BUDGETARY REVIEW AND RECOMMENDATION REPORT OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT

The Budgetary Review and Recommendation Report of the Portfolio Committee on Economic Development, dated 20 October 2017.

1. INTRODUCTION

The Portfolio Committee on Economic Development (hereinafter referred to as the Committee), which was established under Section 55 and 56 of the Constitution of the Republic of South Africa and in terms of the provisions that are contained in the Rules of the National Assembly, has considered the performance and expenditure reports of the Economic Development Department (the Department) and its entities for the 2016/17 financial year, and presents its Budget Review Recommendation Report (BRRR) for 2017 as follows:

2. STRUCTURE OF THE REPORT

The report will reflect on the state of our economy in relation to the mandate of the Department of Economic Development and its entities; assess progress made with regard to recommendations made in the 2016 Budget Review Recommendation Report; outline the purpose of the report as well as the mandates of the Portfolio Committee; the Department and its entities; namely, the Industrial Development Corporation (IDC), the Competition Commission, the Competition Tribunal and the International Trade Administration Commission of South Africa (ITAC), in terms of their financial and non-financial performance for the year under review.

The report will also include the audited opinions of the performance, entities and will conclude by providing recommendations for the Department and its entities for the coming financial year.

3. ECONOMIC ENVIRONMENT

In the financial year under review, the Department and its entities were confronted with adverse economic conditions. The South African economy went into its first recession since 2009, the unemployment rate increased reaching 27 per cent, leading the country further away from its National Development Plan and the Medium Term Strategic Framework target of 5.4 per cent growth per annum and the New Growth Path aspiration of 15 per cent unemployment rate by 2020. Employment figures are growing, however, the growth levels are not enough to offset the rising unemployment rate and the income inequalities still plaguing the economy.

In terms of operational performance, the Economic Development Department achieved all its targets for its 23 key performance indicators. The Department spent 98.6 per of budget and obtained an unqualified report with fewer findings compared to the previous financial year. All its entities obtained unqualified audit opinions with the Industrial Development Corporation, Competition Commission and Competition Tribunal obtaining a clean audit.

The challenge facing the Department and its entities is to ensure that the good performance in meeting targets translates into a positive impact on inclusive economic growth and unemployment figures. The problem is that South Africa's economy has a highly concentrated market, which means wealth is in the hands of a few people; structural unemployment which speaks to mismatch between skills that are available and the skills that the economy needs to grow. Moreover, as an open economy the country tends to be vulnerable to external economic shock over which the country has no control.

Skills development plays a key role in addressing many of the economic challenges. Skills development and skills transfer have been the underlying theme during the year under review and have been reinforced by the signing of the Skills Accord. The structural unemployment challenge, however, is compounded by the looming Fourth Industrial Revolution which requires digital skills.

The Department and its entities are tackling the economic hurdles through efforts aimed at industrialising, deconcentrating the markets, shielding the country from global headwinds, and unblocking infrastructure bottlenecks.

The Portfolio Committee on Economic Development undertook an international study tour to Malaysia and observed that the current gains in that country were achieved over a period of 60 years. This gives hope that the initiatives of the Department and its entities, coupled with determination of the Portfolio Committee on Economic Development to exercise oversight and hold them accountable, will bear fruit.

4. PURPOSE OF THE BUDGETARY REVIEW AND RECOMMENDATION REPORT

The process for the budgetary review and recommendation is set out in Section 5 of the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No. 9 of 2009). The Act sets out the process that allows Parliament's National Assembly, through its Committees, to make recommendations to the Minister of Finance to amend the budget of a national Department. In October each year, Committees reporting to the National Assembly must submit a Budgetary Review and Recommendation Report (BRRR) for each Department that falls under its oversight responsibilities, in this case, the Economic Development Department. The BRR Report:

- Must provide an assessment of the Department's service delivery performance given available resources;
- Must provide an assessment on the effectiveness and efficiency of the Department's use and forward allocation of resources; and
- May include recommendations on the forward use of resources.

The BRR Report may also act as a source document for the Standing/Select Committees on Appropriations/Finance when they make recommendations to the Houses of Parliament on the Medium-term Budget Policy Statement (MTBPS).

2.1 Method

The Portfolio Committee on Economic Development compiled the 2016/17 BRR Report using the following documents:

- 2014-19 Strategic Plans of the Department and its entities.
- 2016/17 Annual Performance Plans of the Department and its entities.
- 2016/17 Annual Report of the Department and its entities.
- 2016/17 Auditor-General South Africa audit outcomes.
- Department of Planning Monitoring and Evaluation Report.
- Public Service Commission's Report.

5. MANDATE OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT

The Committee derives its mandate from Section 55 and 56 of the Constitution of the Republic of South Africa and provisions that are contained in the Rules of the National Assembly. The Committee is mandated to:

- Consider, amend and/or initiate legislation that is specific to, or impacts on economic development as per the mandate of the (Economic Development Department);
- Monitor and oversee the activities and performance of the Ministry and the Economic Development Department (hereinafter referred to as the Department or EDD) and its public entities;
- Consider and review the budget of the Department and its public entities;
- Consider sector-related international treaties and agreements; and
- Provide a platform for the public to participate and present views on specific topics and/or legislation.

6. MANDATE OF THE ECONOMIC DEVELOPMENT DEPARTMENT

The Department's core mandate is to:

- Identify priorities for job creation, inclusive growth and industrialisation;
- Support the alignment of the government departments around implementation;
- Oversee and provide strategic direction to development finance institutions and;
- Provide strategic direction on competition policy and trade administration matters through oversight of regulatory bodies.

Amongst its other key mandates, the Department plays the all-important role of providing strategic coordination of the various efforts towards economic development at different levels of government. Some examples include the convening (together with the Department of Trade and Industry) the MinMec / Technical MinMec with Members of the Executive Council (MECs) and provincial economic development department. The EDD supports the dti as the custodian of the Service Delivery Outcome 4, Technical Implementation Forum. The Department is also a member of the Economic Sectors, Employment and Infrastructure Development Cluster.

The Department also provides support to the Presidential Infrastructure Coordinating Committee (PICC), by monitoring progress in the construction of infrastructure projects, preparing the Quarterly Construction Update, Intergovernmental Forums and Coordinating Agencies as well as providing oversight over the 18 Strategic Integrated Projects (SIP), in particular SIP 5: Saldanha-Northern Cape development corridor, which is chaired by the Minister of the EDD.

The Department is responsible for the following entities; Industrial Development Corporation (IDC), Competition Commission, Competition Tribunal and the International Trade Administration Commission (ITAC).

6.1. Strategic Outcome Oriented Goals of the Department of Economic Development

The Department‘s strategic oriented goals are to:

- Promote decent work through meaningful economic transformation and inclusive growth; and
- Provide participatory, coherent and coordinated economic policy, planning and dialogue for the benefit of all South Africans.
- Ensure the implementation of the New Growth Path, a critical component of the National Development Plan, as economic government policy and conduct adequate oversight over its component parts.

The Department contributes directly to three of the national Government priority outcomes, namely:

- **Outcome 4:** Decent employment through inclusive economic growth.
- **Outcome 5:** A skilled and capable workforce to support economic growth.
- **Outcome 6:** Efficient, competitive and responsive economic infrastructure network.
- **Outcome 7:** Vibrant, equitable and sustainable rural communities.

6.2 Strategic Plan of the Economic Development Department 2014-19

The Department's activities reported herein were guided, primarily, by its 2014-19 Strategic Plan.

