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talking trade

- ☞ Parliamentary Updates
- ☞ The Future of World Trade
- ☞ Employment Equity
- ☞ Carbon Tax
- ☞ Trade in Africa
- ☞ All Bills at Parliament

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Parliamentary *Updates*

Protection of Personal Information Bill

The Protection of Personal Information (POPI) Bill has been passed by both Houses of Parliament and referred to the President for signing. The POPI Bill was first tabled in Parliament in 2009, and has since been subjected to protracted deliberations.

The POPI law sets out extensive rights pertaining to individuals' data privacy, and will require public and private organisations to review their information systems to ensure compliance with the new law. In addition to prescriptions on the collection, storage and deletion on information, POPI places restrictions on direct marketing and other unsolicited electronic communication, as well as cross border flows of information. POPI establishes an Information Regulator whose responsibility it will be to monitor and ensure compliance with SA's information laws.

The Bill will become law once published in the Government Gazette, but provides a minimum 1 year transition period within which companies must become compliant.

Customs Bills

National Treasury has submitted the Customs Control Bill, the Customs Duty Bill and the Customs and Excise Amendment Bill to Parliament. The Bills constitute a redraft of the Customs and Excise Act of 1964.

According to Treasury, one of its aims in drafting the bills is to create a balance between customs control and trade facilitation.

The Bills are still in the early stages of being introduced in Parliament; public hearings have yet to be scheduled.

Labour Bills

The National Assembly has approved the Labour Relations Amendment (LRA) Bill. The Bill has been referred to the NCOP for concurrence, along with the Basic Conditions of Employment Amendment (BCEA) Bill which was approved in June.

The NCOP traditionally does not hold public hearings on bills not affecting the Provinces, however due to public sentiment its Select Committee on Labour is considering holding public hearings on the LRA and BCEA Bills. A formal determination is yet to be made by the Committee.

Earlier this month, Parliament began processing the Employment Equity and Employment Services Bills. The National Assembly's Portfolio Committee on Labour held public hearings on both Bills - see page 4 for details.

For the latest updates on bills at Parliament, follow @LeeAtBUSA on Twitter.com

The future of World Trade

Is the era of global trade negotiations over?

BUSA discussed these and other issues at a parliamentary roundtable on SA's trade relations and trade agreements



BUSA CEO Nomaxabiso Majokweni accepted an invitation from the Portfolio Committee on Trade and Industry to brief Members on business' perspective of SA's trade agreements and trade relations at Parliament on 1 August. The roundtable meeting was attended by representatives of the DTI as well as trade law specialists.



BUSA made the following key points to Parliament:

▶▶ Regional Integration

Looking to the future, multilateral free trade agreements – such as those negotiated at the World Trade Organisation - are not necessarily the best route for South Africa. Rather, today countries are focusing more on regional and bilateral trade agreements to build stronger trade relations. BUSA believes that Africa should be at the heart of SA's South-South trade cooperation.

▶▶ Non-Tariff Barriers

The removal of non-tariff barriers (NTBs) to trade should receive as much attention as tariff reductions do in promoting trade. To support this argument, BUSA pointed to a World Bank study which showed that NTBs negatively affect up to US\$3.3billion worth of trade within SADC alone.

NTBs are restrictions on trade that are not linked to tariffs. They include import quotas, special licenses, unreasonable standards for the quality of goods, bureaucratic delays at customs, export restrictions, etc.

▶▶ The New Issues

BUSA urged government to give added consideration to new factors influencing international trade such as global value chains and trade and in services.

Companies are no longer producing their products in isolation but are sourcing components from around the world at the most competitive prices. This has resulted in the creation of global value chains, regarding which BUSA suggested that government needs to take a proactive and strategic approach.

So, too, with the global trade in services - BUSA recommended that government adopt a more scientific approach, taking into consideration research and statistics in order to better understand SA's interests in this sector.

Overall, BUSA called for better coordination and cooperation among departments and government agencies, and for the continued strengthening of the NEDLAC process and interaction with Parliament. Business continues to build its own capacity (internally and regionally) to participate in trade policy debates. ■

Email bpo@busa.org.za to request a copy of the BUSA presentation

Employment *Equity*

Public hearings on two new labour bills drew a large and avid audience to Parliament on 7 and 8 August. BUSA led the submissions from organised business on the Employment Equity Amendment Bill and Employment Services Bill, and was joined by member organisations: the Cape Chamber of Commerce and the Confederation of Associations in the Private Employment Sector (CAPES).

The Bills seek to strengthen equality in the workplace, promote fair labour practices and protect against unfair discrimination. BUSA expressed broad support for the aims of the legislation, but drew Parliament's attention to a number of business concerns.

