

Trade and Investment South Africa (TISA)

**Presentation to the Portfolio Committee on
International Relations and Cooperation
1 March 2017**



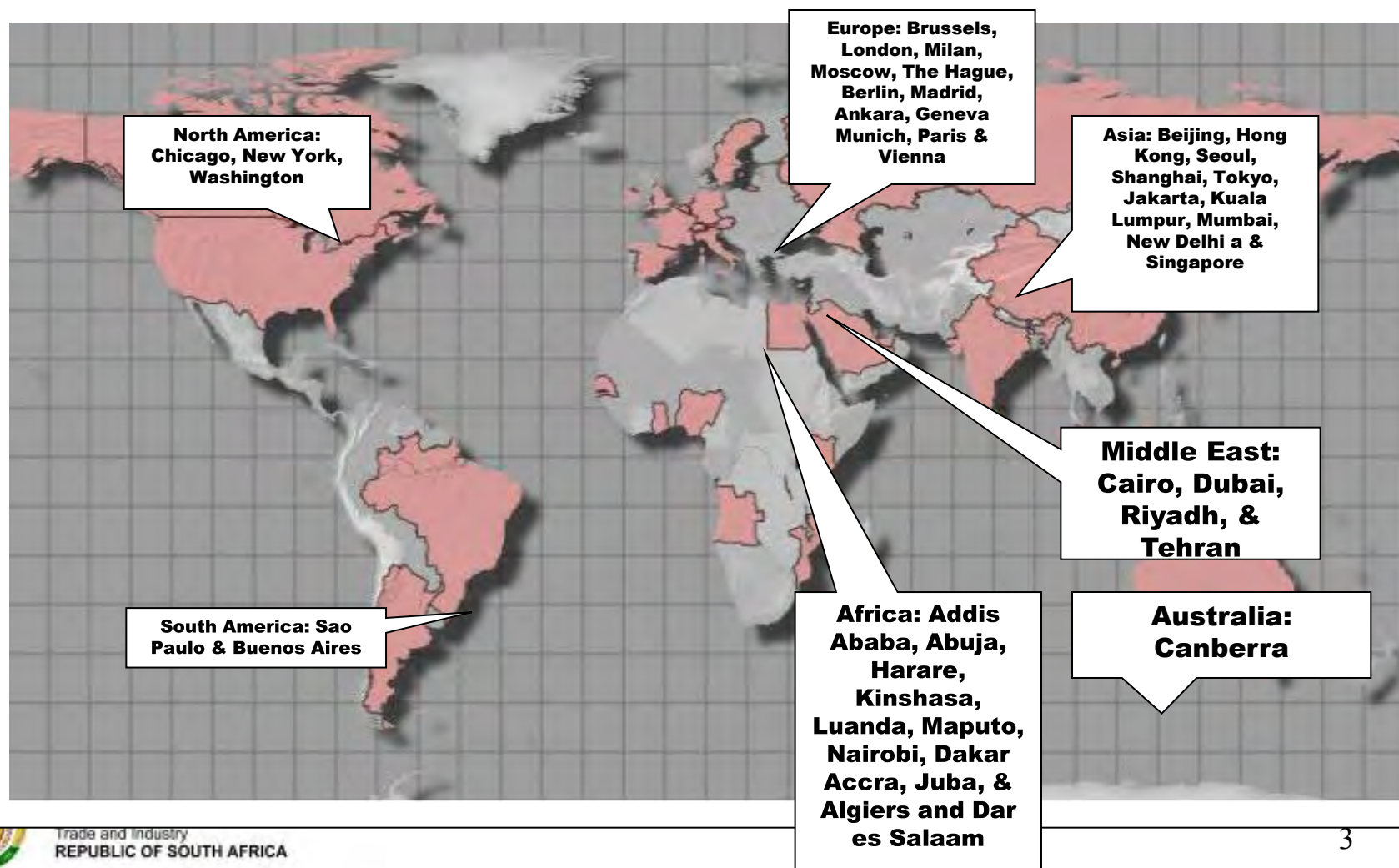
the dti

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Impact of Foreign Service Bill

- The mandate of **the dti** requires the management of a network of Foreign Economic Offices towards trade negotiations, investment and export promotion.
- It is therefore an important document to engage on to ensure an integrated and coordinated way of implementing the mandate of **the dti**.
- **The dti** has 44 foreign offices across the globe with 32 Foreign Economic Representatives and 48 Marketing Officers.
- The allocated budget over the MTEF-period amounts to R436 million.
- These offices are operating from South African Missions under the auspices of Dirco.
- Foreign Service Bill presents an important framework on how **the dti's** global footprint of Foreign Economic Offices will function going forward

