

PARLIAMENT
OF THE
REPUBLIC OF SOUTH AFRICA

**ANNOUNCEMENTS,
TABLINGS AND
COMMITTEE REPORTS**

TUESDAY, 19 MARCH 2019

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ANNOUNCEMENTS

National Assembly and National Council of Provinces

The Speaker and the Chairperson

1. Bills passed by Houses – to be submitted to President for assent

(1) Bill passed by National Council of Provinces on 19 March 2019:

(a) **National Qualifications Framework Amendment Bill** [B 20B – 2018] (National Assembly – sec 75).

(2) Bills passed by National Assembly on 19 March 2019:

(a) **Public Service Commission Amendment Bill** [B 21D – 2015] (National Assembly – sec 76).

(b) **Films and Publications Amendment Bill** [B 37D – 2015] (National Assembly – sec 75).

2. Classification of Bills by Joint Tagging Mechanism (JTM)

(1) The JTM in terms of Joint Rule 160(6) classified the following Bill as a section 75 Bill:

(a) **National Minimum Wage Amendment Bill** [B 9 – 2019] (National Assembly – sec 75).

National Assembly

The Speaker

1. Introduction of Bills

(1) **The Portfolio Committee on Labour**

(a) **National Minimum Wage Amendment Bill** [B 9 – 2019] (National Assembly – sec 75) [Explanatory summary of

Bill and prior notice of its introduction published in *Government Gazette* No 42240 of 22 February 2019.]

Bill initiated by the **Portfolio Committee on Labour** of the National Assembly (for Committee Report, *see* Announcements, Tablings and Committee Reports of 19 March 2019), and classified by the Joint Classification Mechanism as a section 75 Bill (*see* Announcements, Tablings and Committee Reports of 19 March 2019).

2. Message from National Council of Provinces to National Assembly in respect of Bills passed by Council and returned to Assembly

(1) Bill, subject to a proposed amendment, passed by Council on 19 March 2019 and returned for consideration of Council's proposed amendment:

- (a) **Defence Amendment Bill** [B 18 - 2017] (National Assembly – sec 75) (for proposed amendment, *see* Announcements, Tablings and Committee Reports, 6 March 2019, p 73).

The Bill has been referred to the **Portfolio Committee on Defence and Military Veterans** of the National Assembly.

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 19 March 2019:

- (a) **Public Audit Excess Fee Bill** [B 7 - 2019] (National Assembly – sec 77).

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

TABLINGS

National Assembly and National Council of Provinces

1. The Speaker and the Chairperson

- (a) Monthly Financial Statements of Parliament – February 2019, tabled in terms of section 54(1) of the Financial Management of Parliament and Provincial Legislatures Act, 2009 (Act No 10 of 2009).

COMMITTEE REPORTS

National Assembly

1. Report of the Portfolio Committee on Labour on the National Minimum Wage Amendment Bill [B 9-2019], dated 18 March 2019

The Portfolio Committee on Labour (the “Committee”), having initiated the National Minimum Wage Amendment Bill [B 9 -2019] (the “Bill”) and classified by the Joint Tagging Mechanism as a section 75 Bill, reports as follows:

1. Introduction

When the National Minimum Wage Bill [B 31 - 2017] was introduced, section 17(4) correctly, at the time, cross referred to section 4(6). The Committee, however, amended section 4 with two additional subsections being inserted, so that the original section 4(6) became section 4(8). However, the required consequential amendment to section 17(4) was not effected.

The Portfolio Committee on Labour agreed to request permission in terms of Rule 273(1) of the National Assembly to develop a Committee Bill, the National Minimum Wage Amendment Bill [B 9-2019]. The aim of the Bill is to amend the National Minimum Wage Act, 2018 (Act No. 9 of 2018) so as to correct an incorrect cross-referencing in section 17(4).

It is envisaged that this amendment should be effected through the substitution of section 17(4) of the Act of a new subsection, which reflects the correct cross reference, namely “section 4(8)”.

This report outlines the process followed in developing this Bill, the amendment made to the National Minimum Wage Act, 2018 (Act No. 9 of 2018), the Joint Tagging Mechanism's decision, its certification, and the recommendation to the National Assembly.

2. Process followed to amend the National Minimum Wage Act

On 16 January 2019, the Portfolio Committee on Labour unanimously agreed to initiate the process of a Committee Bill, the National Minimum Wage Amendment Bill, to correct the incorrect cross-referencing error on the National Minimum Wage Act. The Committee resolved to develop a draft Memorandum as required by National Assembly Rule 273(1) and draft a Bill if permission was granted by the National Assembly.

On 16 January 2019, the Constitutional and Legal Services Office submitted a draft Bill for the Committee's consideration. The Committee further engaged the Department of Labour and the National Economic Development and Labour Council (NEDLAC) so as to ascertain whether there will be any further cost implications the department would incur with the introduction of the Bill. It is not envisaged that the implementation of the Committee Bill will incur costs.

The Committee advertised for public comments in national daily and weekly newspapers, on Parliament's website and on social media platforms, as well as in the Government Gazette (*No 42240, Notice 91 of 2019, 22 February 2019*). The closing date for written submissions was Friday, 15 March 2019. The Committee received five submissions from the following stakeholders which were all considered on 18 March 2019:

1. Mr Elcort Matlala – in his own capacity as a member of the public;
2. Independent Municipal and Allied Trade Union (IMATU);
3. Black First Land First (BLF);
4. Congress of South African Trade Unions (COSATU); and
5. Commission for Gender Equality (CGE).

The Committee considered and deliberated on all submissions received.

3. Classification

In terms of National Assembly Rule 279(1)(c)(vi), a Bill introduced by a Committee must include a legal opinion by the Parliamentary Legal Advisor on the classification of the Bill. The legal opinion was submitted and subsequently the Joint Tagging Mechanism classified the Bill as a section 75 Bill.

4. Certification of the Bill

In compliance with National Assembly Rule 279(4), a Bill introduced by a Committee must be certified by the Chief Parliamentary Legal Advisor or a Parliamentary Legal Advisor designated by him or her. Mr M Prince, the designated Parliamentary Legal Advisor, certified that the National Minimum Wage Amendment Bill, 2019, intended for introduction in the National Assembly by the Portfolio Committee on Labour is -

- (a) consistent with the Constitution and existing legislation; and
- (b) properly drafted in the form and style which conforms to legislative drafting practice.

5. Recommendation

The Portfolio Committee on Labour, having considered the subject of the National Minimum Wage Amendment Bill [B 9-2019], recommends that the House adopts this report and approves the Second Reading of the Bill as introduced.

6. Acknowledgements

The Chairperson thanks all Members of the Committee for their active participation during the process of engagement and deliberations on the Bill. Furthermore, the Committee wishes to express its gratitude to the individuals, organisations, and stakeholders who participated in the process and contributed to the development of the Bill.

Report to be considered.