Building a Strong Labour Inspectorate

BUSA emphasised the need for the Department of Labour to maintain a strong Inspectorate capable of ensuring compliance of employment equity legislation and, in addition, able to provide guidance to the business fraternity. The Inspectorate could, for example, make available information showing that, in practice, diversity in the workplace results in more productive businesses – guidance of this nature would likely have a positive impact on compliance. BUSA suggested that government also look at practical barriers to transformation, rather than statistics alone, when formulating employment equity interventions.

Fines

BUSA drew Parliament's attention to the issue of fines for non-compliance. Proposed amendments provide for non-compliance to result in fines calculated according to a percentage of a company's turnover. Government hopes that linking non-compliance to turnover might pose an effective deterrent to companies trying to avoid complying with the law. However, BUSA noted that there exists no rational link between compliance and turnover. Furthermore, the high-impact nature of the penalty might cause severe negative impact to companies.

NEDLAC

Prior to arriving at Parliament, both Bills were subjected to rigorous discussion at the National Economic Development and Labour Council (NEDLAC), where BUSA sits as the sole representative of organised business to hammer out policy and legislation with government, community and organised labour. MPs questioned the efficacy of the engagement at NEDLAC. Both BUSA and Cosatu highlighted the importance of NEDLAC as a structure to drive social dialogue. BUSA noted that NEDLAC-type models have been seen to work successfully internationally. Cosatu, too, noted that the robust engagements on the Bills at NEDLAC had resulted in a fair degree of consensus having been reached prior to the bills being tabled at Parliament.

BUSA's submission was presented to Parliament by Executive Director for Social Policy Vanessa Phala, and Social Policy Committee Members Tanya Cohen and Tobeia Magodiello. ■

Email bpo@busa.org.za to request a copy of the BUSA presentation



PARLIAMENTARY HEARING
**CARBON
TAX**

Let's wait till the 2015 global agreement on climate change, BUSA tells Parliament

Business Unity South Africa (BUSA) appeared before Parliament's Portfolio Committee on Trade and Industry on 20 August to outline the economic impact of government's proposed carbon tax.

BUSA's key message to legislators was that if the tax were to be imposed as currently envisaged in the carbon tax policy paper, the negative economic impact would likely be substantial.

BUSA analysis shows that the proposed carbon tax will have the heaviest impact on sectors such as mining that require large amounts of energy to operate. A carbon tax is also likely to result in a hike in electricity prices. If implemented in 2014, the carbon tax is expected to add an additional 8% annual increase to the electricity price over and above the anticipated inflation-related increase.

BUSA emphasised to Members of Parliament that steep increases in administered prices in recent years have motivated many local industries to take voluntary steps to curb emissions, resulting in significant progress in domestic emission reduction.

BUSA recommended that government defer its plans for a carbon tax until the global agreement on climate change mitigation is signed in 2015. South Africa would then be able to base its emission thresholds on the Desired Emission Reduction Outcomes listed in the agreement.

While the Department of Trade and Industry joined calls for deferring the proposed carbon tax, National Treasury argued that a postponement might result in foreign countries taking matters into their own hands and imposing their own taxes on SA exports that are not subjected to a domestic carbon tax.

Business called for further dialogue with government to ensure that a carbon tax results in the reduction of greenhouse gas emissions without inhibiting economic growth.

BUSA's submission was presented by Dr Laurraine Lotter, BUSA's Overall Business Convener at the National Economic Development and Labour Council (NEDLAC) and Executive Director of the Chemical and Allied Industries Association, a BUSA Member. ■





Trade in Africa

Minister of Trade and Industry, Rob Davies, was questioned in Parliament this month about Government's plans to grow trade on the African continent.

Minister Davies delivered the following reply in the National Assembly:

"South Africa is promoting regional economic integration through SACU, SADC and the Tripartite Free Trade Area.

In SACU we are working on promoting intra-regional cross border value chains to build productive capacity and to promote trade amongst and between SACU Member States.

Much has been achieved in SADC where over 90% of goods traded in the region is free of duty. This has resulted in an estimated increase in intra-SADC trade from \$6.6 billion to over \$18 billion in 2011.

The priority now is to consolidate the SADC Free Trade Area by addressing non-tariff barriers to trade, enhancing our trade facilitation efforts and developing coordinated interventions to promote regional industrial development and cross border value-chains. The work on regional value-chains can make a contribution to job creation in South Africa as well as among our neighbours.

We are also negotiating a free trade agreement among SADC, COMESA and the EAC through which we aim to create a market of 700 million, with a combined GDP approaching \$1 trillion. This can create a strong impetus for more dynamic growth in Africa that will also help to boost job creation in South Africa by opening up new export opportunities.