The Strategic Plan sets out the objectives of the Department for the duration of the current administration. The Department has identified six strategic objectives which include the following;

- **Strategic Objective 1:** Provide strategic guidance to the Department; and technical and administrative support to the Ministry to achieve the rest of the Department's strategic objectives.
- **Strategic Objective 2:** Co-ordinate jobs drivers and the implementation of the National Growth Path economic strategy in support of the National Development Plan.
- **Strategic Objective 3:** Facilitate Social Dialogue and implementation of social accords.
- **Strategic Objective 4:** Coordinate infrastructure Development and strengthen its positive impact on the economy and citizens.
- **Strategic Objective 5:** Promote Investment, industrial financing and entrepreneurship for jobs and inclusive growth.
- **Strategic Objective 6:** Promote competition, trade and economic regulation in support of job creation and social inclusion.

6.3. Annual Performance Plan 2016/17

The following policy frameworks, programmes and policy pronouncements continue to guide the Annual Performance Plan (APP) of the Department:

a) State of the Nation Address (SONA) annually;
b) National Development Plan;
c) Medium Term Strategic Framework;
d) New Growth Path;
e) National Infrastructure Plan;
f) Industrial Policy Action Plan;
g) Delivery Agreements on Outcomes 4, 5, 6 and 7
h) Framework for South Africa's response to the international economic crisis.
i) Finance and fiscal policy framework;
j) Public Finance Management Act No. 1 of 1999;
k) Municipal Finance Management Act No. 56 of 2003 and related bi-laws

7. KEY POLICY DEVELOPMENTS AND LEGISLATIVE CHANGES

7.1 POLICY DEVELOPMENT

7.1.1 Competition policy

The Competition Amendment Act was assented to in August 2009 and on 1 May 2016 sections 73A (1) to (4) came into effect. In terms of section 73A (1) a person who is a director of a firm or has management authority within the firm, commits a criminal offence if, while in that position, such person caused the firm to engage in cartel conduct or knowingly acquiesced in the firm engaging in such practices.

Cartel conduct in terms of section 4(1)(b) relates to price fixing, dividing markets and bid-rigging. A person convicted of an offence may be sentenced to a maximum of 10 years' imprisonment or R500 000 fine; or both (section 74). A person may be prosecuted for a criminal offence in terms of this section only if the relevant firm has acknowledged that it engaged in a prohibited practice in terms of section 4(1)(b); or the Tribunal or the Competition Appeal Court has made a finding that the relevant firm engaged in such a prohibited practice (section 73A (3))[1].

[1] Competition Commission (2016) **Challenges to the implementation of the Competition Act 89 of 1998, as amended. Presentation to Portfolio Committee on Economic Development on 29 November 2016. Parliament RSA.**

7.1.2 Trade policy

The Minister established the Committee of the Commission on Steel in terms of section 14 of the ITA Act, 2002, on 10 June 2016. The purpose of the Committee on Steel is to monitor:

- The impact of changes in import tariffs;
- Implementation and progress on reciprocal commitments made by applicants;
- Jobs in the whole value chain;
- Import and export trends.

The Committee makes recommendations to the Commission. The Committee's membership is made up of the Commissioners and industry representatives**,** Trade and Industry Department and EDD officials attend and participate in the Committee. The members are appointed for a period of 12 months and the Committee has been established for a period of five years.

8. SUMMARY OF PREVIOUS KEY FINANCIAL AND PERFORMANCE RECOMMENDATIONS OF COMMITTEE

8.1 2015/16 Budget Vote Report

The Committee recommended to the National Assembly that the Minister of Economic Development and the Accounting Officer implement the following recommendations:

a) Consider recommendations of the Committee in the 2015/16 Budget Vote Report as outlined in Section 3.2 of the report on the strengthening of institutional arrangements and provide a progress report on these to Parliament by the next Budget Vote cycle.
b) Expedite the filling of key posts at the public entities. A progress report must be provided to Parliament by the next Budget Vote cycle.
c) Develop a monitoring and evaluation strategy that will be used to assess, every six months, progress made on targets set in the NGP.
d) Due to the moratorium on vacancies, a special dispensation for the filing of posts at the Regulatory bodies i.e. ITAC, Competition Tribunal and Competition Commission, be prioritised. This is due to the increase in the mergers and acquisition cases before the Competition Authorities.
e) Provide feedback on the implementation and progress of the action plans to address poor audit outcomes during quarterly reporting.
f) Provide quarterly feedback on the status of key controls.
g) Devise a model for measuring the impact of its coordination and facilitation role in all spheres of government and its entities. The Department should report progress in its quarterly reporting to the Committee.
h) Accelerate its coordination and policy alignment efforts in relation to provincial and municipal economic development. The Department should report more comprehensively on the work done with provinces and municipalities in its quarterly reporting to the Committee.

i) The Department should also update the Committee on possible collaboration with other departments e.g. Small Business Development, Trade and Industry and Science and Technology; and institutions like the SA Bureau of Standards on innovation and advancement. Furthermore, the collaboration must develop better ways of empowering women and youth with necessary entrepreneurial skills that will help them start their own business and also empower them to be employable.

j) In addition, collaborate with such departments like Agriculture, Forestry and Fisheries on programmes to encourage and support the women and youth to take up opportunities in the agricultural and food security sector.

k) The IDC should devise a clear strategy to ensure that information on opportunities for development finance for women is communicated and made available as far and wide as possible.

l) Consider legislative prescripts to enable the implementation of the law to support consumer associations to contribute to public interest conditions in civil claims against collusive behaviour.

m) Work with National Treasury to develop a preferential procurement plan for local products and encourage provinces and local governments to procure such products from local producers.

9. EVALUATING THE PERFORMANCE OF THE DEPARTMENT IN 2016/17

9.1 Performance against predetermined objectives

As presented in the Strategic Plan, the Department had 23 key performance indicators and 170 targets in 2016/17. The Department met all and exceeded some of its targets by delivering 32 additional outputs for the year under review. This trend has been continuing since the 2014/15 financial year. The Department has been consistent and efficient in delivering on its planned objectives.

Programme	Key Performance Indicators (KPIs)	Targets	Actual	Exceeded Targets	Unmet Targets
Administration	2	4	4	-	none
Growth Path & Social Dialogue	6	22	24	2	None
Investment, Competition & Trade	15	144	174	30	None
Total	23	170	202	32	None

Table: EDD's KPIs and targets for 2016/17

Adapted from EDD 2017 Annual Report

The Department's strategic objectives are carried out through three programmes, namely, Administration, Growth Path and Social Dialogue; and Investment Competition and Trade. These programmes and the Department's major achievements under each programme are discussed below;

Programme 1: Administration aims to support the Departments Strategic Objective 1 through the following sub-programmes; Ministry, Office of the Director-General, Corporate Management Services and Financial Management. Under this programme, the Department achieved the following;

a) It met its target of obtaining an unqualified audit opinion and there was an improvement in the Human Resource capacity of the Department in the year under review.

Programme 2: Growth Path and Social Dialogue supports Strategic Objectives 2 and 3 in facilitating and coordinating the implementation of the New Growth Path (NGP) and National Development Plan (NDP) through the Growth Path Jobs Drivers and the Social Dialogue, Productivity and Innovation sub-programmes. For this programme the Department's highlights include;

a) A mid-term review of the New Growth Path jobs drivers was presented to Parliament's Portfolio Committee on Economic Development, and it showed that more than 2.4 million new jobs had been created in the period since the adoption of the NGP in 2010.

b) About 61 250 jobs were covered in job-protection commitments or job saving investments, tthrough the work of the entities of the Department. An additional 25 937 jobs are expected to be created as a result of the transactions involving these entities and the Department.

