LOCAL CONTENT POLICY IMPLEMENTATION AND THE NEW PPPFA REGULATIONS

PRESENTATION FOR THE GO! DURBAN PUBLIC TRANSPORT NETWORK WORKSHOP

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OUTLINE

- Economic challenges Facing SA
- Import Taxes in SA
- Rationale for the Designations
- Procurement Levers
- PPPFA Regulation on Local Content
- Designation Process
- Updated List of Designations
- Relevant Documents
- Bus Body Designation
- OtherRegulations

SOCIO-ECONOMIC CHALLENGES FACING SA

The National Challenges

- Unemployment
- Inequality
- Skills shortage
- Growing population
- Infrastructure shortage
- Limited industrial capacity
- Reliance on resource export

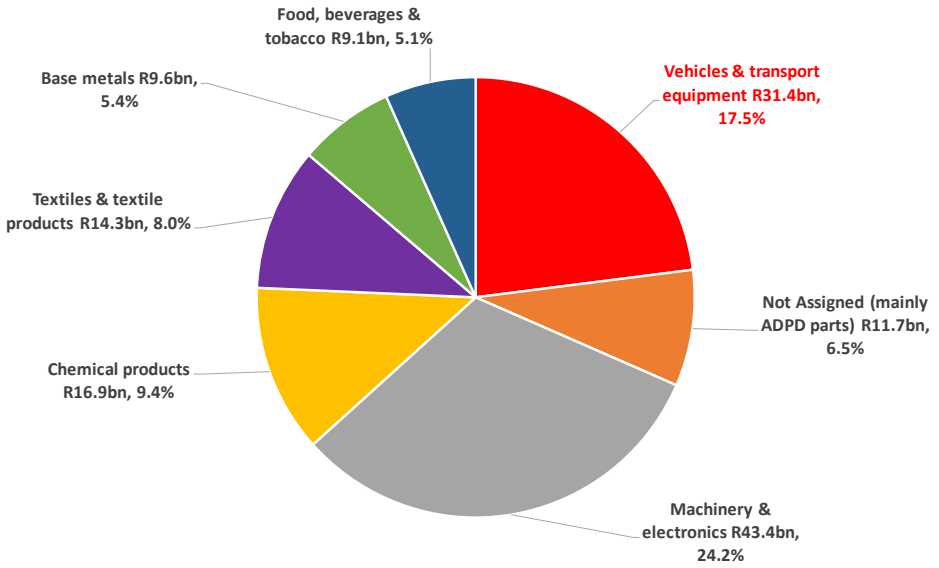
The National Agenda

- Job creation
- Skills development
- Normalising society and economy
- Local procurement and economic growth
- Infrastructure development

Government Response

- National Development Plan
- New Growth Path
- IPAP
- Local Procurement Accord
- CSDP
- B-BBEE
- SME development
- Overall policy reform
- PPPFA, designation

IMPORT TAXES IN SOUTH AFRICA



Source: SARS 2015 Tax Statistics

- Machinery & electronics and vehicle & transport equipment account for 41.7% of import taxes
- Machinery & electronics contribute the highest at 24.2% followed by vehicles and transport equipment with 17.5%.
- Most Import VAT is collected from imports from China (25.0%), Germany second (12.6%), Africa accounted for only 4.3% of import taxes
- High Import VAT translates to high Domestic VAT and VAT refunds

INDUSTRIAL POLICY OBJECTIVE W.R.T LOCAL CONTENT REQUIREMENTS

- Leverage public expenditure
- Develop and enhance local manufacturing capacity and capabilities
- Support industrial innovation and technological developments
- Create employment and sustain jobs
- Boost exports and ensure suppliers are integrated into OEMs global value chains
- Support broader economic empowerment through the creation of black industrialists

PROCUREMENT LEVERS

- **Designation: Local Production and Content**
  - Used in instances where government has carried out an in depth analysis of the sector and there is local production capacity and public procurement opportunities.
  - Sectors targeted for designation are aimed at leveraging public expenditure for industrial development