South Africa's Current Global Footprint



Impact of Foreign Service Bill

- The Department has been engaging with the Bill since 2014 and has provided input into the draft Bill and the Cabinet Memorandum on the Bill.
- Inputs were provided regarding the following key issues
 - Financial implications

The definitions outlined in the Draft Foreign Service Bill imply that all staff appointed by **the dti** at a foreign mission office will be under the control and supervision of **Dirco**. It further stipulates that the Director General Dirco will be the head and Accounting Officer of the Foreign Service. This is not in line with the PFMA as it relates to the key principles of accountability and management of resources. The management and accountability of the budget can only reside with the accounting officer of the relevant National Department; hence this provision as it is currently written contradicts the PFMA.

The Bill should also be tested for consistency with regards to DPSA prescripts in this regard such as Cabinet Memorandum number 3 Of 2013



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Impact of Foreign Service Bill

– Mandate implication

No indication of mandate of National Departments and by implication no mention on leading, managing and coordination of trade negotiations at bilateral, regional and multilateral level and export and investment promotion

– Human resource implications

Management of **the dti** officials abroad in terms of mandate, performance, compliance and delegations

– Governance

The Bill is silent on the governance of financial responsibilities and this may lead to a conflict of delegations resulting in audit findings.



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Concerns regarding the Bill

- Notwithstanding the input of **the dti** into the Draft Bill and the Cabinet Memorandum the following key areas remain of concern:
 - Mandate of the dti
 - Financial Management
 - Human Resource Management
 - Governance



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Comments

Section	Comment	Impact/implication
Section 1 Definitions	Definitions are limited	The role of the accounting officer in the Bill is not clear in whether it supersedes the PFMA
Section 2 Foreign Service Section 2 (3) (a) to (g)	No indication of mandate of National Departments and by implication no mention on leading, managing and coordination of trade negotiations at bilateral, regional and multilateral level and export and investment promotion	The dti will not be able advance its mandate adequately. Inclusion in the Bill of the requirement of an MoU between National Departments and Dirco for implementation of the Bill



Comments

Section	Comment	Impact/implication
Section 3 Requirements for members of Foreign Service	No comment	In line with the dti policy
Section 4 Head of Mission	No comment	Head of Mission lead the implementation of the SA Government's mandate and policies



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Comments

Section	Comment	Impact/implication
Section 5 Recall of member of Foreign Service	Clarify role of National Department when recalling one of its officials	Add a subsection to Bill to allow HOD's of National Sending Departments discretion to recall or transfer official from their Department as guided by their key Departmental Policies
Section 6 Diplomatic Academy	Clarification is required on the training of National Department officials at the Diplomatic Academy	It is proposed that National Departments second officials to the Academy to train officials on the specialized mandate of the sending Department



Comments

Section	Comment	Impact/implication
Section 7 Establishment of coordination and other mechanisms	Ideally, coordination and other mechanisms should be demarcated by a Memorandum of Agreement between Dirco and other National Departments	Inability to deliver on the mandate of Government



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Comments

Section	Comment	Impact/implication
Section 8 Assets	It is not clear from the Bill who will be responsible for the budgeting or payment of such expenditure relating to the purchasing of assets. If the dti budgets for this expenditure, the rights of the assets will vest with the dti until those assets are formally are transferred to Dirco in terms of section 42 of the PFMA.	Clarify transfer of assets in the Bill and encapsulate this in the proposed MoU



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Section	Comment	Impact/implication
Section 9 Policies, codes and procedures	It would be in the interest of National Departments to be consulted on the content of the Foreign Service Administration Manual and the Code of Conduct for the Foreign Service	Consultation with National Departments to be added to the Bill to align their internal policies to the policies, codes and procedures prescribed by the Bill
Section 10 Delegations of power	The delegations of powers, particularly with regards to financial powers should be synchronized with National Departments to avoid audit findings	To be clarified in the MoU

Comments

Section	Comment	Impact/implication
Section 11 Offences	The Bill is silent whether prosecution according to the Bill will supersede the Vienna Convention	Conflicting interpretation of the Bill
Section 12 Regulations	Regulations should be consulted with National Departments	Encapsulated in an MOU as proposed in Section 7



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Conclusion

- The Bill is silent in general on the specifics of financial and human resources
- It should be more pronounced on roles and responsibilities of all parties



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Thank You



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