Programme 3: Investment, Competition and Trade supports Strategic Objectives 4, 5 and 6. The purpose of the programme is to promote economic planning and coordination and provide oversight and policy coordination of identified Development Finance Institutions (DFIs) and Economic Regulatory Bodies (ERBs). The sub-programmes under this programme are Infrastructure Development Coordination, Development Investment, Industrial Funding and Entrepreneurship; and Competition, Trade and other Economic Regulation. Under this programme, the Department accomplished the following;

a) The Minister participated in six large mergers in the year under review. Section 18(1) of the Competition Act No.89 of 1998, makes provision for the Minister to participate on public interest grounds in intermediate and large mergers. The mergers include the merger of Anheuser-Busch (AB) InBev and South African Breweries Miller (SAB Miller), the largest merger to date in South Africa. ABInBev was formed as a result of a merger of Anheuser-Busch in the United States, Interbrew in Belgium and AmBev in Brazil[2].

[2] http://www.ab-inbev.com/about-us/our-heritage.html

The ABInBev and SABMiller transaction raised competition and public interest concerns that included a negative impact on jobs, the local barley industry and the Black Economic Empowerment Scheme known as Zenzele[3]. With EDD's intervention an agreement was reached. This agreement entails an investment of R 1 billion in agricultural and enterprise development, promotion of the local hops and barley manufacturing, jobs, and on alcohol harm reduction and educational initiatives[4]. Through the deal EDD hopes that South Africa will change from being a net importer to become a net exporter of hops and malt[5].

b) The Minister also participated in the SABMiller and Coca Cola Beverages South Africa (CCBSA) merger. SABMiller was the bottling company for Coca Cola. In the year under review the two companies filed for a merger. Previously Coca Cola refused to give smaller soft drink producers access to Coca Cola sponsored fridge or cooler space. Now as a result of the public interest conditions that have been imposed on the merger, spaza shops can allocate 10 per cent of cooler space in Coca-Cola fridges to rival brands where there are no other coolers. Furthermore, Coca Cola agreed to sell 20 per cent of its stake in Appletiser South Africa to black shareholders and therefore increase the company's black economic empowerment share.

c) The Department facilitated engagements for ArcelorMittal South Africa (AMSA) to buy hot rolled coils locally and toll-treat its steel locally. These engagements will see Highveld Steel toll-treating structural steel for AMSA, a move that is expected to save about 400 jobs at the struggling Highveld plant. EDD also facilitated an interaction between AMSA and a Brazilian steel processing company Duferco. Subsequently, AMSA will no longer import but will buy hot rolled coils from the Saldahna based Duferco.

d) EDD supported the expansion of new infrastructure projects and funding, which is expected to increase from R865 billion to the R947 billion in the current MTEF. EDD reports that government is investing around R1.2 billion per day in infrastructure. In addition, the Department was involved in facilitating the approval of the $180 million loan by the BRICS New Development Bank.

e) SIP 5: Saldanha-Northern Cape development corridor which is chaired by the Minister, created 920 construction jobs of which 296 representing 32 per cent were youth jobs.

[3] https://www.comptrib.co.za/assets/Uploads/INBEV/SABMiller-Report-31-May-2016-Non-confidential-report-8-June-2016Reda....pdf
[4] http://www.economic.gov.za/communications/information-notes/605-edd-information-note-1--30-may-2016
[5] https://pmg.org.za/briefing/22431/

9.2 Human Resources

For the year under review the Department's staff compliment increased from 116 at the end of March 2016 to 118 by the end of March 2017.

Table: Vacancies from 31 March 2016 to 31 March 2017

Year	Funded posts	Filled posts	Vacant posts	Vacancy rate in %	Terminations & transfer	Turnover rate in %
31-Mar-11	124	75	49	39.5%	13	68.4%
31-Mar-12	124	107	17	13.7%	25	27.5%
31-Mar -13	142	131	11	4.2%	16	13.91%
31 Mar -14	166	136	30	22.06%	43	32.08%
31 Mar-15	164	121	43	26.2%	30	22.1%
31 Mar- 16	140	116	21	17%	22	18%
31 Mar-17	133 ↓	118 ↑	15 ↓	11% ↓	10 ↓	9% ↓

Source: EDD Annual Reports (2011, 2012, 2013, 2014, 2015, 2016, 2017)

a) The Department complied with the Employment Equity target of 50 per cent women employees. 59 percent of the Department's total staff compliment was women. At Senior Management positions, 48.5 per cent of the managers were women.

b) In addition, three out of 118 employees representing 2.54 per cent of staff at the Department were people living with disabilities. The Department exceeded the 2 per cent employment equity target for people living with disabilities[6].

c) The vacancy rate dropped from 17 per cent in the previous year to 11 per cent in the year under review, which is very close to the national target of 10 per cent vacancy rate. However, as the Public Service Commission noted the vacancy rate is "exceptionally high" at senior management level. Out of 44 funded posts at senior management level 33 positions were filled and 11 or 25 per cent were vacant.

d) The Director-General's position has been vacant since 2014/15. Currently, there is an acting-Director-General, the third one in a row[7].

10. An Overview and Assessment of Financial Performance

10.1 Overview of vote allocation and spending 2016/17

[6] Public Service Commission (2017) Presentation to the Portfolio Committee on Economic Development Performance of the Economic Development Department 3rd October 2017 Cape Town.
[7] EDD (2016)

For the current financial year, the amount allocated to the Department decreased from R885.8 million to R674.7 million in the year under review due to fiscal constraints coupled with a high vacancy rate.

Table: Departmental expenditure per programme (2016/17)

Programme (R'000)	Adjusted Appropriation	Final Appropriation	Actual expenditure	Difference	Expenditure as a % of final appropriation
Administration	89 237	92 431	90 416	2015	97.8%
Growth Path & Social Dialogue	33 075	29 887	27 797	2090	93.0%
Investment, Competition and Trade	552 349	552 343	546 869	5474	99.0%
Total	674 661	674 661	665 083	9 578	98.6%

Source: EDD (2017)

The Department spent R665 million representing 98.6 per cent of its final appropriation. The largest amount of approximately R546.9 million or 82 per cent of actual expenditure was on the Investment, Competition and Trade programme, which consists mainly of transfers to the entities. Underspending amounted to R9.6 million representing 1.4 per cent of the final appropriation.

Table: Expenditure per economic classification (2016/17)

Programmes	Adjusted Appropriation	Final Appropriation	Actual Expenditure	Difference	Expenditure as % of final appropriation
Current payments	**142 484**	**142 419**	**133 465**	**8954**	**93.7%**
Compensation of Employees	93 995	93 930	84 990	8 940	90.5%
Goods and services	48 489	48 489	48 475	14	99.9%
Transfers and subsidies	**528 781**	**528 846**	**528 846**	**528 846**	**100%**
Departmental Agencies and Accounts	315 657	315 657	315 657	0	100%
Public corporations and private enterprises	213 124	213 124	213 124	0	100%
Payments for Capital Assets	**3 396**	**3 396**	**2772**	**624**	**81.6%**
Total	**674 661**	**674 661**	**665 083**	**9579**	**98.6%**

Adapted from: EDD 2017 Annual Report

As can be noted in the Table on economic classification above, the largest share of the underspending was on compensation of employees to the amount of R8.9 million.

The Infrastructure Development sub-programme which was affected the most, was allocated R10 million for compensation of employees. The Department managed to spend about R5.6 million or 55.8 per cent of the sub-programme's final appropriation. This is because of a significant number of funded posts that remain vacant and therefore money cannot be spent on unfilled posts.

10.2 Transfers to entities

A total of R528.8 million was transferred to the Department and its entities. The table below provides a breakdown of the transfers and shows that expenditure was more than the appropriated amounts. As will be indicated later more funds are required for certain of the entities.

Table: Transfers to entities

Entity	**Amount transferred**	**Amount spent**
Competition Commission -	208 541	221 583
Industrial Development Corporation-**Sefa**	213 124	213 124
Competition Tribunal	20 115	38 259
International Trade Administration Commission	87 001	103 138
Total	528 781	576 104

Source: EDD (2017)

A total of R528. 8 million was transferred to the four entities which report to the Department including the IDC which is a self-funding development finance institution. The IDC received an amount of R213. 1 million which was to be transferred to Sefa via the IDC. Sefa was part of the Department until 2014 when it was moved to the Small Business Development Department. Therefore, the norm is that an entity receives a revenue grant from the department to which it accounts for its budgets and performance. However, the IDC is the main link between the Department and Sefa as a wholly-owned subsidiary of the Corporation.