National Council of Provinces

1. Report of the Select Committee on Land and Mineral Resources on the Ratification of the SADC Protocol on Environmental Management for Sustainable Development, 19 March 2019.

The Select Committee on Land and Mineral Resources, having considered the request for approval by Parliament for the Ratification of the SADC Protocol on Environmental Management for Sustainable Development, referred to it on 24 January 2019, recommends that the Council, in terms of section 231(2) of the Constitution, 1996, approve the said Convention.

Report to be considered

2. Report of the Select Committee on Land and Mineral Resources on the Ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone layer to include Hydrofluorocarbons (HFCS), 19 March 2019.

The Select Committee on Land and Mineral Resources, having considered the request for approval by Parliament for the Ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone layer to include Hydrofluorocarbons (HFCS), referred to it on 24 January 2019, recommends that the Council, in terms of section 231(2) of the Constitution, 1996, approve the said Convention.

Report to be considered

3. Report of the Select Committee on Land and Mineral Resources on the Electronic Deeds Registration Systems Bill [B 35B - 2017] (National Assembly – Section 75), dated 19 March 2019.

The Bill was referred to the committee on 13 November 2018, and on the 6th December 2018 the Committee placed an advertisement on the Parliamentary Website calling for public comments. The Department of Rural Development and Land Reform briefed the committee on 29 January 2019 on the Electronic Deeds Registration System Bill [B 35B - 2017], with no public comment having been received.

The Committee resolved that the public consultation period should be extended, with the advertisement calling for public comments to be placed on the Parliamentary Website, in relevant newspaper and various radio stations. To date, eight submissions were received of which three were merely comments made. The submissions received were from, Mr M Surgeon; Ms N Bam-Tshangana; Ms P Faas, Banking Association of SA; Law Society of SA; amaBhungane Centre for Investigative Journalism; University of JHB; and Johan Schoon for Du Plessis and Viviers.

During the deliberations of 12 March 2019, the Committee noted and extensively deliberated on the proposed definition of a “Statutory Officer”. In essence, the Committee agrees that the said definition would add value in clarifying potential confusion in the interpretation of the Act. However, the Committee is of the view that this definition may be introduced at a later stage as a technical amendment to provide more clarity on the legislation. The Committee is of the view that this definition is key, however, it found that this amendment is of a technical nature which should not delay the passing of the Bill. The Committee considered the principle of passing the Bill as far too important to be delayed due to an issue of a technical nature, which could be fixed through a technical amendment by the Department as soon as possible. The Committee implored the Department of Rural Development and Land Reform to prepare and introduce a technical amendment in this regard before the 6th Parliament for consideration.

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The Select Committee on Land and Mineral Resources, having deliberated on and considered the subject of the Electronic Deeds Registration Systems Bill [B 35B - 2017] (National Assembly – sec 75), referred to it and classified by the JTM as a section 75 Bill, agrees to the Bill without amendments.

Report to be considered

4. Report of the Select Committee on Finance on the Public Investment Corporation Amendment Bill [B 4 - 2019] (National Assembly- section 75), dated 19 March 2019.

1. Background

The Public Investment Corporation (“PIC”) is a key component of the financial services sector and as a financial services provider for the government of the Republic and bodies, councils, funds or accounts established by law, plays an important role in the financial security of South Africa.

The PIC Bill, which is a committee Bill, amends the Public Investment Corporation Act, 2004 (Act No. 23 of 2004) (“the Act”), in order to promote transparency and good governance within the PIC. The Bill also amends the Act to require the PIC to invest in accordance with the instructions of the depositors, and in so doing the PIC must seek investments that will meet certain guidelines. The Bill further provides for greater transparency in the operations of the PIC through the publication or tabling of various directives, regulations and reports.

2. Objectives of the Bill

The Bill seeks to provide greater transparency and better governance in the PIC as follows:

2.1 The Minister must appoint 10 non-executive Board members, including a representative of National Treasury; two representatives from the largest depositor and one representative of any depositor whose assets under management by the PIC are at least 10 per cent; and two representatives of the trade union with the majority of the members in the Government Employees Pension Fund (GEPF) and one representative from another trade union, as decided by the Public Service Co-ordinating Bargaining Council (PSCBC) based upon proportional representation.

2.2 The Minister of Finance must designate the Deputy Minister of Finance or, in consultation with Cabinet, any other Deputy Minister within the economic cluster to chair the PIC Board. The

Board must include two executive members – one of which must be the CEO or of a similar designation. All Board members should have the necessary knowledge and expertise, including those representing the unions. The Minister must progressively comply with the appointment of Board members according to these requirements taking into account the rights of current members of the Board.

- 2.3 The PIC must invest in projects that will benefit the beneficiaries of the depositors and act in accordance with the instructions of the depositors and, in doing so, seek to invest according to certain guidelines. The PIC investment policies must also consider to these guidelines.
- 2.4 The Minister must table a report annually to Parliament on all investments of deposits and requests for approval of any significant transactions in terms of the Public Finance Management Act (PFMA) and must table regulations on the PIC in Parliament.

3. Committee process

- 3.1 On 26 February 2019, the National Council of Provinces (NCOP) referred the PIC Amendment Bill [B4 - 2019] (National Assembly – section 75) to the Select Committee on Finance for consideration and report.
- 3.2 The Committee called for public submissions on the PIC Amendment Bill [B 4 - 2019] (National Assembly – section 75).
- 3.3 On 06 March 2019, the Committee received a briefing on the PIC Amendment Bill (Committee Bill), from the Chairperson of the Standing Committee on Finance Mr. Y Carrim.
- 3.4 The public hearings on the Bill were held on 12 March 2019, and the Committee received written and oral submissions from the Black First Land First Movement (BLF); AmaBhungane Centre for Investigative Journalism; the Association of Black Securities and Investment Professionals (ABSIP); and the Congress of South African Trade Unions (COSATU). The National Treasury also made oral input to the Bill.

- 3.5 The following organisations made written submissions but did not make oral submissions: Helen Suzman Foundation; Mr. FG Werner; and Mr. Mabotha Arthur Moloto. The Parliamentary Legal Services responded to the matters raised by the stakeholders.

4. Inputs from stakeholders

4.1 Black First Land First Movement (BLF)

The BLF argues that, the PIC Bill does not address social responsibility commitments in relation to unemployment, poverty and poverty arising from the historical question of dispossession, which in turn is based on colonialism. To this end the PIC's relationship to the state and the State's responsibilities and obligations to its people are inextricably linked to each other and must not be separated. The BLF proposed that pension contributions by workers has to be abolished. The state must provide the total pension of the worker at the relevant time.

