference was held in 2009 with Ministers indicating what improvements they could make but this cannot proceed until the rest of the negotiations are concluded simultaneously.

### **5.6 Development Issues in the DDA Negotiations**

Part IV of the GATT (General Agreements of Tariffs and Trade) introduced the principle on non-reciprocity in trade between developed and developing countries, while the enabling clause adopted during the Tokyo Round gives preferences to developing countries and among developing countries.

This has led to the special and differential treatment (SDT) of developing countries, acknowledging the differing abilities of countries to meet WTO obligations. SDT uses five measures, namely measures to enhance market access; measures to safeguard; allowing countries to use their policy space; allowing for extra time to implement obligations and seeking to provide trade related assistance and capacity building. In addition, LDCs receive further specific measures.

One of the key development issues is access to markets. However, granting only market access without building capacity will not increase trade flows for developing countries. Aid for Trade financing was launched to address this, where the WTO facilitates the partnering of donors and developing countries to promote assistance. Many of the developed and now developing countries are aware of the importance of assisting with the development of developing countries. New dynamic in terms of SDT including insisting on financial assistance from developed countries before the developing countries are willing to make certain sacrifices in the negotiations.

The Africa Group dominated the 88 proposals to reform SDT. Proposals were categorised according to the most appropriate committee that dealt with it or as being too divergent, which should be dealt with elsewhere. Some of the proposals were that all developed and developing countries are to give 90 percent of LDC products quota-free, duty-free access; providing more information on SPS (sanitary and phyto-sanitary) measures and import licensing; and the introduction of a monitoring mechanism for the effectiveness of SDT as proposed by developing countries or a platform to share experiences as proposed by developed countries. There was also a proposal that SDT be integrated into other negotiating areas. Many countries are already giving LDCs de facto access.

LDCs have called for an early harvest, as they are most affected by the delays in the negotiating process. However, the other members do not want to have an early harvest to ensure the maximum political and moral support and momentum from all the developing countries.

The work in this negotiating area has been progressing slowly; however, there has been movement involving the development agenda in other negotiating areas.

### **5.7 Overview of TRIPs Negotiations and the TRIPs and Public Health Agreement**

TRIPs is a vehicle to encourage developing countries to raise their intellectual property standards. There is a debate regarding the differences between types of innovations being created by developed and developing countries and the way to protect these. One of the key issues, namely the protection of traditional knowledge and genetic resources, has mainly been protected at a national level as no international instrument exists.

TRIPs does not refer to traditional knowledge and was not meant to but it acknowledges the parallel development of a broad approach to traditional knowledge and genetic resources because of the Convention on Biological Diversity.

There is no international legal definition of an innovation in patent law and this is open for individual countries to define. There are working definitions for traditional knowledge at the WIPO but this would need to be tailor-made for South Africa based on the core characteristics of this type of innovation. South Africa's process could also feed back into the international arena. When there is an international dispute, definitions are critical and legislation must be robust. The definitions must work in South Africa firstly and in turn will be the strongest base to argue internationally. Only trying to solve things on the international plane and assuming that it will work out domestically is insufficient. As domestic experience and work is essential to legitimise traditional knowledge regionally and internationally.

Countries that have created traditional knowledge protection legislation have also undergone a review to determine the effectiveness of this. This process has to be iterative, as it is a new area. The international arena can provide guidance but will not be definitive.

There is a challenge with access and benefit sharing for Convention on Biological Diversity. Negotiations are underway regarding a new international regime to make this more enforceable and an outcome is expected in October 2010. 'Smuggling' genetic resources and commercialising this outside of a country may not necessarily be wrong unless one is breaking the national law or breaching a contract. Thus, it cannot necessarily be made a legal issue, but remains a moral or ethical issue. It was proposed by developing countries that the rules regarding genetic resources should be rewritten to compel the disclosure of the origin of any genetic resources used in an innovation.

The proposed amendment to TRIPs where one cannot get an enforceable patent without disclosing the origins of the genetic material (patent system to monitor use of genetic resources) could assist in enforcing national legislation beyond a country's shores. Other possible enforcement mechanisms are the international instrument(s) WIPO is developing to define this activity as an act of misappropriation and making this an issue of contract law, where a community allows use for personal use only and commercialisation would constitute a breach of contract (mutual understanding/contract that must be made enforceable internationally).

