Investors Handbook

South Africa - Alive with Possibility

the dti
Department
Trade and Industry
REPUBLIC OF SOUTH AFRICA

PREFACE

The Investors Handbook outlines the country's progressive trade and investment policies that will enable investors to engage in fair, equitable global trade across all sectors of the economy. The Investors Handbook illustrates how the costs of doing business in South Africa compares favourably to other emerging world markets, for example, the country boasts the lowest electricity prices in the world, its labour costs are significantly lower than those of other key emerging markets and it has a favourable corporate tax rate.

The Investors Handbook also provides practical guidelines on how the South African government will support investors. It provides detailed information on sectors in South Africa for potential investment, as well as lists of institutions that offer finance to explore investment opportunities in South Africa. Besides the provision of information, the government has also established agencies that will facilitate your company's investment, assist you to gain access to incentives for your investment, and render ongoing contact and problem solving after your company has invested in our wonderful country.

Trade & Investment South Africa
Investment Promotion & Facilitation Division
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Map No. 3768 Rev. 5 UNITED NATIONS
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List of acronyms

ABSA	Amalgamated Banks of South Africa
ACSA	Airports Company of South Africa
AGOA	African Growth and Opportunity Act
AU	African Union
BBBEE	Broad-Based Black Economic Empowerment
BBSP	Black Business Supplier Programme
BCI	Business Confidence Index
BEE	Black Economic Empowerment
BESA	Bond Exchange of South Africa
CBPWP	Community-Based Public Works Programme
CIPRO	Companies and Intellectual Property Registration Office
CPIX	Consumer price index excluding mortgage costs
CSIR	Council for Scientific and Industrial Research
DBSA	Development Bank of Southern Africa
EU	European Union
FDI	Foreign Direct Investment
FFC	Financial and Fiscal Commission
FIG	Foreign Investment Grant
FM	Frequency Modulation
FNB	First National Bank
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GDPR	Gross Domestic Product per Region
GGP	Gross Geographical Product
GPT	General Preferential Tariff
HEI	Higher Education Institution
IDC	Industrial Development Corporation
IDZ	Industrial Development Zone
ITAC	International Trade Administration Commission
OR Tambo	OR Tambo International Airport
JSE	Johannesburg Securities Exchange
PetroSA	Petroleum, Gas and Oil Corporation of South Africa
PPP	Private Public Partnership
R&D	Research and Development
SADC	Southern African Development Community
SARB	South African Reserve Bank
SARS	South African Revenue Service
SDF	Spatial Development Framework
SDI	Spatial Development Initiative
SEDA	Small Enterprise Development Agency
SET	Science, Engineering and Technology
SETI	Science, Engineering and Technology Institution
SMMEs	Small, Medium and Micro Enterprises
TDCA	Trade Development and Co-operation Agreement
THRIP	Technology and Human Resource for Industry Programme
TISA	Trade and Investment South Africa
UAE	United Arab Emirates
UNCTAD	United Nations Conference on Trade and Development
VAT	Value-Added Tax

INVESTORS HANDBOOK

1 General Information about South Africa

1. Geography

South Africa occupies the southernmost part of the African continent, covering an area of 1,219,090 km^2. It is equivalent in size to Germany, France, Italy, Belgium and the Netherlands combined. The country shares boundaries with Namibia, Botswana and Zimbabwe, Mozambique, Swaziland and Lesotho.

The country is divided into nine provinces, Western Cape, Eastern Cape, KwaZulu-Natal, Northern Cape, Free State, North West, Gauteng, Mpumalanga and Limpopo. Each province has distinctive landscapes, vegetation and climate.

South Africa's coastline is regarded as one of the most diverse marine environments on earth. Comprising of an expansive of 3,000 kilometres, the coastline surrounds the western, southern and eastern parts of the country. The west coast is the centre of the country's fishing industry, with many of the country's harbours and ports situated in the lush eastern coastline and the scenic southern coast.

South Africa, famous for its sunshine, is a relatively dry country. The mean temperatures recorded in South Africa are moderate to temperate. The country has an average annual rainfall of 450 millimetres, compared with a world average of 860 millimetres. 65% of the country records annual rainfall of less than 500 millimetres, which is generally accepted as the minimum amount required for successful dry-land farming. 21% of the rest of the country, mainly the arid west, receives less than 200 millimetres per year.

2. Demography

South Africa's population of approximately 45 million people is made up of four racial groups - blacks, whites, coloureds and Indians. Although there are 11 official languages, English is the most spoken medium to conduct business with.

3. Economy

South Africa is the economic powerhouse of the African continent, with a GDP of R1.1 trillion - four times that of its Southern African neighbours, and comprising 25% of the entire GDP of Africa. According to the Global Competitiveness Report 2005/6, published by the World Bank, South Africa ranks 42nd out of the 115 countries surveyed in terms of its Growth Competitiveness Index (GCI). The Business Competitiveness Index (BCI) focuses on the underlying microeconomic factors, which determine economies' current sustainable levels of productivity and competitiveness. In terms of BCI rankings, South Africa is ranked 28th of 116 countries. It is one of the highest ranking developing economies and surpasses countries such as India, Hungary, Italy and the UAE. The country leads the continent in industrial output (40% of Africa's total output) and mineral production (45% of total mineral production) and generates most of Africa's electricity (over 50%).

South Africa has achieved a level of macro-economic stability not seen in the country for many years. Such advances create opportunities for real increases in expenditure on social services, and reduce the costs and risks for all investors, laying the foundation for increased investment and growth. By February 2005, the economy was stronger than at any time in the past 20 years.

South Africa's economy is managed within a stable political environment. The per capita income of R23,445 p.a. places the country into the middle-income bracket for developing countries. The economy includes a modern financial and industrial sector, supported by an established and continuously upgraded infrastructure. This modern aspect of the economy stands in contrast with a sizeable informal subsistence sector.