The BLF calls for a Judicial Commission of Inquiry into the PIC, which must make findings, report on and make recommendations on the following:

- (a) how the funds of the PIC have been employed from its inception in 2004 to date.
- (b) the anti-black annual spending of government on procurement of services and infrastructure annually which benefits white companies;
- (c) the anti-black demographic representation in the asset management industry;
- (d) state capture by white monopoly capital by virtue of the issues raised herein
- (e) all the issues raised herein regarding capture of the PIC by white monopoly capital.
- (f) All impropriety or other criminal conduct regarding investment decisions
- (g) consequently to ineffective functioning or governance by the PIC Board;
- (h) If any PIC employee/director used her/his privileges or position or confidential information to improperly benefit another person or for personal gain.

4.2 AmaBhungane Centre for Investigative Journalism

The AmaBhungane emphasises that it supports all of the measures in the Bill which promote better transparency and accountability over the PIC. The relevant members of both houses of Parliament and its committees should be congratulated for their hard work in vastly increasing the PIC's accountability.

The AmaBhungane does, however, have grave concerns that the Bill (despite its improvements) does not go far enough in ensuring that the public, including the millions of government employees affected by the PIC's decisions (managing trillions of rand), have sufficient information to hold the PIC accountable, and to understand for themselves how decisions were made.

AmaBhungane submits that the present version of the Bill still suffers from constitutional difficulties and fails to satisfy the limitations clause under section 36 of the Constitution. In its present form, the Bill plainly limits the constitutional rights to freedom of information and the media as well as access to information. The Constitutional Court has emphasised that access to information must be the rule and any secrecy must only be countenanced in exceptional cases.

The AmaBhungane submits that one should not test whether the Bill adequately safeguards accountability on the assumption that any people presently in, or to be appointed to, key positions at the PIC will be fit and proper people and will do their jobs honestly). Rather, one should test the provisions on the basis that those in key positions would seek to undermine the objectives of the PIC and check how any offenders could be discovered and held to account promptly. AmaBhungane draws attention to the various portions of the testimony by Mr Seanie and Mr Jack referred to in its written submissions and submits that one should imagine how best to prevent those ills. One of the best safeguards to do so is providing the public with access to adequate information about the functioning of the PIC and its decisions.

4.3 Association of Black Securities and Investment Professionals

The Association of Black Securities and Investment Professionals (ABSIP) proposes that all mandated investments (retirement funds, umbrella funds, collective investment schemes, medical aid funds, mandated funds such as the Public Investment Corporation and Industrial Development Corporation etc.) on a look through basis gets counted in the determination of the Black and Women ownership of companies in the Financial Sector (and other

sectors). This encourages more broad-based empowerment as opposed to narrow BEE. The PIC should disclose on its website the demographic and gender liability profile of its beneficiary members to enable investee companies to get B-BBEE ownership credits for broad based Black and Women shareholding on a look through basis. However, the B-BBEE targets should first be changed to reflect population and gender demographics. The “Once Empowered and Always Empowered” notion is not consistent with reducing increasing inequality in South Africa and should be removed from all B-BBEE legislation.

ABSIP submits that, any potential nominees being considered for the non-executive role on the PIC board must be fiercely independent as defined and/or guided by the King IV Code. Each board member should not hold more than four other directorships in listed and/or unlisted companies/entities. The King IV Code supported by the Institute of Directors allows for nine other board memberships; this entrenches the “old boy network” club and discourages independence and diversity by not limiting non-executive directorships to four positions. More than 50 per cent of the non-executive members of the board must be independent and have good investment experience in investment management firms and investments. No board member should have a conflict of interest in any of the PIC investments or transactions and not only recuse themselves from such decisions but resign from PIC board positions if a potential conflict position arises.

4.4 Congress of South African Trade Unions

The Congress of South African Trade Unions (COSATU) submits that, the Bill is reasonable and rational. It is in line with legislative norms. It will provide the required intervention and framework to preserve the integrity of workers’ pensions and insurance monies invested in the PIC. It is progressive, long overdue and urgently needed to address the litany of corruption allegations and governance crises engulfing the PIC.

COSATU argues that, workers are represented on the boards of the GEPF, Unemployment Insurance Fund (UIF) and Compensation for Occupational Injuries and Diseases Act (COIDA), yet they have struggled to hold the PIC accountable. They are often informed of matters late or long after they have happened, critical issues are omitted and looting has been hidden.

In the spirit of compromise and negotiations, COSATU has made several major concessions on the issue of worker representatives on the PIC board.

Firstly, COSATU has agreed to reduce the demand for worker representation on the board from 50 per cent of the board to only three representatives on a board of 13. In other words, less than 25 per cent. Secondly, they had agreed that the union representatives must meet the same qualification and skills and experience requirements of all other board members.

The investment guidelines are important to help, where financially viable, to encourage investments that will benefit society at large. It will help hold the PIC accountable in future if they have been found to have invested in very dubious investments that cannot be explained.

4.5 Helen Suzman Foundation (on behalf of Mr. Vuyo Jack)

The Helen Suzman Foundation (HSF) submits that, the proposed new section 6(1)(A) calls explicitly for the Deputy Minister of Finance, or any other Deputy Minister in the economic cluster, to be chairperson of the PIC board. On this matter the HSF is in agreement with the findings of a recent official governance report on the PIC, compiled at the request of the PIC itself, by the former executive director of the PIC, Mr Vuyo Jack.

Mr Jack argued that there is no legal or economic principle that supports the provision that the chairperson of the PIC board should be a political office bearer, and that it would exacerbate risk. Not because a political appointee would be a shareholder chair, nor that he or she would not have the requisite skills, but rather because of, as Mr Jack puts it, the fluid nature of politics should mitigate against a party political office bearer even if he or she would have the requisite skills. The HSF therefore supports Mr Jack's call for the chair of the PIC board not to be a political office bearer.

Should the Committee proceed with the amendment as envisaged in the Bill, the HSF strongly urges that provision be made for a non-political deputy chairperson. This provision should also stipulate that the non-political office bearer deputy chairperson must take over chair duties when real or perceived conflicts of political interest arise for the political chairperson. Not only will this help to avoid conflicts of interest, but it will also ensure continuity should the political appointee be replaced.

While the Helen Suzman Foundation support efforts to improve the Act, and by extension, the ability of the PIC to fulfil its mandate, our key concerns with the proposed amendments in this Bill can be summarised as follows:

- (a) At all times, the PIC must act in accordance with its mandate which is primarily derived from the instructions of its depositors.
- (b) Any broader considerations in so far as they concern social, economic or political objectives must always be balanced against the risk of decisions detrimentally affecting returns on investment.
- (c) If the objectives described above are to be pursued, then these must be part of the instructions from depositors, as directives taken from elsewhere create the danger of depositors considering alternative asset managers.
- (d) We have sought, through the suggestions made in this submission, to promote greater transparency and accountability in terms of all external fees, including the disclosure of fees for consultants and the use of professional services.