11. REPORTS OF THE AUDITOR-GENERAL, PUBLIC SERVICE COMMISSION (PSC) AND DEPARTMENT OF MONITORING AND EVALUATION (DPME)

11.1. The Auditor-General's (AG)

The Auditor-General of South Africa (AGSA) is the supreme audit institution (SAI) of South Africa. It is the only institution that, by law, has to audit and report on how the government is spending the South

African taxpayers' money[8]. The section below provides a summary of the AG's audit report for the Department.

11.1.1 Summary of EDD's Audit Report (2012-2016)

The Department, and its entities obtained an unqualified audit opinion for the financial year under review. The financial report of the three regulatory bodies of the Department are also audited by the AG. Only the IDC's financial reports are audited by private auditors.

Summary of EDD's Audit Report (2012-2016)

	2012	2013	2014	2015	2016
Clean audit	No	No	No	No	No
Qualified/Unqualified	Unqualified	Unqualified	Unqualified	Unqualified	Unqualified
Findings:	Yes	Yes	Yes	Yes	Yes
	Misstatements Corrected	Misstatements corrected	Misstatements corrected	Misstatements corrected	Misstatements corrected

The Department received an unqualified report but the AG made the following findings;

- *Misstatements*

The AG alerted the Department about misstatements in their financial reports. The Department made corrections and as a result received the unqualified audit report. There was progress, however, because there were fewer findings compared to the previous financial year.

- *Compliance with laws and regulation*

The AG reported that effective steps were not taken to prevent irregular expenditure amounting to R122 000.00 as required by section 38(1)(c)(ii) of the PFMA and treasury regulation 9.1.1 of the PFMA.

- *Financial and performance management:*

[8] https://www.agsa.co.za/About/Ourvision.aspx

There is a general improvement in the department's internal control environment. The internal control environment within the finance section has remained the same and the review processes could not detect and prevent some non-compliance with laws and regulations.

11.1.2 EDD's Action Plan

In response to the AG's findings the Department has committed itself to do the following;

a) Strengthen procurement processes in order to prevent irregular expenditure.
b) Improve the preparation of evidence files relating to performance information, for audit purposes.
c) Compile regular financial statements with disclosure notes in order to improve the quality of annual financial statements submitted for audit.
d) Ensure that the accounting officer and the internal audit function will review financial statements to ensure validity, completeness and accuracy.
e) Ensure unit heads compile irregular expenditure reports monthly and that the internal audit team submits them to the accounting officer to validate.
f) Implement and monitor action plans timeously to address findings.
g) Increase focus on human resource management and the resolution of the issues surrounding the organisational structure and compliance with Public Service Regulations.

11.2 Public Service Commission

The Public Service Commission (PSC) is tasked and empowered to, amongst others, investigate, monitor, and evaluate the organisation and administration of the Public Service. This mandate also entails the evaluation of achievements, or lack thereof of Government programmes. The PSC also has an obligation to promote measures that would ensure effective and efficient performance within the Public Service and to promote values and principles of public administration as set out in the Constitution, throughout the Public Service.

- ***Invoices over 30 calendar days that had not been paid***

The Public Service Commission (PSC) reported there was a worrisome increase in a number of invoices paid after 30 days during the first quarter of 2017/18. Only 2 invoices were older than 30 days and not paid during the same period in the previous financial year. The Commission urged EDD to be fair towards its own service providers.

In terms of Section 38(1)(f) of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) requires accounting officers of departments to settle all contractual obligations and pay all money owing, within the prescribed or agreed period. Furthermore, Treasury Regulations 8.2.3 prescribes the period as thirty (30) days from receipt of an invoice.

- ***Vacancy Rate***

PSC reported that the overall vacancy rate as at 31 March 2017 was 11%. The vacancy rate at supervisory and production levels came down but the rate at SMS level was still exceptionally high.

- ***Financial Disclosure Framework (FDFs)***

All members of the SMS are required to disclose the particulars of all their registrable interests (e.g. companies and properties) to their respective EAs by 30 April each year. EAs are required to submit copies to the PSC by 31 May of each year.

The PSC noted that EDD has been consistent with complying with the filing of all (100%) SMS financial disclosure forms by the due date over the last 4 financial years.

- ***Conflict of interest***

The PSC found nine conflict of interest cases of officials in 2013/4. This rose to 10 conflicts of interest in 2014/15 and then reduced to five in 2015/16. The reduction in conflicts of interest is a positive sign and a trend that should continue. It is important that remedial action is taken against cases of potential and actual conflict of interests. Data for 2016/17 is presently not available.

11.3 Department of Planning Monitoring and Evaluation

The Department of Planning Monitoring and Evaluation raised the following issues on general economic performance:

- Virtually none of the economic outcome targets in the NDP or the MTSF are being met.
- The record is worst on GDP, employment, exports and investment.
- The record is somewhat better on socio-economic aims that fall more directly under government control (education levels, BEE).
- It is unclear how government improves economic management where there is no choice but to work through stakeholders.

11.4 Portfolio Committee's Findings and Observations

a) The Committee acknowledges the improvements in the filling of funded posts. However, it is concerned about the adverse impact of the high vacancy rate in senior management positions, in particular the vacant post of the Director-General.

b) The Committee understands that the Department is working on an innovative solution to address its protracted struggle to attract the requisite skills to fill the vacant posts. The solution in part may require the Department to develop a flexible organogram. The Committee is concerned however, that the Department has been reporting about restructuring its organogram since the fourth term and nothing concrete has been presented to the Committee. These delays could be a hindrance to the Department's ability to fulfil its mandate.

c) The Committee is not pleased with the number of employees who are in acting positions in the Department.

d) The Committee commends the Department for improvements in its audit outcomes and also notes, however, that the Department again submitted financial reports that had misstatements.

e) The Committee noted that the Department regards market enquiries as an unfunded mandate; the Committee expressed its displeasure at this and stated that the situation is overextending the capacity of the Commission to fulfil its mandate.

f) The Committee was concerned that no remedial actions were taken against conflict of interest cases.

g) The Committee is aware that the term of the current Commissioner at ITAC is coming to an end and that the post of the Commissioner and the Deputy Commissioner have been advertised. The position of the CFO is also vacant.

11.5 Portfolio Committee's Recommendations

The Committee recommends to the National Assembly that the Minister of Economic Development and the Accounting Officer implement the following recommendations:

a) Consider recommendations of the Committee in the 2015/16 Budget Vote Report as outlined in Section 3.2 of this report on the strengthening of institutional arrangements and provide a progress report on these to Parliament by the next Budget Vote cycle.

b) Expedite the filling of senior management posts in the Department. The filling of the DG position should take place before the end of the current financial year. A progress report on these must be provided to Parliament by the First Quarter of the next financial year.

c) Work with National Treasury and the Department of Trade and Industry to develop a plan to monitor the implementation of commitments on local procurement. The Department should brief the Committee on progress by the end of the Fourth Quarter current financial year.

d) Due to the fact that the market enquiries by competition authorities are legislated for, the Department should take the necessary steps to ensure that these are funded sufficiently.

e) The Department should address the matter of potential and actual conflict of interest cases of officials, as identified by the Public Service Commission, and report quarterly to the Committee on progress made.

f) The Committee urges the Department to complete the process of appointing the Commissioner and the Deputy Commissioner of ITAC within six months from the date of the adoption of this report.

g) The Department must fast-track the payment of invoices older than 30 days and implement controls to ensure that invoices are paid timeously, and briefs the Committee quarterly on this matter.

h) The Department should brief the Committee quarterly on the organogram of the Competition Commission.

i) The Department should intensify the drive to develop and transfer skills among the youth in particular.