### **5.8 Negotiations relating to Rules, including Regional Trade Agreements**

The negotiations on WTO rules cover anti-dumping, subsidies (including fishery subsidies) and countervailing duties, safeguards, Trade-related Investment Measures (TRIMS) and civil aviation agreements, as well as rules for negotiations. WTO's administration deals with dispute settlements and provides a secretary and legal officer for the negotiations.

In terms of anti-dumping measures, 3 700 actions were launched by members since 2008. India has initiated 600 investigations; the US initiated 440 investigations; South Africa has initiated the fifth highest number of initiations with 212 investigations mainly in metal and glass fibre products. About 100 countries have the legal instruments in place to initiate anti-dumping investigations. A third of the members use anti-dumping investigations. In Africa, only South Africa and Egypt have anti-dumping legislation and Mauritius is launching its legislation.

China, South Korea and the US have had the most investigations initiated against them, while South Africa has had close to 60 investigations initiated against them in the last 15 years. These were mainly from the US (16 investigations); Argentina (10 investigations) and India (9 investigations). Most initiations by developing countries are against other developing countries. South Africa has followed a very transparent approach and has had no disputes against it so far due to dumping. However, a recent constitutional court case against ITAC has highlighted the need for it to tighten its methodology/mechanism. ITAC does an excellent job of investigations but does not have the expertise for legal interpretation of the WTO agreements leading to frequent court cases.

South Africa's use of countervailing duties has usually been concurrent with anti-dumping investigations. Six measures have been instigated against South Africa in steel products and canned peaches. There have been 245 initiations among WTO members since 1995 with almost 50 percent of these being from the US.

The Rules negotiating group has included subsidy disciplines (horizontal) and subsidies for fisheries in its mandate. The "Friends of Anti-Dumping Negotiations" (FANS), which is led by Japan, are in favour of strengthening the rules so that it makes it more difficult to implement a measure. On the other hand, developing countries are calling for the strengthening of the spans of prohibited subsidies.

A subsidy is not necessarily condemned by the WTO especially if it is for development purposes. Specific subsidies aimed at an industry or group of companies may be prohibited especially if it focuses or is issued based on exports. Subsidy programmes should be within the WTO rules and should not be focused on export incentives and determined by local content. It should also not have distorting effects. There are also actionable subsidies, such as production subsidies, that may be challenged by other members.

Fisheries subsidies are very sensitive, as only 20% of world fish stocks are still healthy and their implementation promotes overfishing. Challenges exist in developing disciplines to limit overfishing, as fish do not honour national borders and it is difficult to regulate these subsidies. Furthermore, not all catches are declared and one has to consider the impact on subsistence fishers. In terms of catches, 71 percent of developing countries responsible for wild catch and only 15 percent of catch are within high seas and 85 percent within the exclusive economic zone. There is a need to find appropriate SDT for developing countries and to develop Regional Fisheries Management Organizations on high seas. In addition, political decisions should consider the scientific data to ensure sustainability of the world's fishing stock while promoting development. The aim of addressing fishery subsidies is to deal with large fisheries and overfishing as one of the causes of stock depletion.

The draft text that was developed towards the end of December 2007 was used as a starting point of negotiations but there is much dissatisfaction with it. The second draft text was drawn at the end of 2008. A roadmap for fisheries subsidies was developed and some technical work to clarify anti-dumping measures for fisheries has been conducted but is waiting for signals from the Agricultural Group and other groups.

South Africa has been quite active on fisheries subsidies and anti-dumping measures. It can play a role as a bridge builder in these negotiations. Negotiators must have strong technical skills and sufficient resources in order to be effective and influential in the Round and should preferably be based in Geneva.