- **National Industrial Participation Programme (NIPP)**
  - Applicable to all government procurement, Imported Content => US$10 million
  - **Direct NIPP** is used in projects where there is potential to develop or support strategic industries
  - **Indirect NIPP** is used in projects where there is no potential or opportunities for local manufacturing in procured industries

- **Defense Industrial Participation Programme (DIPP)**

- **CSDP**
  - Managed by DPE in conjunction with State Owned Companies (SOCs)
  - Used in instances where there are long term Supplier Development Plans in place

2017 PREFERENTIAL PROCUREMENT REGULATIONS ON LOCAL CONTENT

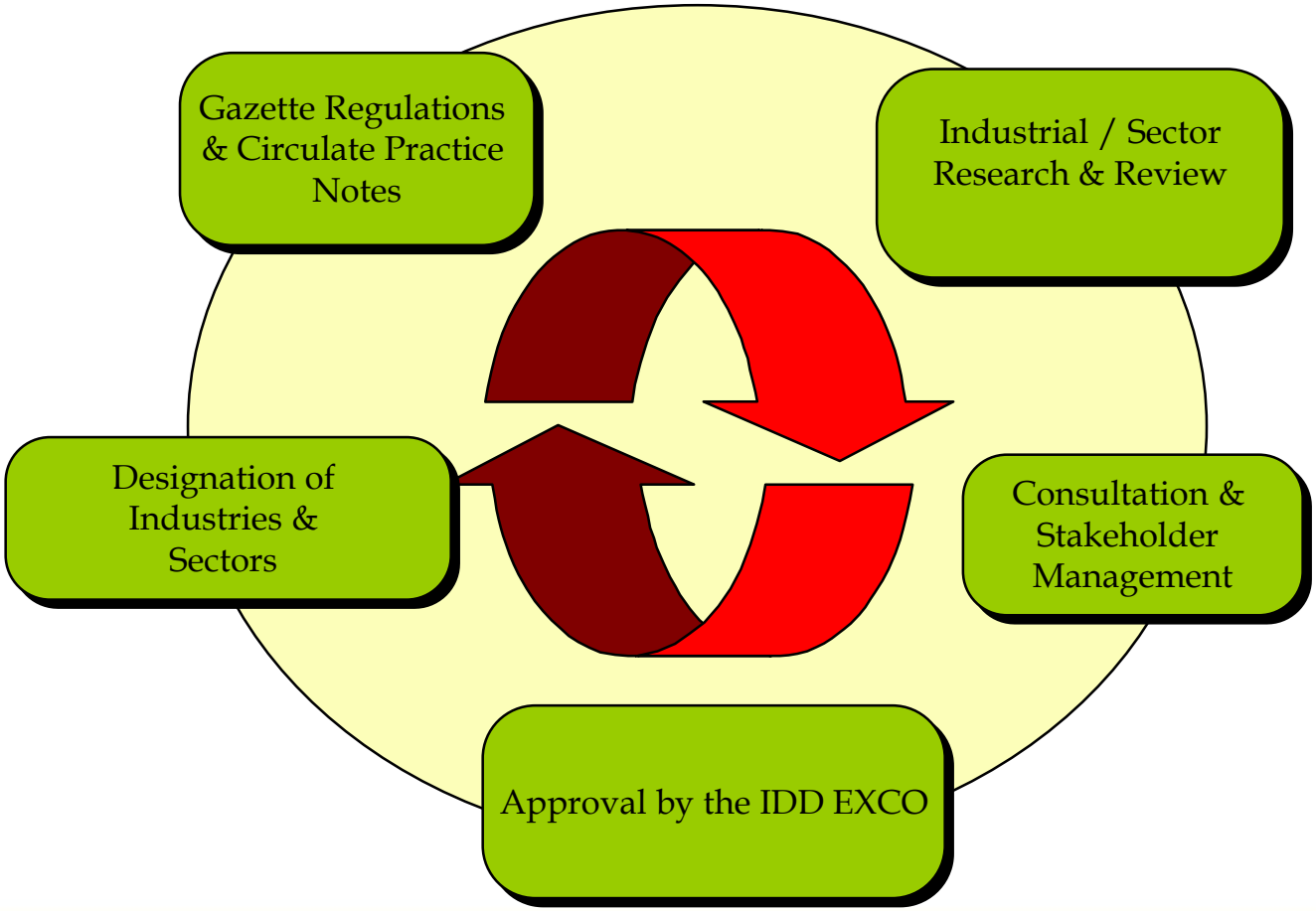
- Preferential Procurement Policy Framework Act (PPPFA) was enacted in 2000, and its Regulations promulgated in 2001
- Local Content Regulations came into effect on 7 December 2011 through the 2011 PPPFA Amended Regulations. They are still applicable in the 2017 Public Procurement Regulations