We have an intensive bilateral engagement programme aimed at building stronger trade and economic relations with countries on the continent.

In the current financial year, we have lead 17 business and technical missions to African countries to address trade barriers and to promote exports. **These missions have also focused on promoting investment and, in this financial year, we facilitated major investments in manufacturing and energy infrastructure on the continent.** ■

All Bills before Parliament

As at 26 August 2013

Source: Parliament's Bills Office

BEFORE NATIONAL ASSEMBLY COMMITTEES

- Independent System & Market Operator Bill [B 9B-12 (s76)] – Energy (recommitted)
- Legal Practice Bill [B 20-12 (s76)] – Justice
- Private Security Industry Regulation A/B [B 27-12 (s75)] – Police
- Financial Services Laws General A/B [B 29-12 (s75)] – Finance
- Employment Equity A/B [B 31-12 (s75)] – Labour
- Employment Services Bill [B 38-12 (s75)] – Labour
- National Credit A/B [PMB 1-12 (s76)] – Trade & Industry
- SA Human Rights Commission Bill [B 5-13 (s75)] – Justice
- Children's A/B [PMB 1-13 (s75)] – Social Development
- Protection of Traditional Knowledge Bill [PMB 3-13 (s76)] – Trade
- Judicial Matters A/B [B 7-13 (s76)] – Justice
- NEM: Integrated Coastal Management A/B [B 8-13 (s76)] – Env Affairs
- Deeds Registries A/B [B 10-13 (s75)] – Rural Dev & Land Reform
- Sectional Titles A/B [B 11-13 (s76)] – Rural Dev & Land Reform
- Business Interests of Govt Employees Bill [PMB 4-13 (s76)] – Public Service
- SA Language Practitioners' Council Bill [B 14-13 (s75)] – Arts & Culture
- Special Investigating Units & Tribunals A/B [PMB 5-13 (s75)] – Justice
- Mineral & Petroleum Resources Development A/B [B 15-13 (prop s75)] – Minerals
- Insurance Laws A/B [B 16-13 (prop s75)] – Finance
- Electronic Communications A/B [B 17-13 (s75)] – Communications
- Constitution 18th A/B [PMB 6-13 (s74)] – Justice
- ICASA A/B [B 18-13 (s75)] – Communications
- Merchant Shipping (Oil Pollution) Bill [B 19-13 (s75)] – Transport
- Merchant Shipping (Civil Liability) Bill [B 20-13 (s75)] – Transport
- Lotteries AB [B 21-13 (prop s75)] – Trade & Industry
- Electoral A/B [B 22-13 (s75)] – Home Affairs
- SA Weather Service A/B [B 23-13 (prop s75)] – Env Affairs
- SA Post Office SOC Ltd A/B [B 24-13 (prop s75)] – Communications
- SA Postbank Ltd A/B [B 25-13 (s75)] – Communications
- Constitution 19th A/B [PMB 7-13 (s74)] – Justice
- NEM Laws A/B [B 26-13 (s76)] – Env Affairs
- NEM: Air Quality A/B [B 27-13 (s76)] – Env Affairs
- NEM: Protected Areas A/B [B 28-13 (prop s75)] – Env Affairs

ON NCOP ORDER PAPER FOR APPROVAL

- **Commission on Gender Equality A/B [B 36-12 (s75)]**
- **Tourism Bill [B 44D-12 (s76)]**
- **Geomatics Profession Bill [B 4B-13 (s75)]**
- **Africa Institute of SA Act Repeal Bill B [B 6B-13 (s75)]**

BEFORE NCOP COMMITTEES

- Intellectual Property Laws A/B [B 8B-10 (s76)] – Trade
- Traditional Courts Bill [B 1-12 (s76(2))] – Security
- Basic Conditions of Employment A/B [B 15B-12 (s75)] – Labour
- Labour Relations A/B [B 16B-12 (s75)] - Labour
- Mental Health Care A/B [B 39-12 (s76)] – Social Services
- Broad-Based Black Economic Empowerment A/B [B 42B-12 (s76)] – Trade
- Banks A/B [B 43B-12 (s75) (Reprint)] - Finance
- Special Economic Zones Bill [B 3B-13 (s76)] – Trade
- Criminal Law (Forensic Procedures) A/B [B 9B-13 (s75)] - Security
- Rates & Monetary Amounts Bill [B 12-13 (s77)] - Finance
- N EM Laws Second A/B [B 13-13 (s76)] – Land & Env Affairs

For queries regarding these Bills or any other issues mentioned in this newsletter, contact the BUSA Parliamentary Office on 021 465 16533 or bpo@busa.org.za