12. AN OVERVIEW OF THE PERFORMANCE OF THE DEPARTMENT'S ENTITIES

All the entities reporting to the Department obtained unqualified audit opinions. The IDC, the Competition Commission and Competition Tribunal obtained a clean audit. Except for the IDC, all the entities recorded a budget deficit. The IDC saw an improvement in its profit compared to the previous year, the number of jobs to be created or saved increased. There were improvements in the filling of vacant posts at the Competition Commission and Competition Tribunal. The Competition authorities managed the largest merger since they were established. The term of the Commissioner at ITAC is coming to an end, and the position of the Deputy-Commissioner is still vacant but the posts have been advertised. The section below provides more information on the performance of the four entities.

12.1 Industrial Development Corporation

The Industrial Development Corporation of South Africa Limited (IDC) was established in 1940 by an Act of Parliament (Industrial Development Corporation Act, no 22 of 1940) and is fully owned by the South African Government.

IDC is playing a key role in advancing transformative industrialisation through:

- More balanced racial and gender participation in ownership of assets;
- Providing opportunities for Black Industrialists, women and youth to encourage tomorrow's leaders of industry;
- Improving competitiveness of the economy
- Expanding the role that productive sectors play in the economy;
- Creating more employment opportunities to increase income levels and reduce poverty; and
- Nurturing new industries that will replace sunset sectors in the future.

The IDC's activities currently centre on the National Development Plan (NDP), the New Growth Path (NGP), the Industrial Policy Action Plan (IPAP), the Agricultural Policy Action Plan (APAP) and localisation opportunities associated with the National Infrastructure Plan (NIP). The IDC identifies sector development opportunities aligned with policy objectives and develops projects in partnership with stakeholders. The distribution of funding is aligned to Project Evolve, a strategy aimed at prioritising industries to ensure increased effectiveness and impact on the economy. The priority sectors include the following;

- *Value Chains* - Metals, Metal Products, Machinery & Equipment, Transport Equipment and Mining, Chemicals Products & Pharmaceuticals, Agro – Processing and Agriculture.

- *New Industries* - Sectors which are determined by forward looking trends and innovation, and could develop into significant opportunities for SA.
- *Special High Impact Sectors* - Motion pictures and entertainment, Clothing, textiles, footwear and leather products.
- *High Impact Sectors* - These include industries such as tourism, ICT, furniture and other manufacturing industries not covered elsewhere.
- *Industrial Infrastructure* - Infrastructure that unlocks industrial development: electricity, water, telecommunications and logistics.

12.1.1 Performance Highlights

***Funding approvals*:** The value of funding approvals increased to R15.3 billion, 5.7% higher than the previous high reached in 2016.

The bulk of funding approved in 2017 was for projects and start-ups (46% of the total), with capacity expansions making up the second highest category (29%). The rest went to funding for distressed businesses (13%), ownership changes (10%) and expansionary acquisitions (2%).

The level of approvals for the manufacturing sector (including the labour-intensive agro-processing and clothing & textiles sectors) dropped by 14 per cent to R7.7 billion compared to the previous financial year. The IDC reports that net funding approved for businesses operating in the clothing, textiles, leather and footwear industries in the year under review dropped by 22% to R433.5 million from R553.7 million in the previous financial year.

***Disbursement levels*:** Levels of disbursements declined with R11.0 billion disbursed in the period under review compared to R11.4 billion in 2016. The IDC attributes the decline to the downward trend in the level of fixed investment in the manufacturing sector.

Job creation: The number of jobs expected to be created from IDC's funding approvals during the year increased by 53.9 per cent to 18 206 while the number of jobs expected to be saved was 2 675. The total number of jobs expected to be created and saved in transactions approved during the year increased by 36.7 per cent to 20 881, the highest number recorded in the last three years.

***Economic Empowerment*:** Significant impact was made this year on the value of funding approved for Black Industrialists (63 per cent increase to R4.7 billion), black-empowered companies (increase of 104 per cent to R10.1 billion), women-empowered and youth-empowered businesses (increases of 178 per cent, and 142 per cent, reaching R3.2 billion and R2.3 billion respectively).

Profits and losses: IDC group profits increased significantly from the previous year's R223 million to R2.2 billion in the year under review, however, the three IDC subsidiaries, Foskor, Scaw and Sefa continued to make losses.

- Foskor continued to make losses in the year under review posting R902 million (2016: R568 million) loss. The IDC reports that this was due to a lower than forecasted phosphate price, and the stronger exchange rate which had a significant impact on revenue and profit generation. The IDC is working with the company to implement plans to improve efficiencies that will help it to become a profitable business again. A loan of R4 billion was approved in 2016 for recapitalisation of Foskor and the IDC is beginning to see positive changes.
- Scaw also posted a loss of R787 million which is an improvement from the previous year's R1.1 billion losses. The IDC is unbundling Scaw and selling three divisions of the company to strategic equity partners (SEP). The IDC has found an SEP for the rolled products and wire rod products and is finalising discussions for Scaw's grinding media and cast products divisions. The IDC will remain a shareholder in the unbundled section of the business.
- Sefa recorded a R223 million loss before government grant of R207 million. Sefa is making losses partly due to high levels of impairments caused by a lack of capacity to collect money owed. The IDC is implementing a turnaround strategy to ensure that Sefa becomes a self-sustaining business.

***Impairments*:** The impairment charge decreased from R3.7 billion to R2.1 billion in the current year with the impairment ratio improving from 16.9% in the previous financial year to 16.7%.

***Transparency*:** *Directors' Conflict of Interest Policy*: In February 2017 the IDC Board approved a new policy on Directors' Conflict of Interest Policy, effective from 1 April 2017. According to the policy directors of the IDC are not allowed to do business with the IDC. It also lays out a process to ensure that directors who are conflicted do not get access Board papers, and do not participate in matters in which they are regarded as being conflicted.

***Disclosures*:** On disclosing details of politically exposed persons (PEP), in 2017/18 the IDC will disclose information on all companies, including PEPs, for whom funding has been approved and agreements that have been signed.

BAIC: The R1.5 billion motor vehicle assembly plant project which is a joint venture between the IDC (35 per cent) and the Beijing Automotive Industry Holding Company (BAIC) (65 per cent). The IDC reports that the construction of phase one of the plant in Nelson Mandela Bay will have the capacity to make 50 000 cars per annum and is expected to create 784 direct jobs. BAIC will procure 60 per cent of its products locally. The IDC reported that due to capacity constraints locally BAIC would not be able to comply with the 75 per cent local procurement target.

12.1.2 Audit Report

The Corporation obtained an unqualified audit opinion for the period under review. The auditors of the IDC's financial statements are "*appointed by the shareholder upon recommendation by the Board*". IDC's auditors are Klynveld Peat Marwick Goerdeler (KPMG) and Sizwe Ntsaluba Gobodo (SNG).

The former has been on the news for its “*failure to appropriately apply KPMG's own risk management and quality controls*” when it compiled a report on the South African Receiver of Revenue (SARS) between 2015 and 2016.

12.1.3 Portfolio Committee’s Observations and Findings

a) The Committee raised concerns about the three subsidiaries namely, Scaw, Foskor and Sefa that are making losses.
b) The Committee urged the IDC to prioritise skills transfer in joint ventures such as the one with the Chinese company BAIC, so as to help address the skills shortage in the country.
c) The Committee noted that the support given to the textile industry was inadequate and was concerned about the decline in investment levels that the manufacturing sector, especially in clothing and textiles, was experiencing.
d) The Committee was seized with the plight of the owners of United Industrial Cables in Alberton, Gauteng and wanted the IDC together with the Department intervene. The Committee visited the newly established company which is 90 percent black-owned and discovered that it was running into some financial difficulties partly due to challenges with operational costs.
e) The Committee notes that the IDC’s financial reports are audited by KPMG, an auditing firm that has been implicated in a controversial audit report.
f) From previous discussions with the IDC, the Committee was informed that Oakbay Investments (Pty) Ltd. would be in a position to repay its loan debt as per agreement.