- **Section 8: Local Production and Content**
- Empowers **the dti** to designate specific industries/sectors for local procurement by organs of state.

2017 PREFERENTIAL PROCUREMENT REGULATION ON LOCAL CONTENT

- Regulation 8 (1): empowers **the dti** to designate specific industries/sectors, where only locally manufactured products that meet the stipulated minimum threshold for local content will be considered.
- Regulation 8 (2): organs of state must include local content in their bid invites
- Regulation 8 (3): National Treasury must inform organs of state via circular.
- Regulation 8 (4): allows organs of state to **"self designate"** provided they consult with the dti and National Treasury
- Regulation 8 (5): bid that fails to meet the required local content is unacceptable
- **New regulations allow the National Treasury to issue circulars and guidelines**

DESIGNATION PROCESS FLOW



PRODUCTS DESIGNATED TO DATE

Sectors/Products Already Designated	Local Content Thresholds	
Description		**Date**
1. Rail Rolling Stock	65%	16-07-2012
2. Power Pylons and Substation Structures	100%	16-07-2012
3. Bus Bodies	80%	16-07-2012
4. Canned/Processed Vegetables	80%	16-07-2012
5. Textile, Clothing, Leather and Footwear Sector	100%	16-07-2012
6. Certain Pharmaceutical Products	**Per tender**	**07-12-2011**
7. Set-top Boxes	30%	26-09-2012
8. Furniture Products	65 -100%	15-11-2012
9. Electrical and Telecom Cables	90%	08-05-2013
10. Valve Products and Actuators	70%	06-02-2014
11. Working Vessels (Boats)	10-100%	01-08-2014
12. Residential Electricity Meters	50-70%	01-08-2014
13. Steel Conveyance Pipes	80-100%	28-09-2015
14 Transformers and Shunt Reactors	10-100%	28-09-2015
15. Two Way Radio Terminals	20-100%	30-06-2016
16. Solar PV Components	15-90%	30-06-2016
17. Rail Signalling System	40-100%	30-06-2016
18. Wheelie Bins	100%	18-08-2016
19. Solar Water Heaters	70%	19-07-2012
20. Fire Fighting Vehicles	30%	21-11-2016
21. Steel Products and Components for Constr	**100%**	**13-01-2017**

ASSEMBLY OF MHCV AND BUSSES IN SOUTH AFRICA

- **Bus body building and assembly is classified under Medium and Heavy Commercial Vehicles (MHCV)**
  - ***Iveco; MAN; Mercedes Benz; Scania; Tata; VDL Coach & Bus; Volvo***