The financial and industrial sectors are concentrated in the Gauteng Province, accounting for almost 34% of the country's GDP. The financial services and business sector enjoyed massive growth in the 1990s, increasing its contribution from around 12% to over 20% with even further growth expected in this sector. The manufacturing sector is also growing rapidly - annually accounting for more than 20% of the GDP. The agricultural sector contributes to less than 5% of the gross domestic product, while the mining sector, which played an important role in the development of the economy, now contributes less than 10% to the gross domestic product.

The country's bustling informal economy, largely unmeasured and unregulated, has developed alongside its sophisticated industrial economy, and represents untapped potential for the country's future economic development. South Africa offers a policy of openness, which promotes Foreign Direct Investment (FDI). It is also favourable to enacting investment legislation, Industrial Development Zone legislation and making investment incentives available.

South Africa's major strengths include its physical and economic infrastructures, natural mineral and metal resources, a growing manufacturing and services sector and potential to develop a strong tourism industry. Trade and investment with other African states has increased substantially since the birth of the democratic era in 1994. Government has set itself an objective to grow the economy at an average rate of 4,5% up to 2009, and 6% and more from 2010. Inflation has declined and it is anticipated that the Reserve Bank will meet its inflation target of between 3% and 6% for consumer price inflation. The consumer inflation rate (CPIX) averaged 4.9% for the year 2005.

4. Employment

According to the latest Labour Force Survey, September 2005, employment has generally been on an upward trend. During the period from September 2001 to September 2005, employment grew by over a million. Over the period September 2004 to September 2005, as many as 658 000 additional jobs were recorded, and the number of employed persons rose to 12 301 000 – higher than it was in September 2001.

The percentage of South Africans in the working-age population with jobs rose from 39,7% in September 2004 to 41,4% in September 2005. The unemployment rate has remained stable since September 2004, largely as a result of robust employment growth. Consequently, the unemployment rate was virtually unchanged in September 2005 (26,7%) compared with 26,2% in September 2004.

5. Quality of life

South Africa offers diverse and abundant natural splendour and a year-round temperate climate. Foreign visitors and residents are able to purchase fully serviced properties at a significantly lower cost compared to similar properties in developed and developing countries.

Investors can look forward to living the kind of lifestyle comparable to cities across the world:

- Sophisticated cosmopolitan cities, e.g. Johannesburg, Pretoria, Durban and Cape Town
- Excellent living standards and medical services
- English is commonly spoken
- International schools
- World class living conditions
- Superb recreational and cultural possibilities
- Attractive international tourism destination.

6. Cost of living

South Africa represents excellent value for money. The low cost of living, the availability of first-world health care, education, sporting and recreation facilities and other modern conveniences and luxuries, make the South African lifestyle one of the most attractive in the world.

South Africa offers first-world luxury and amenities at a fraction of the cost available in other parts of the world. Johannesburg, the financial hub of the continent and the largest city in the country, is one of the cheapest places to live, especially when compared to cities like Moscow, New York, Tokyo and Sydney. People who live in Johannesburg get the best value for money in terms of food prices, transport costs, school fees, rent and house prices, alcohol and cigarettes. Besides living in a thriving metropolis, people who live in other cities like Cape Town and Durban can also look forward to a better quality of life, because of the cities' proximity to the sea.

Source: The Cost of Living Survey, 2006 by Mercer Consulting

7. Key drivers of the SA economy

Mining and minerals

South Africa is the world's biggest producer of gold and platinum. The country is one of the leading producers of base metals and coal, accounting for a significant proportion of both world production and reserves. The country's diamond industry is the fourth largest in the world, with only Botswana, Canada and Russia producing more diamonds each year.

While holding the world's largest reserves of gold, platinum-group metals and manganese ore, the country has considerable potential for the discovery of other world-class deposits in areas yet to be exhaustively explored. Its prolific mineral reserves include precious metals and minerals, energy minerals, non-ferrous metals and minerals, ferrous minerals and industrial minerals. Only two strategic minerals, crude oil and bauxite, are not available in the country.

South Africa has a high level of technical and production expertise, comprehensive research and development activities. The country also boasts world-class primary processing facilities for gold, platinum, carbon steel, stainless steel and aluminium.

Lucrative opportunities exist for downstream processing and adding value locally to iron, carbon steel, stainless steel, aluminium, platinum group metals and gold. A wide range of materials is available for jewellery, including gold, platinum, diamonds, tiger's eye, and a wide variety of other semi-precious stones.

ICT and electronics

South Africa is the 20th largest consumer of IT products and services in the world. The country is the leader of information and communication technology (ICT) development in Africa, with a telecommunications network that is 99% digital, and includes the latest in fixed-line, wireless and satellite communication.

South Africa's IT industry is characterised by technology leadership, particularly in the field of electronic banking services. South African companies are world leaders in prepayment, revenue management and fraud prevention systems, and in the manufacture of set-top boxes, all exported successfully to the rest of the world.

Several international corporations, recognised as leaders in the IT sector, operate subsidiaries from South Africa, including IBM, Unisys, Microsoft, Intel, Systems Application Protocol (SAP), Dell, Novell and Compaq. South Africa is well placed to become a favoured international location for business process outsourcing, including outsourced call centres.

Testing and piloting systems and applications are growing businesses in South Africa, with the diversity of the local market, first-world know-how in business and a developing country environment making it an ideal test lab for innovations.

South Africa's ICT products and services industry is also well positioned to penetrate an African market that is growing fast as economic and regulatory conditions improve. South African companies and South African-based subsidiaries of international companies have supplied most of the new fixed and wireless telecommunications networks that have rolled out in Africa in recent years.