### **5.9 Roundtable Discussion on the DDA**

Mr Chiedu Osakwe, the WTO Director of Accessions Division, moderated a session with the ambassadors of India, H.E. Mr Ujal Bhatia; EU, H.E. Mr John Clarke; China, H.E. Mr Zhenyu Sun; and Zambia, H.E. Mr Darlington Mwape; as well as the deputy ambassador of Brazil, H.E. Mr Paolo Mesquita. Each ambassador was asked to express their views on their countries' perspective of what is on the table, their countries' priorities in the Doha Round and how to move beyond the impasse on the Doha Round, as well as the role of emerging markets.

There was general consensus amongst the ambassadors that most countries were in favour of the conclusion of the Doha Round given a few changes with the exception of the US. The US was still seeking additional benefits from the Round in areas such as agriculture, NAMA and services and would require a strong political will to concede to the agreements on the table.

H.E. Mr Bhatia referred to the dichotomy that existed between the WTO and the Doha Round of negotiations, where the WTO was equated to the Doha Round but should be viewed separately. The global economic crisis has highlighted the need for global regulation. He noted that global trade has continued mainly uninterrupted despite threats of protectionism. H.E. Mr Clarke attributed this to the fact that the WTO rules did not allow member countries to reverse their liberalisation without repercussion.

H.E. Mr Bhatia commented that international rules and regulations are only relevant as far as they adapt to changes. However, the WTO is unable to provide a platform for change because it is being paralysed through regional trade agreements that are bypassing the multilateral system. As WTO is limited by the Doha Round and is therefore not in the position to respond to new issues such as climate change until the Round is concluded. H.E. Mr Clarke was of the view that the Doha Round would be the answer to the last ten years of economic changes.

He outlined that there had been progress made in agriculture in terms of market access barriers. In NAMA, progress had been made in terms of tariff barriers despite the need for concessions for South Africa, Argentina and a few other developing countries and non-tariff barriers.

H.E. Mr John Clarke alluded to the fact that elected parliamentarians have direct impact on determining international agreements as recognised through the Lisbon Treaty. The WTO implemented international rules of trade, was a unique binding dispute settlement and negotiation forum for the progressive opening of markets and for determining strong international rules. He expressed that agreements particularly in agriculture and services allowed countries to exploit their natural competitive advantage and that the agreements offered a fairly significant economic stimulus package. The Round could provide economic growth and poverty alleviation given an equitable distribution of income. He emphasised that there is a need for an element of give and take in the last stretch to ensure the Round's conclusion.

H.E. Mr Zhenyu Sun commented that there has been great efforts and participation from all members in the Round. However, many members may still be dissatisfied with what is on the table but in spite of this there is a willingness to accept the package if others would too rather than wait another three to five years for further benefits. He expressed some dissatisfaction that the US despite its statement to lower their subsidies by 70 percent would probably not even lose \$1 per subsidy. He was the opinion that though the Swiss formula would mainly reduce the 'water' for developing countries, the cuts in developing countries' tariffs would be much deeper than for developed countries and will reduce members' policy space, especially given crises such as the global economic crisis. There was an opinion that half of the Doha Round's value is derived from the trade facilitation negotiations.

H.E. Mr Darlington Mwape focused on the impact of the Round on LDCs. He indicated that LDCs contributed 1 percent to world trade but constituted 12 percent of the global population. This reflected the existing economic imbalance. He stressed that a delay in the implementation of the Doha Round would affect LDCs negatively. Therefore, he advocated for a proposition to invoke the 'early harvest' principle to conclude the Round for the poorer countries while these other important issues are being resolved. He suggested that members should rethink whether the outstanding 20 percent of the mandate should be completed or to design another Round for these outstanding issues. Otherwise benefits for the LDCs would be delayed until the Round is completed. He also noted that the Aid for Trade and the Enhanced Integrated Framework programmes must continue effectively so that the productive sectors of LDCs' economies can be continually dealt with.

H.E. Mr Paolo Mesquita noted that Brazil had been one of the founding members of the GATT despite disparity with its economic policies. It had been a proponent of special and differential treatment; however, most things of interest to it had been removed from the system. Brazil was forced to liberalise following its policy on import substitution. Brazil recognises the value in the WTO system, especially in terms of the dispute settlement mechanism, despite imbalanced rules that favour developed countries. The deputy ambassador welcomed the additional discipline this Round would bring in agriculture and Brazil was pushing for even more liberalisation in certain cases. Their main target was disciplines in subsidies and more market access in certain agricultural markets.