4.6 Mr. FG Werner

Mr. FG Werner submits that, it is with great dismay that there is poor institutional governance at the PIC and that it has been captured by rent seeking politicians as is being revealed in the current inquiry into the PIC. To have the PIC with the Chairperson being political appointee again is not acceptable, it leads to a repeat performance of the last 10 years of political interference in the investment decisions to benefit the ruling political party politicians, not to ensure the proper growth on the GEPF funds the PIC is meant to invest on behalf of members of the GEPF.

He further submits that, members of the current Public Service do not trust the PIC and the great majority of those retiring now are opting to resigning to take their pension benefits and invest in private pension funds for fear of the PIC going bankrupt in the near future. The PIC must at least have an Independent Oversight Body and managed as Private Pensions in the Pensions Fund Act which the PIC does not fall under.

4.7 Mr. Mabotha Arthur Moloto

Mr. Mabotha Arthur Moloto, humbly submit that the current process relating to the appointment of the board members of the PIC, as stipulated in 2004 Act, be maintained with the proviso that the Minister furnishes a full report to Parliament on whether the appointed board members meet the fit and proper test stipulated by the Financial Advisory and Intermediary Services (FAIS) Act and that the board reflect all sections of society as taxpayers are the ultimate guarantor of the largest depositor namely GEPPF.

He states that, South Africans need to be assured that this liability they are collectively exposed to will be managed by a board that has passed a ‘fit and proper test’ and that their elected representatives in Parliament will ensure that good corporate standards are adhered to in the composition of the PIC Board. An important distinction needs to be made between benefits and liabilities in this whole debate. The benefits accrue to beneficiaries linked to the depositors whilst the liability is carried by all taxpayers.

He further submits that, it will be unconscionable to exclude the voice and representation of ordinary taxpayers in this matter. Any significant increase in the liabilities without a corresponding increase in assets has huge implications for taxpayers as tax rates might have to be increased to cover any significant shortfall in the Fund in the event of constrained borrowing capacity of government. Finally, we have not yet received the report of the Commission of Inquiry at the PIC (Judge Lex Mpati Commission) to be in a position to fully evaluate the cause and extent of the alleged lapses in corporate governance at the PIC. To assume that representation of depositors and trade unions on the PIC Board will remedy the alleged corporate governance lapses is premature at this stage.

5. Recommendation

The Select Committee on Finance, having considered the Public Investment Corporation Amendment Bill [B 4 - 2019] (National Assembly – section 75), referred to it, and classified by the JTM as a section 75 Bill, reports that it has agreed to the Bill without amendments.

DA strongly oppose this report.

Report to be considered.

5. Report of the Select Committee on Finance on the Customs and Excise Amendment Bill [B 3 - 2019] (National Assembly- section 75), dated 19 March 2019.

1. Background

The proposed amendment to the Customs and Excise Bill inserts a new provision for the purpose of the administration and limitation of allowances in relation to the Carbon Tax Act. The provision facilitates the administering of those allowances and limitation of allowances as rebates, refunds or drawbacks. The proposed provision further requires that a taxpayer as defined in the Carbon Tax Act must license premises as may be prescribed by rule. The provision also regulates actions, pertaining to submission and verification of accounts, collection and payment of the carbon tax. The proposed amendment also allows the Commissioner to make rules insofar as it is necessary to regulate duties, powers and rights not regulated by the Carbon Tax Act in relation to collection and payment of the Carbon Tax.

2. Committee process

- 2.1 The National Council of Provinces (NCOP) referred the Customs and Excise Amendment Bill [B 3 - 2019] (National Assembly- section 75) to the Select Committee on Finance for consideration and report.
- 2.2 The Committee called for public submissions on the Customs and Excise Amendment Bill [B 3 - 2019] (National Assembly- section 75).
- 2.3 On 06 March 2019, the Committee received a briefing on the Customs and Excise Amendment Bill [B 3 - 2019] (National Assembly- section 75), from the National Treasury.
- 2.4 The public hearings on the Bill were held on 12 March 2019, and the Committee received written and oral submission from the Business Unity South Africa (BUSA).

- 2.5 The following stakeholder made written submissions but did not make oral submission: Mr. Abdul Qayoom Bhamjee Input by stakeholders.

3. Inputs from stakeholders

3.1 Business Unity South Africa

The Business Unity South Africa (BUSA) made the following submission on the Bill:

BUSA submits that the amended Customs and Excise Bill does not align with schedule 3 of the Carbon Tax Bill which was voted on by the Standing Committee on Finance on 05 February 2019. Their view is that enabling powers to give effect to the requirements to administer the Tax must be included in the amendments of the Customs and Excise Bill. Also, they believe that policy uncertainty is an impediment to investment and that the President has stated in a number of platforms for a that government is committed to addressing this issue. According to BUSA, the Customs and Excise Amendment Bill does not pass the test of regulatory certainty in a number of areas.

3.2 Mr. Abdul Qayoom Bhamjee

Mr Abdul Qayoom Bhamjee submits that, he trusts that duties on clothing on baby and children's clothing will be carefully considered and reduced;

that they have been in existence for over 30 years and have really struggled to source supplies locally and that most of their type of business have ceased trade due to this problem. He further submits that there are hardly any manufacturers and that manufactures such as Keedo suddenly refuse to supply them.

Mr Bhamjee is of the view that duties, transport costs and the exchange rate renders this programme uneconomical, when they import from Spain. There is a great shortage of good fashion clothing.

4. Recommendation

The Select Committee on Finance, having considered the Customs and Excise Amendment Bill [B 3 - 2019] (National Assembly- section 75), referred to it, and classified by the JTM as a section 75 Bill, reports that it has agreed to the Bill without amendments.

DA reserves its position on this report.

Report to be considered.

6. Report of the Select Committee on Finance on the Carbon Tax Bill [B46B – 2018] (National Assembly – section 77), dated 19 March 2019.

1. Background

The Customs and Excise Bill makes provision for the administration of the Carbon Tax through the Customs and Excise Act. Carbon Tax will play a role in achieving the objectives set out in the National Climate Change Response Policy of 2011 (NCCRP) and contribute towards meeting South Africa's commitments to reduce greenhouse gas emissions. Reducing the impacts of climate change through facilitating a viable and fair transition to a low-carbon economy is essential to ensure an environmentally sustainable economic growth path for South Africa.

The Bill gives effect to the polluter-pays principle, prices greenhouse gas emissions and aims to ensure that businesses and households take these costs into account in their production, consumption and investment decisions. The tax will assist in reducing emissions and ensuring South Africa meets its commitments under the 2015 Paris Climate Agreement. It will be reviewed after three years. The South African Revenue Service (SARS) and the National Department of Environmental Affairs will jointly administer the tax.

The Carbon Tax Bill includes the detailed and revised carbon tax design features as per the Carbon Tax Policy Paper of 2013 and the Carbon Offsets Paper of 2014 and takes into account public comments received following extensive stakeholder consultation since 2011. The Carbon Tax Bill provides for the introduction of the Carbon Tax in a phased manner. This gradual approach takes cognizance of the developmental challenges facing South Africa and South Africa's National Determined Contribution (NDC) commitments made under the Paris Agreement to reduce GHG emissions. This will also help encourage investments in and the uptake of more energy efficient and low carbon technologies.