Telkom, the major fixed-line operator in South Africa, is a key player in a multi-billion rand undersea fibre-optic cable project that will cater for Africa's growing telecommunications needs for the next 25 years.

The introduction of the second network operator, Neotel, will provide competition to Telkom. Neotel, which aims to reduce the cost of doing business in South Africa, will offer a variety of fixed and wireless services, including high-speed internet and broadband access, virtual private networks, network management and hosting services. The company's shareholders include a black empowerment enterprise, Nexus Connexions and the Tata Group, a leading provider of International Telecommunications.

The environment is improving still further as competitors in international telecommunications services take advantage of the liberalisation of South Africs's telecommunications sector to launch their products in the country.

South Africa's financial sector

South Africa's financial services sector, backed by a sound regulatory and legal framework, boasts dozens of domestic and foreign institutions providing a full range of services - commercial, retail and merchant banking, mortgage lending, insurance and investment.

The South African banking system is well developed and effectively regulated, comprising a central bank, a few large, financially strong banks and investment institutions, and a number of smaller banks. Investment and merchant banking is competitive. The country's "big four" banks - Absa, First National Bank, Standard Bank and Nedbank dominate the retail market.

The country's banking sector compares favourably with those of industrialised countries. Many foreign banks and investment institutions have set up operations in South Africa over the past decade. Electronic banking facilities are extensive, with a nationwide network of automatic teller machines (ATMs) and internet banking facilities available.

Amendments to exchange controls as well as financial market legislation, makes South Africa an attractive investment prospect – and brings it in line with international best practice. Some of these amendments include:

- The National Payment System Act of 1998, which confers greater powers and duties on the South African Reserve Bank to provide clearing and settlement facilities, bringing the South African financial settlement system in line with international practice on settlement systems and systematic risk management procedures
- The introduction of payment clearing house agreements and agreements pertaining to settlement, clearing and netting agreements, and rules to create certainty and reduce systemic and other risks in inter-bank settlement.

Tourism

South Africa's scenic beauty, magnificent outdoors, sunny climate, cultural diversity and reputation for delivering value for money have made it one of the world's fastest growing holiday destinations. The number of foreign tourists visiting South Africa has more than doubled since 1994, from less than three million to a record 6.7 million in 2004.

The tourism industry is one of the fastest growing in the country, contributing R93.6 billion to South Africa's gross domestic product in 2004. The country is highly diverse in terms of its climate, culture, tourist activities and infrastructure, catering for virtually every tourism niche, namely:

Adventure tourism

South Africa offers world-class climbing, surfing, diving, hiking, horseback safaris, mountain biking, river rafting and other extreme activities - supported by dedicated operators.

Conference tourism

With a combination of first-world infrastructure and a resort-like environment, South Africa is an excellent location for international conferences. According to research published by Grant Thornton in 2005, South Africa hosts around 860 international conference events annually, drawing more than 110 000 foreign MICE (meetings, incentives, conferences and exhibitions) participants.

Cultural tourism

South Africa is home to diverse cultures. Each culture has evolved its own distinctive music, art forms and traditional rituals. Since 1994, a number of world-class sites have been established to commemorate the country's past and celebrate its new unity, while the number and quality of cultural villages, community and township tours has grown substantially.

Eco-tourism

South Africa's diverse climates, varied wildlife and extraordinary biological diversity make it an unrivalled eco-tourism destination. The country has 21 national parks - including the world-famous Kruger National Park, and is leading the way in the development of trans-frontier parks. Its private game lodges have also grown considerably in the last 10 years, ranging in standard from middle to very upmarket, with luxury lodges catering almost exclusively to foreign tourists.

Paleo-tourism

South Africa boasts numerous sites of great archaeological significance. The best known of these are the Cradle of Humankind, one of the world's richest concentrations of hominid fossils; the uKhahlamba Drakensberg Park, host to the largest and most concentrated series of rock art paintings in Africa; and the Mapungubwe Cultural Landscape, site of an ancient and sophisticated African kingdom that long predated European colonisation. All three are Unesco World Heritage sites.

Sports tourism

The combination of world-class venues and supporting infrastructure, top international events, and South Africans' passion for sport make the country a top draw card for sports fans. South Africa has already hosted a number of major world cups, including the 1995 Rugby World Cup, the 2003 Cricket World Cup, and the Women's World Cup of Golf in 2005 and 2006. Now the country is gearing up for the biggest of them all: the 2010 FIFA World Cup.

Agriculture

South Africa has a dual agricultural economy, with both well-developed commercial farming and more subsistence-based production in the deep rural areas. The total gross value of South Africa's agricultural production for 2005/6 is estimated at R72 million - with farmers' income amounting to R68,6 million for the first half of 2006. According to Statistics South Africa, agriculture, forestry & fishing contributed R37.6 billion to the GDP in 2005. South Africa is not only self-sufficient in virtually all major agricultural products, but is also a net food exporter. Farming remains vitally important to the economy and development of the Southern African region. Since 1994, the government has been working to develop small-scale farming to boost job creation.

Agricultural activities range from intensive crop production and mixed farming in winter rainfall and high summer rainfall areas to cattle ranching in the bushveld and sheep farming in the arid regions. Maize is most widely grown, followed by wheat, oats, sugar cane and sunflowers.

While 13% of South Africa's land can be used for crop production, only 22% of this is high-potential arable land. The most important limiting factor is water availability. Rainfall is distributed unevenly across the country, with some areas prone to drought. Almost 50% of South Africa's water is used for agriculture, with about 1.3 million hectares under irrigation.

Exports

South Africa is one of the most diversified exporters in the world, with more than 50% of its exports going to the top export destinations, like the UK, the USA, Germany and Japan. The manufacturing sector accounts for over 65% all exports and contributes to over 17,9% of the national gross domestic product (GDP). South Africa's high-tech manufacturing sectors, for example, machinery, scientific equipment, and motor vehicles have the highest share in total manufacturing value added. Automotive and component production is one of the fastest growing industries, accounting for more than 8% of the country's exports.