12.1.4 Portfolio Committee’s Recommendations

The Committee, recommends that the IDC should;

a) Provide detailed quarterly updates on plans and progress being made to protecting Scaw, Foskor and Sefa from further losses.
b) Develop a comprehensive strategy to promote the transfer of skills especially on joint ventures with international companies and brief the Committee on progress made by the Second Quarter of 2018/19 financial year.
c) Assist the United Industrial Cables company with the necessary financial and business support.
d) Keep a close eye on the developments surrounding KPMG and report on this matter by June 2018 and or as the need arises.
e) The IDC must take all the necessary steps to ensure that the loan afforded to Oakbay Investments (Pty) Ltd. is repaid, and report to the Committee on the matter when required.

12.2 Competition Commission

The Competition Commission is a statutory body constituted in terms of the Competition Act (No. 89 of 1998). In terms of the Act, the Commission is empowered to investigate, control and evaluate restrictive business practices, abuse of dominant positions and mergers to achieve equity and efficiency in the South African economy. Its mandate is to promote and maintain competition in South Africa in order to:

a) Promote the efficiency, adaptability and development of the economy;
b) Provide consumers with competitive prices and product choices;
c) Promote employment and advance the social and economic welfare of South Africans;
d) Expand opportunities for South African participation in world markets and recognise the role of foreign competition in the country;
e) Ensure that small and medium-sized enterprises have an equal opportunity to participate in the economy; and
f) Promote a greater spread of ownership, specifically increasing the ownership stakes of historically disadvantaged persons.

The Commission's priority sectors in the reporting period were:

a) Food and agro-processing
b) Healthcare
c) Intermediate industrial inputs
d) Construction and infrastructure
e) Banking and financial services
f) Information and communication technology; and
g) Energy

12.2.1 Performance of the Commission

There are five main programmes under which the Commission organised its work during the reporting period. The section below provides more information on the programmes including the Commission's achievements, under each programme.

Mergers & Acquisitions**:** This division is responsible for administering the provisions of Chapter 3 of the Competition Act on merger control. It assesses mergers that have been filed with the Commission and determines whether they will block or weaken competition in the market. The Commission had set itself six targets for this division and all of them were met.

Achievements under this programme in the year under review include the following:

- 48 403 jobs saved by the Commission's intervention
- 15 mergers approved with public interest, including the largest merger to date of ABInBev and SABMiller.

In respect of the largest merger to date, of ABInBev and SABMiller, the following recommendations were imposed by the Tribunal:

- ABInBev should divest its shareholding in Distell, within 3 years of the deal;
- Agreement to continue to supply tin metal crowns to third parties for 5 years, granting access (10% of fridge space) to small beer producers in perpetuity and no inducement;
- Merging parties could not retrench any employees as a result of the merger;
- AB Inbev committed to make available R1bn for development of agriculture, over five years and to promote entry and growth of emerging and black farmers.

The Commission blocked a proposed merger between Imerys South Africa and Andalusite Resources, which would have created a monopoly with a potential to abuse its dominance in the market.

Competition Enforcement*:* This division is responsible for administering Chapter 4 of the Competition Act. Competition enforcement is divided into two, namely the enforcement and exemptions division; and the Cartels Division. The enforcement and exemptions division investigates anti-competitive vertical practices, abuse of dominance and assesses exemptions. The Cartels Division investigates fixing prices, collusive tendering and allocation of markets. The Commission had set itself seven targets for this division, six were met and one missed. The Commission missed its target of completing 75 per cent of its cases within 12 months because it was addressing a backlog of cases that were older than twelve months[9].

Under this division the Commission's highlights include;

- Initiating three investigations in priority sectors:
  - Transnet SOC: excessive pricing cases in ports and rail, respectively;
  - Idwala Industrial Holdings: excessive pricing of calcium carbonates;
  - Schools and uniform suppliers: excessive pricing, restrictive vertical agreements and exclusionary conduct.
- The Commission also conducted four dawn raids in (1) paper packaging market; (2) transportation of cargo; (3) edible fats and oils; and (4) fresh produce.
- The Commission also dealt with a collusion case against 17 local and international banks and one firm paid a R70m penalty.

Legal Services Division*:* provides legal support services and advice as well conducting litigation on behalf of the Commission. The Legal Services division usually gets involved when cases are likely to be referred to the Tribunal and there are legal or potential legal challenges to the Commission's position. The Commission's accomplishments under this division include:

- Publishing public interest guidelines on 8 June 2016.

[9] Competition Commission (2017) Annual Report 2016/17

- Imposing R1.628 billion in administrative penalties and of that amount a R1.5 billion fine for ArcelorMittal for alleged collusion, information exchange and excessive pricing in markets for long steel, flat steel, scrap metal and wire mesh. (Administrative penalties for last year amounted to R338m.)

The Commission reported a very high case-load with 98 cases that were in litigation in the year under review.

The Commission is increasingly having to deal with respondents who are defaulting on their payments. In the year under review the Commission collected R380 million while about R87 million is still outstanding.

Market Dynamics: providing economic expertise to the organisation and deepening the understanding of market dynamics, including the undertaking of market inquiries. For this division the Commission had six targets, five were met. The Commission reports that it did not meet its target of initiating a market inquiry because more time was need to collect information.
Highlights under this division include:

- The finalisation of the Liquefied Petroleum Gas (LPG) Market Inquiry on 29 March 2017. The Commission made recommendations which are aimed at improving competition in the LPG sector.
- The Grocery Retail Market inquiry and the Health Market Inquiry are progressing.

Strategic Collaboration & Advocacy: The Advocacy and Public Affairs division is responsible for promoting compliance with the Competition Act through non-enforcement means such as activities to raise awareness about competition law and the competition agencies. The division had set ten targets, met nine and missed one as the Commission had not set

a target for training with colleagues from the criminal justice system.

12.2.2 Operational Highlights

a) The introduction of individual criminal liability for collusion.
b) The strengthening of relations with counterparts in the Brazil, Russia, India, China, South Africa (BRICS) community.
c) Continued role in uplifting South Africa’s youth through the graduate trainee programme.
d) The promotion of competition law and economics as a discipline in mainstream academia through partnerships with universities.

12.2.3 Financial Performance

Commission's Funding				
	2016/2017	2015/2016	2014/2015	2013/2014
	R'000	R'000	R'000	R'000
Revenue				
Fee Income	57,105	55,051	51,641	43,903
Other income	736	140	222	746
Interest received - investment	10,174	12,021	8,391	5,294
Government grants & subsidies	221,583	228,087	188,127	176,888
Total Revenue	**289,598**	**295,299**	**248,381**	**226,831**
Expenditure	368,166	296,501	223,347	198,925
Capital expenditure	10,131	3,236	5,295	1,045
Total Expenditure	378,297	299,737	228,642	199,970
Deficit /(surplus)	**88,699**	**4,438**	**-19,739**	**-26,861**

The total revenue for the Commission in 2016/17 was R289 million. This was a decrease from the previous year's R295 million. Government allocation also dropped by 3% from R228 million to R221 million. Meanwhile Expenditure increased by R71 million from R296 million in the previous financial year to R367 million in the year under review. The Commission recorded a deficit of about R78.6 million because its expenditure of R367 million which was more than its total revenue of R289 million in the year under review. The deficit amount has increased from the previous year's deficit of R1.2 million. The Commission reports that the deficit was funded through accumulated surpluses but now the funds are depleted.