2. Consultation process

The initial Carbon Tax Bill was first introduced in November 2015. The initial implementation date was planned for 01 January 2019 but the Minister of Finance announced postponement in the implementation date of the carbon tax to 01 June 2019 in the 2018 MTBPS speech. The National Treasury undertook an extensive consultation process (public hearings) on

the Bill between since 2015. The Bill was tabled on 20 November 2018 and referred to Standing Committee on Finance (SCoF) for finalisation. The SCoF had joint meetings, workshops and public hearings with the Portfolio Committee on Environmental Affairs in Parliament. The SCoF adopted its report on the Bill on 21 February 2019. The National Council of Provinces (NCOP) referred the Bill to the Select Committee on Finance (SeCoF) on 26 February 2019. The Committee then received a briefing from the National Treasury on 06 March 2019 and held public hearings on 12 March 2019.

The submissions on the Bill were received from 14 stakeholders, namely, the Airlines Association of Southern Africa (AASA), the Association of Cementitious Material Producers (ACMP), the Black First Land First Movement (BFLF), Sasol, PricewaterhouseCoopers (PwC), Organisation Undoing Tax Abuse (OUTA), Business Unity South Africa (BUSA), Chemical & Allied Industries' Association (CAIA), Pricewaterhouse Coopers, Sasol, Engen, World Wide Fund (WWF) for Nature, Sibanye Stillwater and Congress of South African Trade Unions (COSATU). During the public hearings, the National Treasury and the South African Revenue Service (SARS) responded to the issues raised by the stakeholders.

3. Summary of submissions made during the public hearings

This section summarises the key issues raised by the stakeholders during the public hearings held in the Parliament on 12 March 2019.

3.1 Business Unity South Africa

Business Unity South Africa (BUSA) is a confederation of business organisations including chambers of commerce and industry, professional and corporate associations and unisectoral organisations. Overall, they aim to ensure that South African business plays a constructive role in the country's economic growth.

BUSA supports carbon pricing in the economy as part of a suite of measures to address the country's climate change. They are concerned about a number of issues that are not yet addressed by government, which include the state of the economy where small changes give rise to higher costs; policy uncertainty post-2022 for unregulated entities and lack of policy alignment between the carbon tax and the carbon budget proposed through the draft Climate Change Bill. BUSA is therefore not in a position to support the Carbon Tax Bill in its form and requests that the proposed Bill should include a requirement for alignment in this version of the Carbon Tax Bill.

Critical issues essential for the effective implementation of the Bill from BUSA's perspective include finalizing the GHG reporting system and publishing the Renewable Energy Premium. Significant uncertainty remains for the taxpayers in determining their liability as regulations regarding their allowances are still outstanding.

3.2 The Airlines Association of Southern Africa (AASA)

The Airline Association of South Africa (AASA) is an industry association representing the mutual interests of its airline members, which include the commercial scheduled airlines from South Africa and other Southern African States. AASA also has Associate Members which are manufacturers, service providers, suppliers and industry partners which add value to the airline industry.

Whilst supporting the goal of reducing CO₂ emissions, AASA and its airline members do not in principle support the imposition of a Carbon Tax for aviation because implementing carbon taxes is not the appropriate mechanism to change behaviour and from an aviation perspective, the introduction of new taxes is not encouraged nor recommended. AASA's concerns about the proposed tax include that tax revenue cannot be ring-fenced for specific purposes, that National Treasury has waived the requirement for International Aviation to be subject to Carbon Taxes in South Africa and different regimes will result in an administrative burden.

AASA does not believe that the introduction of carbon taxes is a measure that will encourage reduction of emissions. In their view, there should be incentives to reduce carbon emissions or measures introduced to encourage initiatives to reduce carbon emissions and make a positive impact on the environment. They believe that in a world, where aviation is such an active facilitator of travel, communication and bringing people together, the introduction of Carbon Taxes is intended to discourage and effectively shrink air transport. In addition, carbon taxes will add another cost burden on the airlines, which in the current low economic growth environment in South Africa as well as considering the marginal nature of this business, will burden the airlines even further.

AASA recommends that the Committee considers a globally accepted scheme to encourage Aviation to reduce carbon emissions and that the Bill be amended accordingly to exclude Domestic Aviation.

3.3 The Association of Cementitious Material Producers (ACMP)

The Association of Cementitious Producers (AMCP) acts as an umbrella for five South African Clinker and Cementitious material producer companies, specifically guiding and representing in their fields environmental stewardship, health and safety practices and community and stakeholder interaction.

AMCP acknowledges that carbon tax could be one of the policy instruments to facilitate a transition to a lower carbon economy, but AMCP members are very concerned about the consequences of implementation of the Bill in the current economic climate. They believe that the impact would be significant on the cement sector, resulting in higher costs of doing business. Cement producers will not be able to absorb carbon tax related costs and will pass the increase and trade exposure challenges. The impact of the tax will also have serious impact on local economic development and the broader national socio-economic impacts.

3.4 The Black First Land First Movement

The BLMF, a movement whose strategic objective is the complete destruction of white supremacy is the view that the proposed Carbon Tax Bill continues in this line, failing to address either energy sovereignty, the need to industrialise or job creation. Instead, it places the burden of combatting climate change on the oppressed. In its current form, the Bill will hit the consumer hardest, as well as small and medium size businesses, directly destroying any possibility of sustainable quality job creation. The Bill will furthermore see tax rebates for white monopoly capital corporations who simply attempt to phase in emission targets. The BLMF recommends that the Committee scraps the Carbon Tax Bill, as the cost will be carried by the poor directly and increase nuclear energy generation.

3.5 Sasol

Sasol has consistently argued for an approach that would see companies pay a higher tax rate, but only on emissions above the carbon budget threshold. Instead of levying a lower rate of tax on all emissions, Sasol has proposed that companies are provided an allocation on a portion of their emissions based on their carbon budget with a higher tax levied on the remaining

emissions. This higher tax will serve as a penalty mechanism which incentivises least cost mitigation. In addition, companies should have the opportunity to further reduce their tax liability if they submit and comply with a plan to fully mitigate the emissions subject to tax within a set period of time, supported by a jobs transition plan which aims to mitigate job losses that may result from such emission reductions.

Finally, to ensure that the incentive for companies to continue innovating and looking for alternative mitigation options, the tax design should provide the option for companies to generate and sell offsets if they are able to find mitigation options below the fixed threshold set.