Sectors of the economy that have shown the greatest growth potential and marketability are encouraged and incentivised: These include:

- Agro-processing
- Automotive and transport industries
- Chemicals, pharmaceuticals and biotechnology
- Cultural industries
- Mining and metal-based industries
- Textiles, clothing, leather and footwear
- Electro-Technical industries
- Business process outsourcing and IT enabled services
- Aerospace, rail and marine industries
- Tourism infrastructure development
- Film.

There is also tremendous potential for export in the services sector, which comprises of industries like information and communications technology (ICT), call centres, banking and telecommunications.

2010 FIFA World Cup

The awarding of the 2010 FIFA World Cup to

South Africa has provided numerous opportunities in all spheres to fast track development programmes in the country. The South African government has allocated R20 billion for capital expenditure to ensure the country is ready for 2010. Five new stadiums will be built, while five existing stadiums will be upgraded.

With as many as three million tourists expected for the 2010 World Cup, South Africa's airports have embarked on a number of multi-billion rand projects to increase their capacity and efficiency ahead of the event. The Airports Company South Africa (Acsa) has allocated R5.2 billion for infrastructure development at the OR Tambo, Cape Town and Durban international airports - R3 billion of which has been allocated to Africa's largest and busiest airport, the OR Tambo International Airport.

The Extended Public Works Programme

The South African government has launched its flagship job-creation project, the Extended Public Works Programme, which will see between R15 billion and R20 billion pumped into South Africa's economy over the next five years. The programme aims to alleviate unemployment and employ a million people by 2010.

8. Why invest in SA

The UNCTAD World Investment Report for 2004 rated South Africa as the most attractive country in Africa for transnational corporations in 2003. Foreign direct investment in telecommunications and information technology overtook mining and extraction.

Macro economic stability

South Africa has achieved a level of macroeconomic stability not seen in the country for 40 years. These advances create opportunities for real increases in expenditure on social services, and reduce the costs and risks for all investors, laying the foundation for increased investment and growth. The budget deficit decreased from 9,5% of Gross Domestic Product (GDP) (including the deficits of the former Bantustans) in 1993, to 1,5% in 2005. Total public sector debt fell from over 60% of GDP in 1994 to barely 35% of GDP in 2005. The net open forward position of the Reserve Bank improved from US$25 billion in 1994 to a positive $US17.2 billion by 2005, the highest level ever. Foreign reserves rose from two month's import cover in 2004 to three months import in 2005.

The world economy continued to enjoy robust economic growth in the first three quarters of 2005 and is likely to register real growth of almost 4% in 2005 as a whole, well above the trend growth rate. Against this background, the economic upswing in South Africa continued and completed 24 quarters of uninterrupted expansion in the third quarter of 2005. Revisions to the national accounts data, based on comprehensive information which mostly becomes available with a fairly long time lag, resulted in the growth rate of real gross domestic product for 2005. For 2005 the preliminary figure is 4,9%.

Market Opportunity

South Africa is internationally renowned for its abundance of mineral resources, which

Mineral	Unit	Reserves	World Rank	Production	World Rank
Chromium	Million tons	5500	1	6.662	1
Vanadium	Thousand tons	1200	1	18	1
Platinum					
Group metals	Million tons	62,816	1	207	1
Manganese	Million tons	4000	1	3.635	1
Titanium	Million tons	146	2	1.057	2
Zinc	Thousand tons	15,000	5	63	18

accounts for a significant portion of both world production and reserves. Some of the more important minerals include:

South Africa is part of the South African Development Community (SADC) and will form a common market in the near future, which will consist of fourteen member states with a combined population of 180 million.

Infrastructure

South Africa has one of the best infrastructure and service industries among developing nations, particularly in roads, telecommunication, harbours, banking systems, insurance and shipping. With its 3,000 kilometres of coastline and seven commercial ports, South Africa has by far the largest and best equipped network of ports in Africa and is able to function as a hub for commercial traffic emanating from and destined for Europe, Asia, the Americas as well as the east and west coasts of Africa. With the biggest rail service, the largest airline and the most developed road infrastructure in Africa, South Africa is also regarded as the gateway of the continent.

Social spending

Since 1994, the South African government has injected an estimated R2.5 billion a month into the budgets of poor households through social grants, providing social security to over seven million South Africans - a number that is growing as the drive to register eligible recipients gains momentum.

The health sector has also been radically transformed to give more access to the poor, improve quality and make the system more cost effective. Free health services are now offered at public primary health care institutions and community health care clinics.