## **6. International Centre for Trade and Sustainable Development (ICTSD)**

The ICTSD is an independent organisation established by civil society, governed by a board of trustees. It focuses on sustainable development angle on trade with an emphasis on developing countries. The ICTSD is of the view that Trade policy and the multilateral trade system should support a country's economic and social aspirations in order to achieve its economic and social goals. It further aims to influence trade bodies through dialogue and working with parts of the system.

### **6.1 Multilateral trade system**

Mr Sergio Marchi briefed the Committee on the Multilateral Trade System. He focused on the need for developed countries to move on agricultural negotiations by dismantling the substantial agricultural subsidies for their farmers as it distorts the market place and disadvantages developing countries. Currently, the USA is in a weak position therefore we may not see any progress on subsidies. Conclusion of the Doha round of negotiations is essential to ensure the future and integrity of the WTO.

The Committee expressed a view of engaging their US counterparts in direct dialogue to discuss the delay in the Doha Development Agenda. Eighty percent of the Doha Round is completed but the failure to conclude has a negative impact on the LDC.

### **6.2 Trade and Climate change**

Ms Ingrid Jegou briefed the Committee on trade and climate change issues. The presentation focuses on the internalisation of carbon cost and the support of low carbon economies. The identification and classification of climate friendly goods within the WTO and the agricultural link to climate change are issues that have an impact on trade. The rising cost of international transport due to climate change has a negative impact on LDCs and small island states.

## 7. Concluding Comments

The Committee, after its deliberations on the “*South African Trade Policy and Strategy Framework: Discussion Document*”, concluded that an extensive study tour to broaden its understanding of key issues faced by developing countries in the Doha Round of negotiations at the WTO should be undertaken. Currently before the Committee is the Intellectual Property Laws Amendment Bill, which is highly complex and required extensive interaction with key role-players, both nationally and internationally. The Committee therefore embarked on a study visit to the South African Trade Mission at the WTO, as well as key organisations such as WIPO, the South Centre, the United Nations Conference on Trade and Development (UNCTAD) and the International Centre for Trade and Sustainable Development (ICTSD).

Currently, WTO agreements exhibit a range of imbalances and deficiencies that are prejudicial to their trade and development interests. Further, the agreements, designed in the main by industrialised countries, reflect the concerns of sophisticated economies and presuppose an institutional, human and financial base that is often lacking in developing countries. Evident in our discussions with various organisations, which included NGOs, is that a consensus exists around key issues pertaining to the “Developmental Round” and that the delay to the conclusion of the Round could be attributed to the developed countries.

In our discussions with specifically WIPO and other organisations – the Committee became aware that a global discussion on Traditional Knowledge and Intellectual Property - as a policy issue - are underway. Furthermore, our engagement with these organisations highlighted the complexities around intellectual property and that no common framework exists on how to approach the debate currently happening on the incorporation of Traditional Knowledge into Intellectual Property Laws worldwide and specifically in South Africa.

### Other conclusions:

7.1 The Director-General of the WTO, as well as his Deputy, welcomed the interaction with parliamentarians and acknowledged the value of engagements with lawmakers. Specifically both applauded the Portfolio Committee for initiating the programmatic requirements of the Study Visit which would in future be used as a format by the WTO to expand the outreach programme with legislators and other institutions. Views were expressed that such engagements with lawmakers of WTO countries could enhance the workings of the WTO and that such engagements could contribute to the completion of the Doha Round of negotiations. The views of legislators and resolutions adopted by respective parliaments were essential in supporting a country’s position.

7.2 WIPO welcomed the engagement with the Committee and indicated that they are eagerly awaiting the outcome of the current debate in South Africa on Intellectual Property. WIPO would welcome the conclusion of our deliberations on Intellectual Property Laws as our legislation could be used as a benchmark for other countries considering amending their Intellectual Property laws.