In addition, the Commission reports that more funds are required for the market inquiry into private health care, retail market inquiry and case management business system.

12.2.4 Competition Commission and the Auditor General

The Competition Commission obtained a clean audit opinion in the year under review. According to the Auditor General's report, the Commission's financial statements complied with the relevant legislation and there were no internal control deficiencies.

In the previous financial year, the AG found that "*persons in service of the public entity whose close family members, partners or associates had a private or business interest in contracts awarded by the public entity failed to disclose such interest, as required by Treasury Regulation 16A8.4*."[10]

- **Irregular expenditure**

[10] Competition Commission (2016) Annual Report (2015/16)

The Commission conducted investigations into two cases of irregular expenditure. The first one relates to fraud amounting to R745 000. The Commission reports that the employee implicated in that case resigned and "*no consequence management could be instituted*" but a charge was laid with SAPS.

The second case involves an amount of R1.7 million for which the Commission applied for condonation to the National Treasury. There were no consequences effected because "no employee was found liable."

12.2.5 Portfolio Committee's Observations and Findings

The Committee raised concerns about the following:

a) The Commission's financial stability given that it recorded an increase in the budget deficit from R1.2 million in the 2015/16 financial year to R78 million in the year under review. Meanwhile the accumulated surplus funds from which the deficit was financed were depleted.
b) The Commission's allocated funds through transfers from the Department are insufficient to meet the demands of an increasing workload.
c) The Commission's overspending on personnel costs.
d) The ability and capacity of the Commission to deal with non-core activities in relation to respondents who default on the payment of fines.
e) The Memorandum of Understanding (MoU) between the Commission and the National Prosecuting Authority (NPA) that has not been finalised.
f) The Committee notes with concern that the Commission incurred irregular expenditure of approximately R2.5 million during the financial year under review.

12.2.6 Portfolio Committee's Recommendations

a) The Commission should exercise prudent budgeting to avoid incurring budget deficits and overspending.
b) The Commission should develop a strategy to deal with non-core activities such as the collection of fines imposed on respondents.
c) The Commission should apply consequence management in cases of fraud in order to recoup monies lost due to fraudulent activities.
d) The drafting of the MOU between the Commission and the NPA should be finalised to enable the two authorities to implement the criminal provisions against hard core cartels and report to the Committee on progress within six months from the date of the adoption of this report.
e) Given the growing complexities of the work of the Commission, serious consideration should be given to the allocation of additional funding to the Commission.

12.3 Competition Tribunal

The Tribunal is established in terms of section 26 of the Competition Act no. 89 of 1998. The Competition Tribunal has jurisdiction throughout South Africa and adjudicates competition matters in accordance with the Competition Act (Act 89 of 1998). While the Commission is the investigation and enforcement agency, the Tribunal is the adjudicative body, very much like a court. It arbitrates on mergers and prohibited practice cases prohibited practice cases involve anticompetitive outcomes achieved either through co-ordinated conduct between competing firms or through unilateral conduct by a dominant firm.

The Tribunal performs the following functions;

a) Adjudicates complaints of unlawful conduct, which includes restrictive practice and abuse of dominance.
b) Imposes remedies.
c) Awards costs.
d) Grants orders for interim relief.
e) Authorizes or prohibits large mergers.
f) Adjudicates appeals from Commission's decisions on Intermediate mergers and exemptions.

12.3.1 Achievements

In the financial year under review the following was achieved:

- 42.10 per cent (i.e. 8 out of 19) of mergers approved with public interest conditions.
- 105 decided (prior year -133 decided).
- 70.59 per cent cleared in less than 60 days (previous year –72.58 per cent).
- 2.94 per cent cleared in 60 days (previous year 0 per cent).
- 26.47 per cent of cases cleared in more than 60 days (previous year 27.42 per cent).
- Average clearance period 54 days (previous year 50 days).

The cramped office space problem has also been resolved and in April 2018 the Tribunal is expected to move to a lower floor expanding office space by just over 40 per cent.

- On cases of abuse of dominance, the Tribunal dealt with, among others the following;

The longest running dominance case to date, in which Media24 allegedly engaged in predatory pricing against a community newspaper market in the Goldfields region. The Tribunal reports that the penalty was not competent for a first time infringement, therefore, Tribunal opted to impose another remedy. The Naspers group, which owns Media24, “was obligated to sponsor new entrants into the Goldfields market for a period of two years by making its printing and distribution companies provide these services to new entrants or existing players at the same price as these services are provided to Media24’s paper in the area. This decision has been taken on appeal but the matter had not been heard at the time of writing” [1].

- On mergers, the Tribunal dealt with the following, among others;

The large merger of Edcon Limited and PARENTCO. There were no retrenchments and the merging parties undertook to create 2000 new jobs and train current staff.

The Tribunal approved, with conditions, the largest deal ever notified in the country i.e. the global acquisition, by AB InBev, of the entire share capital of SABMiller. This matter has been reported on extensively in the sections above.

- On cartels

Penalties were imposed on 28 matters, 23 were for cartel conduct covering price fixing, dividing markets and collusive tendering or a combination of these contraventions.

12.3.2 Portfolio Committee’s Findings and Observations

a) The Committee notes that the Tribunal has responded to the Committees’ call to conduct public awareness about its work in high schools.
b) The Committee commends the Tribunal for obtaining a clean audit opinion.
c) The Committee notes the Tribunal’s intention to request the Department to amend the Competition Act in order to accommodate additional members in response to the increasing case-load.
d) The Committee notes that the appointment of additional Members has improved efficiency at the Tribunal.

12.3.3 Portfolio Committee’s Recommendations

a) The Tribunal must develop a nationwide outreach programme instead of focusing only in Gauteng.
b) The Tribunal should put contingency measures in place to ensure that in the absence of a staff member tasks can still be completed timeously.
c) The Tribunal should continue to engage the Department on increasing the number of Tribunal Members to address the capacity constraints.

12.4 International Trade Administration Commission of South Africa

The International Trade Administration Commission of South Africa (ITAC) is a schedule 3A Public Entity established in terms of the International Trade Administration Act, no 71 of 2002, and came into force on 1 June 2003. The aim of ITAC, as stated in the Act, is to foster economic growth and development in order to raise incomes and promote investment and employment in South Africa and within the Common Customs Union Area by establishing an efficient and effective system for the administration of international trade subject to this Act and the Southern African Customs Union (SACU) Agreement.

The core functions of ITAC are:

a) Customs tariff investigations
b) Trade remedies; and
c) Import and export control.

In addition, ITAC conducted impact assessments. ITAC reports that in the 5th Administration, it has placed more focus on measuring the outcomes of its interventions. Below are the details on the core functions and impact assessments together with accomplishments achieved under each function.

- **Customs tariff investigations**

Tariffs are customs duties on merchandise imports. When imposing tariffs**,** ITAC focuses mainly on the following priority areas; Agriculture & Agro-processing, Chemicals, Textiles, Clothing and Footwear, Motors, Metals and Machinery, Automotive Production Development Programme (APDP).
During the year under review ITAC recommended and implemented a zero to 10 per cent tariff increase on certain steel products, based on the reciprocal commitments made by the respondents. For instance, AMSA among others, made the following commitments:

- Ensure that downstream users can access the products at affordable prices by putting a cap on steel prices for local users.
- Preserve jobs and not close any plant. This condition will be reviewed after three years
- Invest an additional R1.2 billion in new plant, machinery and the upgrading of machinery for the manufacturing of other bars and rods and forges.
- In case of a default on these conditions, ITAC will review the tariffs.

Rebate: Stingray Accessory Manufacturers (Pty) Ltd (Stingray) applied for the creation of a rebate provision on wire and switches used in the manufacture of electric blankets. The applicant is the sole manufacturer of electric blankets in the SACU region. Stingray currently employs a total of 131 people at its plant, 72 are permanent employees directly involved in the manufacturing of electric blankets. In terms of reciprocity, the applicant committed to increase its exports and also to create 150 additional jobs.