Sasol requests that the carbon tax design be amended to reflect an aligned Carbon Tax and Budget approach. Alternatively, an amendment to commit the Minister of Finance to align to the Carbon Budgets during the second phase of the carbon tax and outline how transitional arrangements will be addressed would suffice. The Committee can also postpone the promulgation of the Carbon Tax to align to the promulgation of the Customs Control Act 2014, Customs Duty Act 2014 and Customs and Excise Amendment Act 2014. The Customs Control Act non-compliance framework aligns to that of the Tax Administration Act, thereby providing some relief to taxpayers during the transitional and implementation phase of the Carbon Tax legislation. Lastly, Sasol recommended Legislation or Rules that are amended to allow the deduction of the electricity levy from the Carbon Tax liability to avoid double taxation.

3.6 PricewaterhouseCoopers

PriceWaterhouseCoopers (PWC) views the tax period for the carbon tax operating from 1 June 2019 to 31 December 2019 as problematic as the tax is levied on carbon emissions for the tax period. However, carbon emissions are reported to the Department of Environmental Affairs in terms of the Greenhouse Gas Reporting Regulations for a full calendar year and not for a portion of the year. Accordingly, the proposed effective date is not in alignment with the Greenhouse Gas Reporting Regulations on which the tax is intended to be aligned and will create significant compliance and administration burdens should the proposed effective date be implemented.

To illustrate, taxpayers will have to measure emissions for both the entire 2019 calendar year as well as separately for the period 1 June 2019 to 31 December 2019 for purposes of determining the carbon tax liability. This will create a substantial additional compliance burden on taxpayers. Secondly, the intention was that SARS would be able to confirm the emissions reported for purposes of the carbon tax with those reported under the Greenhouse Gas Reporting Regulations with the Department of Environmental Affairs. This will not be possible in the first tax period and will therefore create a difficulty for SARS to verify the emissions reported for carbon tax purposes, a difficulty which is likely to be passed on to taxpayers to support the emissions reported for purposes of the carbon tax, resulting in further compliance burdens and potentially protracted disputes.

PWC is therefore of the view that this is a fatal flaw of the Carbon Tax Bill, and that the only possible way in which this can be addressed is to make the first tax period for the Carbon Tax to operate from 1 January 2020 to 31 December 2020.

Finally, it was always intended that the carbon tax would be fiscally neutral. In this regard, it is concerning that the Budget suggests that the forecast revenues of R1.8 billion from the carbon tax on fuel is now proposed to be used as a revenue raising instrument with no corresponding increase in expenditure to recycle these revenues. This is most concerning as the limited negative economic impact of the introduction of the carbon tax was highly dependent on the revenues from the carbon tax being recycled.

The result is that, if the carbon tax is implemented without the revenues being recycled as was indicated would be the case, it could result in a significant detrimental impact on the economy and on employment, something which the country can ill-afford at this juncture.

3.7 Organisation Undoing Tax Abuse

The Organisation Undoing Tax Abuse (OUTA), was established to hold those in authority who abuse their power with respect to tax payer's money to account and believes that it is environmentally responsible to ensure that government reduces the carbon footprint due to climate change. They support an environmentally sound development and the principle behind the need for the carbon tax. Their concerns are about the impact of high air pollution levels posing a health risk upon the citizens of Mpumalanga; that

emissions baseline data has not been collected and normalised per industry, that there is no substantive assurance that this will promote behavioural change by polluters, that quantification and costing of the administrative burden of this tax has not been unpacked or clarified, that diverse economic scenarios and implications have not been thoroughly modelled only a few implications were analysed.

OUTA recommended that the proposed Carbon Tax must not be implemented in the current economic conditions and not in its current format; that the energy sector reforms must be introduced first, to unbundle Eskom; that the state of readiness must be ascertained prior to implementation, that the National Treasury should delay the June 2019 implementation date of the carbon tax and that government should take cognizance that implementation of the proposed tax would be grossly unfair to motorists and consumers.

3.8 Chemical & Allied Industries' Association

The Chemical and Allied Industries Association (CAIA) represents the interests of a large proportion of the chemical industry in South Africa. The **Organisation is concerned** that the impact of the Bill and the associated legislation has not been fully determined, that the assessments done by the National Treasury do not comprehensively consider the **potential negative socio-economic impacts** such as on inflation through the addition of the tax to the price of liquid fuels, the **punitive nature of the tax**, particularly in the road transportation sector and where there is other combustion of liquid fuels, **lack of ring-fencing of revenue**, administration of the tax through the Customs and Excise Act, which might require extensive consultation with SARS, the confusion and uncertainty that might come with deductibility of the tax, the effect of the tax on competitiveness, waste sector emissions required to be reported will cause an administrative burden, carbon offsetting requiring more flexibility as a part of the Carbon Offset Regulations and ultimate regime, lack of policy certainty, which is insufficient to foster a healthy environment conducive to investor, business certainty, lack of mitigation opportunities and the reservations by the Democratic Alliance, which include that the revenue from carbon tax should be ring-fenced.

3.9 Engen Petroleum

Engen Petroleum is an African based oil company focused on the refining and marketing of petroleum and petroleum-based products, and the provision of fuel retail convenience services throughout South Africa and many African countries. They support the need for the country to transition to a lower carbon society and believe that there are mechanisms to achieve that, however there are still many issues with the Carbon Tax system that includes the Carbon Tax Bill, Customs and Excise Act, and Carbon Budgeting that is leading to confusion, uncertainty and an increased burden on business.

Engen Petroleum opines that the use of the Customs and Excise Act for administration of the Act problematic as it has categorized greenhouse gas emissions as a commercial commodity and treats it the same as other goods. If licensing will be required for multiple facilities, this would be an increased burden on business and is not aligned with the DEA GHG Regulations. Additional confusions with the Act include contrasting information in the C&E Act vs the Carbon tax bill regarding timelines for payment of tax; the manner in which current allowances will be applied, alignment between the carbon tax and the carbon budget systems, a double penalty, the budgets and tax post 2020 and 2022 that still needs to be addressed and the consultations that were promised.

Engen is of the view that there is still opportunity for improvement in the proposed Carbon Tax system, and that the issues raised by business need to be adequately addressed before implementation.

3.10 Congress of South African Trade Union

The Congress of South African Trade Union (COSATU) believes that all South Africans need to work together to halt climate change and move to a sustainable green future. Government needs to act and lead and that it must have serious multi-pronged plan.

The trade union accepts that errant industries that can but refuse to change must pay and play their part and that this may include penalising them financially. However, COSATU is deeply concerned that the carbon tax is government's only plan.

The union went on to say that once again workers are being made to pay for the sins of the looters who have threatened the state with bankruptcy and polluters who threaten the planet with catastrophe.

COSATU endorses the Standing Committee on Finance's recommendation to the 6th Parliament that government be required to report quarterly on the implementation of the Presidential Jobs Summit Agreement and in particular the Nedlac Carbon Tax Jobs and Just Transition Report. This should be a joint process involving the finance, trade and industry, economic development and environmental affairs committees and departments.