Sources: www.thedti.gov.za; wwwsouthafrica.info; www.gcis.gov.za

South Africa

- Is a vigorous multi-party democracy with an independent judiciary and a free and diverse press
- Is proud to have the world's newest – and most progressive – Constitution, which protects both citizens and visitors
- Is ranked in the top seven best-performing economies in the world
- Boasts a 20% increase in real wages and productivity since 1994, which has brought about an increase in the competitiveness of local business and better living standards to millions
- Has the 26th highest GDP in the world - US$126 billion, of which total sales of manufactured goods was $448 billion
- Is the economic powerhouse on the African continent, with a GDP four times that of its southern African neighbours and comprising 25% of the entire GDP of Africa
- Boasts a healthy manufacturing output, and the sector is expected to be bigger in 2007 than it was in 1995
- Has a healthy rate of foreign investment, which is expected to continue to grow around 6% a year from 2003 to 2006
- Offers liberal repatriation of profits
- Has a financial services sector, which is backed by a sound regulatory and legal framework. The country has 55 locally- controlled banks, five mutual banks, 12 foreign-controlled banks, nine branches and 60 representative offices of foreign banks
- Is involved in a vigorous programme to privatise government enterprises
- Offers the lowest industrial electricity rates in the world
- Rates among the best performers in corporate governance in emerging markets, according to a report by the Institute of International Finance (IIF)
- Offers an abundant labour supply with an economically active population of approximately 15-million
- Has labour legislation among the most progressive in the world, providing for nine institutions to settle disputes, ensure fairness in the workplace, and nurture sound, co-operative industrial relations
- Has the largest and most disciplined trade union movement on the continent
- Is the world's biggest producer of gold and platinum and a leading producer of base metals and coal
- Has developed leading technologies particularly in the fields of energy and fuels, steel production, telecommunications, deep- level mining, telecommunications and information technology
- Boasts the largest and most developed telecommunications network in Africa, including the latest fixed-line, wireless, satellite and cellular technology
- Has over 14 million mobile phone and almost five million fixed-line subscribers
- Is a key driver of the New Partnership for Africa's Development (NEPAD), a blueprint for Africa that tackles issues such as peace, security, and good economic, political and corporate governance
- Is ideally positioned for easy access to the countries of the Southern African Customs Union (SACU) and the Southern African Development Community (SADC), which consists of 14 countries with a total population of 180 million
- Serves as a trans-shipment point between the emerging markets of Central and South America and the newly industrialised nations of South and Far East Asia
- Offers good medical facilities; and
- Offers high quality residential housing at reasonable cost.

Source: International Marketing Council of South Africa

Each of the country's nine provinces offer specific investment sector opportunities listed below:

GAUTENG Aluminium Products Automotive Components Beer & Malt Carbonated Drinks Food Processing Integrated Solutions Pharmaceuticals Telecommunications Equipment	**MPUMALANGA** Agro-forestry Wood, Wood Products & Furniture Catalytic Converters Food Processing Horticulture Pipes & Tubes Plastics Products Solvents	**FREE STATE** Ecotourism Downstream Petrochemicals Farm Equipment & Machinery Hotels, Resorts, & Casinos Leather Tanning & Finishing Pharmaceuticals R&D
EASTERN CAPE Aquaculture Automotive Components Pharmaceuticals (Generic & High Volume) Mohair Apparel Sanitary-ware	**KWAZULU NATAL** Aluminium Conversion Automotive Components Chemicals Conversion Engineering & Metal Works Wood & Wood Products	**NORTHERN CAPE** Aquaculture Beta Carotene Tourism: Historical & Cultural Tourism: Hotels & Resorts Tourism: Game Lodges/Eco-tourism
WESTERN CAPE Conference Tourism Eco-tourism Film Production Ship Repair & Containerisation Precision Engineering Boat-building	**NORTHWEST** Dimension Stone Leather Tanning & Finishing Meat Products	**LIMPOPO** Tourism: Game Lodges & Nature Reserves Granite Mining, Cutting & Polishing Hotels & Resorts Sub-tropical fruits Vegetable Processing

Sector Information

The potential of the South African economy is evident in the diverse sectors and industries that exist in the country. These include:

- Agro-processing
- Automotive and transport industries
- Chemicals, pharmaceuticals and biotechnology
- Information communication technology and electronics
- Mining and metal based industries
- Marine, aerospace and railroad transport
- Textiles, clothing, leather and footwear
- Tourism

Agro-processing

Agriculture contributes less than 4% to the GDP, but accounts for 10% of the total reported employment. The sector is increasingly export oriented with about one-third of total production exported. The conditions for agricultural production are not favourable in most regions (with the notable exception being the winter rain area in Western Cape) due to poor land quality, highly variable climatic conditions and a scarcity of water.

South African agriculture is of a highly dualistic nature, where a developed commercial sector co-exists with large numbers of subsistence (communal) farms. Agriculture is well diversified with field crops, livestock and horticulture being the main sectors. However, there can be large annual fluctuations in output due to weather conditions. Fruit production has seen the most dynamic development in the past ten years with a large share of total output exported mainly to Europe.

The three main sectors of agricultural production in South Africa are field crop production (33% of total agricultural output in 2001-03), livestock production (40%) and horticulture (27%). [1]

Export Item	South Africa's world rank
Avocados	1st
Clementines	1st
Ostrich products	1st
Grapefruit	2nd
Table grapes	3rd
Plums	3rd
Pears	5th

South Africa has a diversity of climates, ranging from semi-arid and dry to subtropical. As a result, a diversity of crops, livestock and fish are to be found. In certain industries, South Africa is one of the top exporters in the world today.

The regional distribution of major items include:

- Field crops - found in the Northern and Northwestern parts of the country. Maize is the major field crop. Others include wheat, sugar, barley, soya, canola, sunflower, groundnuts and cotton
- Deciduous fruit - found in the Western and Eastern Cape. Citrus is found in the northern part of the country, and from the southern coastal areas up to the east coast province of Kwa-Zulu Natal
- Wine - the Western Cape is the primary wine producing area
- Cut flowers - found in the Western Cape and Gauteng province. The Western Cape boasts a host of indigenous flora and fauna. South Africa's national flower, the protea, hails from this region. The major cut flowers grown in Gauteng are roses, dendranthemas and carnations
- Livestock - almost two-thirds of South Africa's land is suitable for natural grazing, and supports cattle, sheep, goats, donkeys and wildlife. Milk is the fourth largest agricultural industry in value terms
- Fish and other catch - the country boasts a wide range of fish, including hake, sole, monk, pilchards, mackerel, tuna and yellowtail. Amongst the crustaceans, there are rock lobsters, prawns and abalone. Squid are also found.

1. *South Africa: Highlights and Policy Recommendations, OECD Review of Agricultural Policies, 2006*

- Aquaculture and mariculture - these emerging sectors produce rainbow trout, tilapia, African catfish, abalone and marine finfish.