- 7.3 In the Committee's discussion with UNCTAD, UNCTAD was of the view that the Millennium Development Goals do not focus on the real development issues and that an alternative growth path should be pursued. To achieve this, policies developed in this regard should be supportive of the international architecture. This view was not prevailing in the Committee in our deliberations on Trade Policy and IPAP2. The Committee noted the contribution that UNCTAD could make if developing countries utilise the research capacity of the institution.
- 7.4 The Committee's engagement with the South Centre highlighted key challenges faced by developing countries in the Doha Round negotiations. Developing countries' cooperation at key international fora would enhance the possibility of ensuring a developmental outcome at the Doha Round negotiations. This could only be achieved through the promotion of South-South cooperation that would enhance their bargaining power.
- 7.5 During the Committee's engagement with the ICTSD, it became apparent that key experts in the field of Intellectual Property were at the disposal of the Committee. The Committee's visit to WIPO did not provide sufficient information on Intellectual Property and after a strategic engagement with the Chairperson of the ICTSD it was agreed that a workshop would be arranged at minimum cost to Parliament. The workshop proved to further enhance the understanding on Intellectual Property Laws, but highlighted key challenges faced by the Committee with respect to key principles.
- 7.6 The Committee noted the extensive focus on the WTO processes which has broadened its understanding of the current debate in the Doha Round as well as the engagements with key stakeholders in the field of Intellectual Property Laws that would only contribute to the development of legislation.
- 7.7 The Committee noted the presence/dominance of officials from various countries of the South at the multilateral organisations and the influence it has on determining the trade agenda. The Committee is of the view that recruitment of South African officials to these multilateral institutions should be promoted and encouraged.
- 7.8 Arising out of the experience of the Committee during the intensive study visit and the inclusion of the committee secretary, content specialist and researcher, the Committee is of the view that there is a need for such study visits in the beginning of every fresh term with the inclusion of key support staff. Secondly, the study visit could be expanded to include a focused cross cluster of committees such as Economic Development, International Relations and Co-operation, and the related select committees.
- 7.9 A recognition that greater synergy should be developed between Inter-Parliamentary groupings and the Portfolio Committee of Trade and Industry where appropriate.

## **8. Acknowledgements**

The Committee wishes to thank Ambassador Faizel Ismail and his staff for being instrumental in ensuring that the Committee engage with important key stakeholders during this visit. Furthermore, the Committee wants to express its deep appreciation to the Director-General of the WTO, Mr Pascal Lamy, and his deputy, Ms Valentine Sendanyoye Rugwabiza, for hosting the Committee as well as their contribution in developing a successful programme.

Visits to the WTO, WIPO, UNCTAD and the ICTSD contributed in broadening the understanding of Members with respect to the issues at the WTO and on IP. The Committee also wishes to thank its Committee support staff, in particular the Committee Secretary, Mr A Hermans, the Content Advisor, Ms M Herling, and the Researcher, Mr L Mahlangu, for their professional support and conscientious commitment to their work. The Chairperson thanks all Members of the Committee for their active participation during the process of engagement and deliberations and their constructive recommendations made in this report. The strong cohesion within the delegation and their willingness to put South Africa's interests first distinguished the delegation and sets a precedent for future study tours.

## **9. Recommendations**

Informed by its engagement with various organisations, the Committee recommends that the House request that:

1. The Minister of Trade and Industry submits a quarterly report to the Committee on the programmes and undertakings by the South African Mission to the WTO.
2. The Department of Trade and Industry considers the allocation of additional staff to support the South African Ambassador to the WTO.
3. Closer engagement through the various economic fora and regional structure, especially in Africa, should be explored through the WTO to ensure a developmental outcome on trade negotiations.

Report to be considered.

## National Council of Provinces

1. The Report of the Select Committee on Economic Development on the **Amendments to Articles VI and XIV.A of the International Atomic Energy Agency Statute**, dated 16 November 2010:

The Select Committee on Economic Development, having considered the request for the ratification of the **Amendments proposed to Articles VI and XIV.A of the International Atomic Energy Agency (IAEA) Statute**, referred to it, recommends that the Council, in terms of section 231(2) of the Constitution, approve the said Agreement.

Report to be considered