Assembly Output of medium and heavy commercial vehicles and buses – 2000 to 2015

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Domestic	12275	13323	14335	16957	21464	27406	33080	37069	34659	19934	22021	26656	27850	29000	31000	33000
Exports	679	465	582	469	448	424	539	650	1227	831	861	803	1074	1300	1400	1500
Total	12954	13788	14917	17426	21912	27830	33619	37719	35886	20765	22882	27459	28924	30300	32400	34500
Y-o-Y % Growth		6.4%	8.2%	16.8%	25.7%	27.0%	20.8%	12.2%	-4.9%	-42.1%	10.2%	20.0%	5.3%	4.8%	6.9%	6.5%
Exports %	5.5%	3.5%	4.1%	2.8%	2.1%	1.5%	1.6%	1.8%	3.5%	4.2%	3.9%	3.0%	3.9%	4.5%	4.5%	4.5%

Source: NAAMSA: Industry Production Data: 2000 - 2015

THE BUS SERVICE INDUSTRY PROFILE IN SOUTH AFRICA

- The bus industry plays a critical role and contribution to the economic and social development of the country

- Approximately 80% of South Africa's population is totally dependent on public transport (bus, commuter rail and taxis) for its mobility needs

- According to SABOA, there are about **22000 busses in SA**, of which **17 000** are involved in formal commercial public transport activities. The other **5000 busses** are mostly used for in-house purposes by industry and government institutions (not for direct commercial reward)

  - *It is estimated that the industry provides direct employment to about 30 600 people with about 153 000 people indirectly dependent on the industry*
  - *The 17 000 buses have an estimated replacement value of R17-billion*

- The revamp of the public transport system (e.g. Bus Transit Routes and associated infrastructure and busses) provides an opportunity for the sectors
  - *The industry supports a large number of suppliers such as bus and chassis manufacturers, fuel and tyre companies*

the dti

Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Bus Body Designation

4X2 Commuter Bus, 36 seater and more, 8 500 kg GVM or more	**80%**
6X2 Commuter Bus, 56 seater and more, 18 000 kg GVM or more	**80%**
4X2 City Bus, 21 seater or more, 8500 kg GVM or more	**70%**
6X2 CityBus, 50 seater or more, 18 000 kg GVM or more	**70%**
6X2 Semi-luxury coach, 50 seater or more, 18000 kg GVM or more, dvd-player, parcel racks, luggage lockers, saloon heater, tintented windwos and curtains, cloth seats	**70%**
General Clause: Any other bus / bus body whether it be commuter, city or semi-luxury coach not fitting specific descriptions, whether of a monocoque structure or not	**80%**

Source: Bus Body Instruction Note, 2012

- **The chassis, engine and transmission must be assembled completely knocked down (CKD) in South Africa.**
  - *Hang-on parts (fuel tank, tyres, battery, wheel rims) for the chassis which could be localised should be bid specific*
- **The chassis, engine and transmission assemblies must comply with the CKD definition of the amended Note 5 as state in Chapter 98 of the Customs and Excise Act (Act No. 91 of 1964)**

LOCAL CONTENT DOCUMENTS

SABS

- **Technical specification *(SATS 1286:2011)* on the measurement and verification of local content**

DTI

- **Guidelines on calculation of local content**
- **Templates (annexures) for calculation of local content**

NT

- **Standard Bidding Documents (MBD 6.2)**
- **Instruction notes for each designated sector**

INVITATION OF BIDS

- All the designated requirements must be clearly listed on the MBD 6.2 and their minimum threshold for local content.
  - MBD 6.2
  - Annex C: Local Content Declaration (Summary Schedule)
    - **If the bid is for more than one item, local content percentages for each product contained in Declaration C must be declared and used**
  - Annex D: Imported Content Declaration (Supporting Schedule to Annex C)
  - Annex E: Local Content Declaration (Supporting Schedule to Annex C)
  - SABS approved technical specification - SATS 1286:2011
  - DTI's Guidance Document for the Calculation of Local Content

LOCAL CONTENT REQUIREMENTS AND THE EXEMPTIONS

- Bids for all designated sectors/products must contain a specific bidding condition that only locally produced or locally manufactured goods, works and services with a stipulated minimum threshold for local production and content will be considered.