The automotive industry

The broader automotive industry is the third-largest and most expanding sector in the South African economy, contributing 7,4% to the country's gross domestic product (GDP) in 2005. Primarily owing to the booming economy, Government's Motor Industry Development Programme (MIDP) and the general improvement in the standard of living for many South Africans, new vehicle sales have experienced a year-on-year increase for the last few years, which is most noticeable in that the volume of new vehicle sales increased by 25,7% between 2004 and 2005. In fact, according to statistics available from the National Association of Automobile Manufacturers of South Africa (Naamsa), South Africa was the best performing market internationally in 2005, which achieved an all time record of 617 000 new vehicle sales.

Car rental businesses, which have been boosted by higher levels of economic activity and tourism, are also likely to remain strong. Importantly, domestic new vehicle production will receive a substantial boost from higher domestic sales, particularly from the projected significant increase in industry vehicle exports. Industry output should rise to over 610 000 vehicles, compared to 530 000 units produced in 2005. Despite the challenges of global production, over capacity and the strong rand, the aggregate of new vehicle exports should reach over 200 000 units for 2006, an improvement of about 57 000 vehicles, or close on 40% on the 143 400 vehicles exported in 2004. Key factors for future market expansion impacting positively on vehicle ownership include the following:

- Tax concessions, which should assist the financial position of consumers and boost household consumption expenditure
- Wide range of innovative financial schemes available to vehicle purchasers
- Likelihood of price reductions and concessions resulting from world-wide overcapacity problems
- Increase in sophisticated customers who demand options and a variety of vehicles
- Large amounts of unmet demand from lower income consumers. Persons per vehicle in South Africa is 6,9 to I indicating the potential for higher car ownership levels
- Disciplined macro economic and fiscal policies resulting in a stable macro economic environment
- Improved consumer and business confidence
- Strengthening of the Rand, which would assist in slowing projected new vehicle prices
- An undervalued currency, which could enable likely economic future growth well in excess of 3% as the international situation improves.

Medium and heavy commercial vehicles are regarded as productive assets and major cost drivers to the entire economy and therefore the level of protection on these vehicles has been set at 20% ad valorem, which is much lower than the level on light commercial and passenger vehicles. Ten assemblers and a number of importers compete in this segment of the market. Assembly operations are limited and characterised by the duty free importation of all the driveline components, which include the engines, transmissions, drive-axles and gearboxes. Tyres, which are manufactured domestically, are excluded and attract a 15% import duty.

Chemicals

According to Statistics South Africa, sales volumes in 2004 amounted to 20% of the manufacturing sector at about R156 billion, and the sector employed around 177 000 people nationwide in 2003, and accounted for 4.5% of Gross Domestic Product in the same year. It invests around R2 billion annually in upgrades, with less than 1% of sales being spent on research and development. Around 60% of upstream chemicals are consumed within the chemical pipeline as feedstock. Products of the chemical sector are also the basis for almost every manufacturing activity in South Africa.

Chemical production in other Southern African Development Community (SADC) countries is focused on the downstream formulation of products such as consumer cleaning products and cosmetics, as well as plastic conversion. Total chemical production in the SADC region amounted to an estimated 40.4 million metric tons worth US $15.2 billion in 2000. South Africa is the major producing country, accounting for an estimated 87% of the total SADC output.

South African exports of chemicals products have been in the region from R15.7 billion to R19.7 billion per year for three years (2002 to 2004), while, during the same period, imports have ranged from R26 billion to R30.5 billion. Trade balance has always been deeply negative, ranging from R10 billion to R12.8 billion per annum. During the same 3-year period, exports under plastics, rubber and articles thereof varied between R5.1 billion and R5.7 billion, while imports have been ranging from R10.1 billion to R11.5 billion per annum; trade balance ranged from nearly R5 billion to R6.2 billion.

Major markets for South Africa exports in priority sub-sectors are as follows:

- Inorganic chemicals: USA, India, UK and Japan
- Bulk formulated chemicals: Netherlands, Zimbabwe, Malawi and India
- Consumer formulated chemicals: UK, Angola, Mozambique and DRC
- Plastic conversion: UK, USA, Nigeria and Zimbabwe.

Electronics, information technology and communications

Growing at a rate of 50% per annum and the fourth fastest growing cellphone market in the world, the South African GSM cellphone market has three operators: Vodacom, MTN and Cell-C.

With approximately 5.5 million installed fixed-line telephones, South Africa is ranked 23rd in telecommunications development in the world and represents more than 30% of the total lines installed in Africa. South Africa's transmission network of 156 million circuit-kilometres constitutes the backbone of all telecommunications services. Telkom, the major fixed-line operator in South Africa, is a key player in a US $630 million optical fibre undersea cable project that will cater for Africa's growing telecommunications needs for the next 25 years. Almost 40 nations and several international telecommunications operators have joined Telkom in the SAT-3/WASC/SAFE initiative, which will link African nations with Asia and Europe. The cable will be capable of transmitting 80 gigabytes per second between two points.

Electronics industry revenues in South Africa exceeded R57 billion in 2002 and continue to grow at levels well above the GDP growth rate. With improved economic and regulatory conditions, and high levels of growth and activity in the African telecommunications market, South African companies are ideally situated to supply the growing demand for fixed and wireless telecommunications equipment to the rest of the continent.

An established, highly competitive consumer electronics market producing high value-added electronic products has also played an important role, with South African exports rapidly growing beyond R4 billion per annum. South African companies are world leaders in pre-payment, revenue management, and fraud prevention systems, and in the manufacture of set-top boxes, all exported successfully to the rest of the world. Other consumer products, such as small appliances, are rapidly growing exports to the EU.