COSATU thus proposed that any carbon tax revenues generated must be invested in green economy jobs targeting workers who may have or may lose their jobs as a consequence of the transition. Furthermore, government should provide incentives to industries, that invest in and create new, permanent and decent green economy jobs. Other proposals include that Eskom tariff hikes be limited to inflationary levels and that Government unveils a mitigation plan for the poor to cope with expected increase in prices as a consequence of the carbon tax.

3.11 Sibanye Stillwater

Sibanye-Stillwater is an independent, global precious metal mining group, producing a unique mix of metals that includes gold and the platinum group metals. We submit that the current economic climate is not conducive to the introduction of a carbon tax.

They have noted that the carbon tax bill proposed to come into effect from 01 June 2019 makes reference to the Department of Environmental Affairs to verify and certify sequestration. Their concern is that the mechanism for this is unlikely to be in place by 01 June 2019. However, the Minister of Finance has mentioned in the latest Budget Speech that a carbon levy will come into effect from 05 June 2019 where a levy of 9 cents per litre will be applicable on petrol and 10 cents per litre will be applicable on diesel. The formula in section 6 of the current carbon tax bill is not consistent with the announcement by the Minister of Finance.

The largest portion of the carbon tax would be on purchased electricity from Eskom. Considering that the electricity mix is determined by government policy through the Integrated Resource Plan (IRP), it would be unfair to pass-on any tax to the end user. It is proposed that renewables and low carbon alternatives be maximised in the energy mix as far as possible.

Sibanye-Stillwater requests that the carbon tax not be introduced due to the dire economic consequences it will have on especially our marginal operations, and overall profitability, competitiveness and ultimately, our sustainability as a mining company that is adding value to a range of national Government imperatives including economic growth, job creation, social upliftment and driving its transformational agenda.

3.12 The South African Iron and Steel institute

The South African Iron and Steel Institute (SAISI)'s concerns are that the tax load will be highly disproportionate to the earnings potential of iron and steel manufacturers, even with the allowances being considered; that there is no alternative technology that can be used to produce steel and reduce emissions to the extent required, so the effect of the Carbon Tax would not incentivise a change in behaviour, but rather be a penalty; that the industry would be exposed to imports not subject to a similar tax making the South African industry potentially uncompetitive; that the ability to pass on the Carbon Tax to customers is limited, especially for the export market, thereby reducing potential export revenue for South Africa, the complexity of the tax, the issue of choice regarding energy sources and the timing of the tax. Other concerns include revenue neutrality on the price of electricity, carbon tax pass through for Petroleum Sector, addition of a Carbon Tax to liquid fuel prices and complexity of the tax payable.

SAISI is not supportive of the proposed Carbon Tax as proposed in The Bill. The fragility in which the South African iron and steel industry finds itself in should be treated with extreme caution and the potentially unintended consequences and risks alerted to should not cause the downfall of a strategic industry. It is an important sector that is worth protecting especially in light of the fact that steel will always remain an important commodity, also when adaptation measures may need to be implemented to abate the effects of climate change.

3.13 World Wide Fund for Nature

The World Wide Fund (WWF) for Nature supports a carbon tax, as one tool needed for the necessary just transition to a low-carbon economy. They have made the case for such a transition, including trade implications for South Africa of the global low-carbon shift, and the social costs of fossil fuels and climate change impacts already being paid, largely by the poor.

The WWF requested that the Committee should ensure that implementation of the tax meets the Minister's 2019 deadline and make the tax stronger, so that it can be effective for the purpose it is intended to serve. Three proposals for consideration are that the tax rate is too low to be effective for its purpose of re-orientating the whole economy, that the allowances reduce the tax to a token and that increases allowed for in the draft Bill don't address the problem.

3.14 AccelorMittal South Africa

AccelorMittal South Africa (AMSA)'s concern with the Carbon Tax in its current form is that it may have unintended and possibly irreversible consequences for the economy. The current Bill, by not imposing the tax on imports, is creating an unfair playing field to the detriment of SA manufacturing. SA will continue to need and consume the same amount of steel so it will just be imported at lower prices with the result of more emissions per ton of steel due to scope 3 transport emissions. Given the current economic weakness in SA, the impact on industry at this stage will be significant. The consequent threat to the primary steel industry in SA will likely result in the loss of critical steelmaking capacity and jobs. Currently, no industrial carbon-free technology solution to produce steel exists; the ability to reduce emissions through behavioural changes is very limited. There may be an additional impact if inputs are also taxed such as electricity.

AMSA recommended that in the event of the Carbon Tax legislation being implemented, the Committee should consider ensuring a level playing field for South African manufacturing and in the absence thereof, exemption to be considered, focus on the global emissions from acquiring a ton of steel for SA, find the right balance to ensure a path of economic growth, tax treatment of loss making companies to be investigated further, the timing of the proposed tax should be reviewed, the Bill and the methodologies proposed to calculate a company's Carbon Tax liability should be made significantly simpler and that failure to do so would result in significant negative consequences for the iron and steel sector and the SA economy as a whole.

4. Committee observations and recommendations

- 4.1 The Committee noted the extensive consultation process that the National Treasury embarked on since the Bill was first introduced.
- 4.2 The amendments made to the Bill by the Standing Committee on Finance take into account comments of stakeholders namely: Section 6, section 17, and schedule 2 referring to: other transport, domestic aviation and waste incineration.
- 4.3 The implementation date of the carbon tax has been changed from 1 January 2019 to 1 June 2019. To ensure an effective carbon tax policy, a review of the impact of the tax will have to be conducted after at least three years of implementation of the tax and will have to take into account the progress made to reduce by GHG emissions, in line with South Africa's NDC comments.
- 4.4 Changes to rate and tax –free thresholds will have to follow after the review, and be subjected to the normal consultative provinces for all tax legislation.

The Select Committee on Finance, having considered the Carbon Tax Bill [B 46B—2018] (National Assembly – section 77), referred to it, and classified by the JTM as a section 77 Bill, reports that it has agreed to the Bill without amendments.

DA reserves its position on this report.

Report to be considered.

ANNEXURE

COMPLIANCE WITH THE MONEY BILLS AND RELATED MATTERS ACT

1. Requirements when amending a money Bill

Section 8(5) of the Money Bills and Related Matters Act, 2009 (Act No. 9 of 2009) requires that in amending a money Bill, Parliament and its committees must ensure an appropriate balance between revenue, expenditure and borrowing; the impact on the fiscal framework; and, take into account all public revenue and expenditure. Other requirements contained in section 8(5) of the Act relate mostly to expenditure.

Section 11(3) requires that in amending a revenue Bill Parliament and its committees must:

- a. ensure that the total revenue raised is consistent with the approved fiscal framework and Division of Revenue Bill;
- b. take into account the principles of equity, efficiency, certainty, ease of collection;
- c. consider the impact on the composition of tax revenues;
- d. consider regional and international tax trends; and
- e. consider the impact on development, investment, employment and economic growth.