APDP: ITAC amended the administrative framework to reduce the minimum annual plant volume threshold for participation in the APDP from 50 000 to 10 000 units with effect from January 2016; the volume assembly allowance to commence at 10% for 10 000 units, increasing by one percentage point for every 5 000 units up to18 per cent at 50 000 units.

- **Trade Remedies**

Trade remedies include anti-dumping, countervailing measures and safeguards. Anti-dumping is the most frequently applied trade, both globally and in South Africa. Below are some highlights of the work done by ITAC on trade remedies.
A sunset review on the anti-dumping duties on polyethylene terephthalate (PET) originating in or imported from Chinese Taipei, India and Korea was initiated in January 2016 after an application was received from Hosaf. The investigation was completed on 8 July 2016 and the Commission recommended that the anti-dumping duties be maintained.

During the 2016/17 financial year, the Trade Remedies Unit initiated the first safeguard investigation in terms of Article 16 of the Agreement on Trade, Development and Cooperation between the European Community and its Member States and the Republic of South Africa (the TDCA) on frozen chicken portions.

The Commission made a preliminary recommendation to the Minister of Trade and Industry in November 2016. The Minister requested the Commission to impose a provisional measure of 13.9 per cent on the imports of frozen chicken portions from the EU. The provisional measure was imposed on 15 December 2016. The investigation is still on-going.

- **Import and Export Control**

This area focuses on import and export permits; and enforcement.

On permits: During the reporting period, 18 660 import and 12 870 export permits were issued. 6 800 export permits, the bulk of export permits, were issued for the exportation of used motor vehicles; 3 806 were issued for the exportation of ferrous and non-ferrous waste and scrap. 1 346 export permits were issued for the exportation of organic and inorganic chemicals and 496 export permits were issued for the exportation of mineral fuels and products of their distillation.

Inspections: During the 2016/17 financial year, 505 scheduled inspections were conducted, 2 866 unscheduled inspections and 13 investigations were conducted. Industry sectors inspected were clothing, ferrous and non-ferrous scrap metals, automotive, pneumatic tyres and machinery and equipment.

- **Economic Impact Assessments**

During the 2016/17 financial year, ITAC conducted three impact assessments for the two large and one small broiler meat producers in South Africa, namely Rainbow Chicken Limited, Astral Operations and Sovereign Foods. Findings of the assessment include the following;

- "Rainbow, despite the provision of tariff support remains in a precarious state. Astral on the other hand has done very well looking at employments gains, profit increases and increase in production. This could be explained by the fact that while Astral Operations sourced all inputs domestically (and therefore has not suffered significant price increases in input), Rainbow (Sovereign Foods) imports over 30 per cent (10 per cent) on average of its total input"[11].

- The assessment notes that one of the reasons why import penetration in poultry is high is that overseas players make their margins on fresh fillet meat and sell the bone-in portions (which are not in high demand in overseas markets) at costs that simply cover the logistics cost of shipping the meat to export destinations.

In May 2016, the Minister of Economic Development directed the Commission in terms of section 16(1) (d)(i) of the ITA Act to evaluate and investigate a review of the Dollar-based reference price system (DBRP) and variable tariff formulae for wheat, maize, and sugar. The directive was made in view of the fact that wheat, maize, and sugar are basic necessities used by South Africans, and that the country was in the grip of a drought with large exchange rate fluctuations. The Commission completed its investigation of the DBRP and has submitted its findings and recommendations to the Minister.

12.4.1 Performance against Predetermined Objectives

ITAC has three strategic objectives:

- To ensure contribution to employment creating growth and development through effective delivery of international trade instruments.
- To ensure strategic alignment with and continued relevance to the Economic Development Department, National Agenda and the New Growth Path.
- To ensure organisational efficiency and effectiveness of ITAC.[12]

[11] ITAC (2017)
[12] Ibid

ITAC met nearly all its targets in the year under review. However, the Commission failed to meet its target on compiling the Trade Monitoring report, the Administration of the Scrap Metal PPS report as well as the report on Reciprocal Commitments in the Steel Industry.

12.4.3 Financial Performance

ITAC's total revenue for the year was R92.7 million. The amount is made up of;

- A government allocation of R87 million.
- A conditional grant of R3.8 million from the Department of Economic Development. The grant was for rental and scrap metal; and
- R1.85 million from exchanges in goods and services.

ITAC's total expenditure was R104.3 million, which means that the Commission's expenditure was more than its revenue and this resulted in a budget deficit of about R11.6 million. This is an increase compared to the previous year's deficit of approximately R4 million.

Legal costs are increasing because of complex cases and the increase in human resource costs is also pushing up the cost of running the Commission. Legal fees increased from about R2.3 million in 2015/16 to approximately R3.2 million in the year under review.

The budget for personnel was R82 million and ITAC spent about R79.7 million which was less than the allocated amount. Therefore, there was underspending on personnel.
Rent is for premises occupied by ITAC on the DTI campus for a period of five years in terms of an operating lease agreement starting from 01 April 2015. The lease agreement is not renewable at the end of the lease term. A new contract for office equipment was entered into from 01 April 2015 for a period of 36 months.

12.4.4 ITAC and the Auditor General 2016/17

The Auditor General gave ITAC an unqualified audit opinion but with the following findings;

- On performance objectives, the Auditor General questioned the usefulness and reliability of objective 3: To ensure organisational efficiency and effectiveness at ITAC.
- Management did not closely monitor compliance on the procurement of goods and services.
- Inadequate oversight on financial and performance reporting as well as on internal controls.[13]

[13] ITAC (2017)

12.4.5 Portfolio Committee's Observations and Findings

a) The Committee is concerned about the office space constraint that has still not been resolved.

b) The Committee is concerned about the 56 percent increase in the rental fee that ITAC pays to the Department of Trade and Industry while the entity is still struggling with space constraints.

c) The Committee notes that the on performance objectives, the Auditor-General questioned the usefulness and reliability of objective 3: To ensure organisational efficiency at ITAC.

d) The Committee notes that the Chief Financial Officer has resigned (as noted under the observations on the Department).

e) The Committee is concerned that ITAC is not funded for responsibilities and duties that it carries out for SACU member countries.

12.4.6 Portfolio Committee's Recommendations

a) ITAC should correct the AG's findings on the usefulness and reliability of objective 3.

b) ITAC should brief the Committee (quarterly) on progress made on the implementation of the findings of the AG.

c) ITAC should resolve issues of unfunded mandates, including their responsibilities to SACU.

d) The positions of the CFO, Chief Commissioner and Deputy Commissioner are filled by the end of the Second Quarter of the next financial year.

13. CONCLUSION

The Committee would like to express its gratitude to the Minister, Mr Ebrahim Patel, MP; the Deputy Minister, Mr Madala Masuku, MP; the former Acting Director-General Mr Malcolm Simpson and the entire team at the Department for their commitment and contribution during the period covered by this report. The Committee looks forward to working with the current Acting Director-General Mr Monde Tom.

Appreciation is also extended to the dedicated entities of the Department, namely: ITAC; the Competition Commission led by Mr Tembinkosi Bonakele; the Competition Tribunal led by Norman Manoim and the IDC led by Mr Geoffrey Qhena, together with the Board Members and staff of all the entities, for their commendable endeavours towards the betterment of the lives of our people.

The Committee wishes to thank Mr Siyabulela Tsengiwe, the outgoing Chief Commissioner of ITAC for his commitment and dedication over the past ten years, and wishes him well in his future endeavours.

The Chairperson thanks all Members of the Committee for their active participation during the process of engagement and deliberations; and contribution to the observations and recommendations of this report.

Report to be considered.