The Gauteng province is responsible for approximately 60% of all revenues generated in the ICT sector, the Western Cape for approximately 20% of revenues. The remainder is generated by activities in other areas, with a significant hub in Durban, KwaZulu Natal.

Metal-based industries

Iron and steel

The primary steel industry is a significant contributor to the South African economy and earns considerable amounts of valuable foreign exchange.

South Africa ranks in the region of 20th in terms of crude steel producing countries in the world producing in the region of 1% of the world's crude steel. South Africa is also the largest steel producer in Africa, producing more than half of the total crude steel production of the continent. Total South African crude steel production is in the region of 10 million tons per year.

South African primary steel producers manufacture close to eight million ton of finished steel products per year, of which about 4,5 million ton is consumed domestically. South Africa exports about 45% of its finished steel production. Imports account for about 7% of locally consumed primary steel.

The range of primary carbon steel products and semi-finished products manufactured in South Africa includes billets, blooms, slabs, forgings, light-, medium- and heavy sections and bars, reinforcing bars, railway track material, wire rods, seamless tubes, plates, hot- and cold-rolled coils and sheets, electrolytic galvanised coils and sheets, tinplates and pre-painted coils and sheets. The range of primary stainless steel products and semi-finished products manufactured in South Africa includes slabs, plates and hotand cold-rolled coils and sheets.

Approximately 40 million metric tons of iron ore is mined per annum in South Africa, of which about 15 million metric tons are consumed locally and 25 million metric tons are exported.

Capital equipment

The industry supplies machinery, equipment and services to the mining, building and construction, processing agriculture and utilities, and exports over R16 billion per annum. It is expected to grow rapidly as South African exporters supply more to international projects, especially in the mining, processing and agricultural sectors. Europe (36%), SADC (26%), North America (12%), and the Pacific Rim (10%) are the biggest export markets for South African capital equipment.

Non-Ferrous metals

South Africa's non-ferrous metal industries comprise aluminium and other metals, including copper, brass, lead, zinc and tin. South Africa is ranked 8th in world production of aluminium. The aluminium industry consists of primary and secondary rolled products and extruded products. South Africa produces approximately 677 kilotons of primary aluminium per year – of which 512 kilotons are exported.

Aluminium is locally converted into a semi-fabricated product, including rolled products (37%); castings (21%); extrusions (15%); deoxidants (7%); automotive alloy feedstock (8%); redraw rod (6%); powder and paste (3%); direct cast (3%); and, miscellaneous (3%). Non-ferrous metals sales are estimated at R3 billion per annum, excluding aluminium but including primary copper, primary zinc and the secondary copper, zinc, tin and lead industries.

Stainless steel

South Africa produces 500 000 tons of stainless steel per annum. Only 150 000 tons are converted locally into value-added products, with the balance being exported to 50 countries worldwide. The catalytic converter industry is the highest single consumer of stainless steel in South Africa, with expectations of doubling its present capacity to 20% of the world market.

Jewellery

Approximately 20% or US $35 million of South Africa's finished jewellery is exported. The export basket includes precious metal jewellery, rough diamonds, unwrought gold, silver and platinum. The jewellery industry, including gold, platinum and silver, employs approximately 4,500 people while the diamond industry employs approximately 2,500. Currently there are 150 registered jewellery and goldsmith apprentices in South Africa.

Marine, Aerospace and Railroad

Transport sector

The marine industry consists of the boat, shipbuilding and the ship and boat repair sectors. The turnover of the boat building industry is around R500 million, of which 85% of production is exported to the USA and Caribbean. South African exports of rowing boats, canoes and other pleasure boats are 5th in world rankings. South Africa is ranked 12th in world exports for sailboats and 13th in the export of inflatable boats.

The aerospace industry
South Africa was the third largest exporter of microlight aircraft in 2005, representing 11% of world exports for this product. South African rankings in world exports of rotary type aircraft engines and aircraft seats were respectively 12th and 10th.

Railway equipment
The rail industry in South Africa developed in tandem with the mining industry. Today it is more diversified, serving domestic as well as export demand. The primary market focus of the industry is its two most important domestic clients, Spoornet (the national rail service provider) and South African mining companies. The capability of the industry is quite comprehensive:

- Industry stakeholders have the capability to plan and scope railway projects and to manufacture rolling stock, signalling and other rail-related equipment
- Spoornet has world-class capabilities in the operation of long-haul rail systems and has developed several world-class technologies
- Local railway stock has a very high local content because of the availability of steel and the necessary engineering skills to manufacture these products
- Estimates suggest that 100 local companies are involved in the industry
- South Africa is a major contender in railway projects and maintenance contracts, particularly in Africa (The sector is also a source for scoping, designing, planning and rolling out railway projects.)
- Railway engineering skills and experience are available to replicate the rail systems implemented in South Africa elsewhere in Africa. The industry is capable of maintaining networks needed to support infrastructure projects across the continent. It also has access to necessary raw materials and capable manufacturers to supply the required railway components and services.

Textiles, clothing and footwear

South Africa has entered into preferential agreements with the US, EU and sub-Saharan countries to increase its competitive advantages of its textile, clothing and footwear sector.

The textile industry comprises 350 mills, producing 560 million square metres of fabric made from locally grown cotton, locally produced polyester fibre and imported fibres. The fabric is valued at R12 billion and the apparel produced from it amounts to 191 million units valued at R11 billion. Exports account for R1,4 billion for apparel and R2,5 billion for textiles, mostly to the US and European markets. Mens wear, ladies wear and childrens wear are produced mainly in the Western Cape, Kwa-Zulu Natal, Gauteng and Eastern Cape provinces.