Section 11(5) requires that the Minister of Finance must be given 14 days to respond to any proposed amendment. On 30 January 2019 the Minister indicated that he supports the proposed amendments.

Section 11(6) provides that the report of the Committee must motivate amendments in terms of sections 8(5) and 11(3); and, include comments from the Minister on any proposed amendment.

The Carbon Tax Bill is a money Bill, specifically a revenue Bill.

2. Potential impact of the amendments

- a. Impact on tax revenue

The proposed amendments to the calorific value for other bituminous coal from 0.0192 to 0.0243 TJ/ tonne implies that the emissions from using this type of coal for energy and non-energy purposes would be higher. This will mean a proportionally higher tax liability for an entity.

The proposed increases in the level of tax-free allowances from 60 to 70 per cent for certain industrial process emissions and an increase in the total tax-free allowance to 95 per cent to be aligned with other process emissions activities could result in a marginal decline in the total revenue from these activities.

Given that the number of companies impacted would be relatively small and that currently process emissions accounts for less than 9 per cent of total GHG emissions, the tax revenue implications or revenue foregone can be expected to be marginal for this relatively small subset of industrial processes.

b. Equity, efficiency, certainty and ease of revenue collection

The proposed change to the calorific value will result in a more equitable carbon tax regime where taxpayers that use the lower quality and higher emission other bituminous coal would now be subject to a higher level of tax rather than being taxed similar to the lower emitting sub-bituminous coal.

This will also result in a more economically efficient outcome and ensures that the higher emitting other bituminous coal faces a higher carbon tax. The correct pricing of the emissions and price differential between the two types of coal will maintain the policy intent of the carbon tax and strengthen the economic incentive mechanism by encouraging a shift away from the higher emission coal use towards lower carbon fuels including renewables.

The change in the allowances addresses an anomaly in the current treatment of process emissions. For industrial process activities where it is difficult to reduce emissions from these activities, the inclusion of the process allowances and the increase in the total tax-free allowance will help to address any unintended adverse impacts on the competitiveness of these industries.

There will be no further implication for the overall costs of administering the tax as the same system will apply with no further changes to the system being needed.

c. Composition of tax revenues

Taking into account the additional revenues due to the calorific value adjustment and the expected decline in revenue collection due to the increase in the tax free allowances for additional industrial process activities, the total revenue impact is expected to be marginal and could be partially offset.

There would be no net impact on the composition of tax revenues due to the various revenue recycling measures provided under the carbon tax including the energy efficiency savings tax incentive and the commitment to a neutral impact on the price of electricity for the first phase of the tax up to December 2022.

d. Regional and international trends

The Carbon Tax Bill gives effect to the polluter-pays-principle and helps to ensure that firms and consumers take these costs into account in their future production, consumption and investment decisions which also assists in reducing GHG emissions and ensuring South Africa meets its NDC commitments as part of its ratification of the 2015 Paris Agreement. The World Bank's States and Trends in Carbon Pricing Report notes that about 45 national and 25 subnational jurisdictions have already implemented carbon pricing initiatives.

To date Mexico, India, Chile and Colombia have also implemented some form of carbon taxation measures. Brazil is exploring a carbon price. The Ivory Coast and Morocco are also exploring a carbon tax. Singapore and Argentina are scheduled to implement a carbon tax in 2019. Canada proposed a national carbon tax starting in 2019 for those provinces that have not implemented a carbon price in line with specific national criteria (i.e. a minimum carbon price).

The scope of carbon pricing initiatives through carbon taxation is increasing rapidly and is becoming a major part of country policy strategies to achieve the NDCs under the Paris Agreement. As more countries introduce carbon pricing measures, the potential impact on industry competitiveness will be reduced significantly and the opportunities for the growth of new clean industries will rise considerably.

e. Development, investment, employment and economic growth

The impacts of climate change could be devastating for South Africa, imposing costs through extensive droughts, anticipated especially in the West; rising water levels along the coast; and increased in-migration from other countries as droughts spread in less resilient countries. A failure to control GHG emissions could lead to a loss in international competitiveness, an increased vulnerability to trade, and investment measures, which would effectively entail other countries imposing a carbon price on South African exports.

The phased approach to the introduction of the carbon tax and the high tax-free thresholds will help to cushion sectors and provide entities with the flexibility to choose how and when to reduce emissions based on their own assessments of costs and benefits. The carbon tax will also protect South Africa's exports from border carbon adjustments (carbon related import tariffs / charges) that could be imposed on exports to other countries that are already pricing carbon. To avoid potential negative impacts on growth and employment also requires that private and public investors significantly diversify investment from the historic trajectory, which has been dominated by large-scale mining and industrial activities.

Several carbon tax modelling studies have been undertaken to date by the National Treasury (Economic Policy Unit), local academics and international institutions such as the World Bank. The broad findings from these Computable General Equilibrium models show that a carbon tax will make a significant contribution to the reduction of GHG emissions and that the economic impact of the carbon tax will depend on how the revenues are used, i.e. the revenue recycling measures.

A modelling study on the current design of the carbon tax was undertaken through the Partnership for Market Readiness project of the World Bank and the report entitled: “Modelling the Impact on South Africa’s Economy of Introducing a Carbon Tax” is publicly available. The results of these studies provide a reasonable understanding of environmental and economic impacts of a carbon tax and helped with the decision making process. The study shows that the carbon tax will have a significant impact on reducing South Africa’s GHG emissions and would lead to an estimated decrease in emissions of 13 to 14.5 per cent by 2025 and 26 to 33 per cent by 2035 compared with business-as-usual. The carbon tax will have a marginal impact on the economy’s average annual growth rate which will be 0.05–0.15 percentage points below business as usual.

The phased introduction of the carbon tax at a relatively, low modest rate initially and increased over time to the “correct level” will provide a strong price signal to both producers and consumers to change their behaviour over the medium to long term. The tax will help to change the relative prices of goods and services, making emission-intensive goods more expensive relative to those that are less emissions intensive and providing a powerful incentive for consumers and businesses to adjust their behaviour, resulting in a reduction of emissions. The revenue recycling measures will help to mitigate any possible short-term negative impacts on the economy and jobs.

The proposed changes to the bill are marginal and will not significantly impact the overall results discussed above. It is important to note that the potential adverse impacts of the carbon tax are likely to be overestimated in the study due to the inability to model certain tax-free allowances such as the offsets, performance and trade exposure allowances, while the benefits of reducing emissions including reduced costs of adapting to the impacts of climate change and health co-benefits which were not quantified and included in the model.

7. Report of the Select Committee on Security and Justice on the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment tabled in terms of 231(2) of the Constitution of the Republic of South Africa and the Explanatory Memorandum to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), dated 19 March 2019:

The Select Committee on Security and Justice, having considered the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), tabled in terms of section 231(2) of the Constitution of the Republic of South Africa, 1996, recommends that the House resolves to ratify the Treaty in terms of section 231(2) of the Constitution, 1996.

Report to be considered.