  - If the raw material or input to be used for a specific item is not available locally, bidders should obtain written exemption from **the dti** should there be a need to import such raw material or input; and

  - A copy of the exemption letter must be submitted together with the bid document at the closing date and time of the bid

THE EXEMPTION PROCESS

- If the quantity of materials and/or products cannot be wholly sourced in South Africa, **the dti,** in consultation with the procuring entity, will grant exemption on a case-by-case basis

  - *Specifications, designs, standards, material availability, technological choices and volumes are the main causes of exemptions*
  - Bidders must clearly indicate in their bids the quantities of material and products to be supplied and the level of local content for each product

- **the dti** will revert back to the bidder within 48 hours either with a response or an acknowledgment that the request is being considered

- If an exemption is requested on the product that has already being exempted, then **the dti** takes 48 hours to process the request

- In certain instances, **the dti** consults with the industry, especially if the exemption is volume-based and/or based on the particular type of material. That can take up to a week to revert back to the bidder

THE EXEMPTION PROCESS

For Exemption Letters, bidders are to state the following in the request:

- Procuring Entity/ Government Department,
- Bid Number,
- Closing date,
- Item(s) for which the exemption is being requested for,
- Description of the goods, services or works for which the requested exemption item will be used for (attach detailed specification for item),
- Reason for the request.

Attention to:

Dr Tebogo Makube

Chief Director: Industrial Procurement Unit

Email: TMakube@thedti.gov.za

Tel: 012 394 3927

REGULATION 4: PRE-QUALIFICATION CRITERIA

The Regulation is used to advance designated groups through:

(a) Prequalifying tenderers in terms of B-BBEE Status level

(b) Prequalification in terms of being an EME or QSE

(c) Sub-contracting with the following designated groups:

i. An EME or QSE which is at least 51% Black Owned

ii. An EME or QSE which is at least 51% owned by black youth

iii. An EME or QSE which is at least 51% Black Women Owned

iv. An EME or QSE which is at least 51% owned by black people with disabilities

v. An EME or QSE which is 51% owned by black people living in rural or underdeveloped areas and / or townships

vi. A Cooperative which is at least 51% owned by black people.

vii. An EME or QSE which is at least 51% owned by black people who are military veterans

REGULATION 9: COMPULSORY SUBCONTRACTING

- New Regulation aimed at empowering designated groups especially in sectors where there is a lack of transformation.
  - An organ of state must, in the case of selected tenders where it is feasible to sub-contract, apply compulsory sub-contracting to advance designated groups in contracts above R30 million.
  - That organ of state must advertise such tender with a specific tendering condition that the successful tenderer must sub-contract a minimum of 30% of the value of the contract to-
  - (a) An EME or QSE;
    - (i) An EME or QSE which is at least 51% Black Owned
    - (ii) An EME or QSE which is at least 51% owned by black youth
    - (iii) An EME or QSE which is at least 51% Black Women Owned
    - (iv) An EME or QSE which is at least 51% owned by black people with disabilities

- The list of designated groups mentioned in sub-regulation (2)(i) – (vii) must be made available by the organ of state selected from amongst suppliers registered on the Central Supplier Database of the National Treasury.

REMEDIES FOR NON-COMPLIANCE

Section 14 of the PPPFA Regulations: Remedies

- **14. (1) An organ of state must, upon detecting that a tenderer submitted false information regarding BBBEE, Local Content or any other matter:**

  (a) inform the tenderer accordingly;

  (b) give the tenderer an opportunity to make representations within 14 days

  (c) if it concludes, after considering the representations that false information was submitted – disqualify the tenderer or terminate the contract in whole or part and if applicable claim damages from the tenderer.

- **14. (2) An organ of state must inform the National Treasury of any actions taken.**

- **14. (3) The National Treasury must decide whether to restrict the tenderer for 10 years and publish on website a list of restricted suppliers**

THANK YOU