Although the South African textile and apparel industry is small, it has impressive successes in world markets. Sans Fibres, a local yarn manufacturer, supplies 80% of the sewing thread used in the world's apparel sewing operations; Gelvenor

Textiles, a local fabric mill, supplies more than 50% of the world' s demand for parachute fabrics; and, local suit manufacturer House of Monatic has delivered its one millionth suit to the UK market.

The domestic footwear industry consists of 112 manufacturers under the umbrella of the Southern African Footwear and Leather Industries Association (SAFLIA) and the National Bargaining Council, in addition to at least 60 other SMMEs. The footwear manufacturing industry in South Africa operates countrywide with factories in the major cities and surrounding areas. The KwaZulu Natal area produces approximately 60% of the footwear made in South Africa. The next largest producing area is the Western Cape followed by the Eastern Cape and Gauteng. There are approximately 120 footwear factories in the country employing between 10 000 and 12 000 workers.

South Africa produces mainly fashion footwear and leisure and sports footwear, as well as industrial footwear, such as safety boots. Mens, women and childrens footwear are also made in South Africa, from both leather and synthetic materials. Of the footwear produced 56% have leather uppers. The total annual manufacturing sales of South African footwear are approximately R2 billion. South Africa exports 1,5 million pairs of footwear per annum. The majority of footwear is manufactured using stitch down and injected moulding processes.

Tourism

In 1950, international foreign tourist arrivals, a key indicator of tourism growth, were an estimated 25 million. By 2004, they had reached 760 million and it is predicted to grow to 1,56 billion in 2020. The strong growth of the tourism sector over the past 50 years, is in part, a result of economic globalisation, including innovations in transport and information and communication technologies, which have made travel cheaper and more accessible. Other factors leading to tourism's exponential growth include increasing leisure time and disposable income in the leading tourist-generating markets of Northern America, Western Europe and Japan.

It is estimated that there will be 77.3 million international arrivals to Africa in 2020, this represents an annual growth rate of 5,5% over the period 1995 to 2020. Africa's overall share will increase to 5% of total by 2020. As economic development in Africa increases, South Africa can expect to benefit from an associated increase in tourist arrivals (be it for business, leisure, education or medial reasons).

The great majority of international arrivals to South Africa originate from other African countries, particularly SADC countries. These arrivals are less vulnerable to the global events and perceptions and are largely motivated by cross border trade. Between January 2006 and April 2006, there were 2 million arrivals from Africa alone. This reflected a growth of 22.1% compared to the same period in 2005.

In terms of overseas markets, the United Kingdom, Germany, United States, France and Netherlands are the most important tourist source markets for South Africa.

South African Tourism aims to increase the total number of tourists to South Africa, and within that attract a larger portion of 'leisure' travellers. Currently, compared against key competitors, South Africa attracts the least leisure travellers as a percentage of total travellers. South African Tourism's marketing strategy identifies a core portfolio of countries for targeting based on their relative attractiveness as source markets, and relative importance to South Africa.

2 Residing and working in South Africa

9. Entry and residence of foreign investors

To achieve this, a new system of immigration control has been put in place to ensure that temporary and permanent residence permits are issued as expeditiously as possible. Under the Immigration Amendment Act (Number 19 of 2004), and the new Immigration Regulations, both of which came into effect by Proclamation on 1 July 2005, immigration procedures have been simplified, making requirements for entry and residence objective, predictable and reasonable.

South Africa's immigration legislation and regulation is very much in line with international immigration principles of immigration.

The applicable legislation is the Immigration Act number 13 of 2002, which came into operation on 7 April 2003 together with regulations, both of which have been amended from time to time.

Work permits are generally skills driven and remain a major tool for bridging skills shortages and where the South African government has identified national critical skills. An expedited process to import those skills will take place.

One of the underlying principles of this type of immigration system is that of supply and demand. A prospective employer must attempt to employ a South African citizen or resident first. The position should be advertised in the national printed media. If a suitable candidate cannot be found the position can be offered to a foreign national.

An innovative work permit, called the **Quota Work Permit,** has been designed to facilitate the employment of highly skilled foreign nationals. The Minister of Home Affairs, in consultation with the Ministries of Labour and Education, publishes a national critical skills list on an annual basis. This list defines specific professional categories and skills sets and couples them to a numerical quota. If an individual falls into one of the categories, then a prospective employer would not have to advertise the position.

Persons who have unique skills with high qualifications may also qualify in the **Exceptional Skills Work Permit** category. In this category, an individual would not only have to prove the nature of his or her exceptional skills, but also how it would be to the advantage of the South African economy. Testimonials and publications by the incumbent could also be used to support the application for this type of work permit.

The **General Work Permit** category remains available to all other types of applicants. Advertisements in the national printed media is an integral part of this type of application as one element of proof of the efforts made by the prospective employer to secure the services of a South African citizen or resident.

A very important category of work permit is that of the **Intra Company Transfer Work Permit**, which enables multi national companies to transfer senior or key members of personnel, posted elsewhere, to their South African offices for a limited period. Currently such deployments are limited to two years, but this is set to change in 2007 to a period of four years when the Immigration Amendment Act of 2006 comes into operation.

Investing in South Africa in terms of the Immigration Act takes place by way of having to qualify for a **Business Permit**. This category of permit was previously, and more appropriately, known as the "own business/self employment" permit, which was more descriptive.

The backbone of this category would be to either start up a new business in South Africa or purchase an existing business or part thereof.

In either instance an applicant would have to demonstrate that it has undertaken a feasibility and viability study, which would have to be demonstrated in a form of a substantive Business Plan.

Further elements that would have to be shown in order to qualify for a business permit would be the following:

- Adequacy of the capitalisation requirements, currently R2.5 million;
- An undertaking to employ at least five South African citizens or residents into the business or intended business;
- An undertaking to register with the South African Revenue Service.

Trade and Investment South Africa (TISA), a division of the Department of Trade and Industry, makes recommendations to the Department of Home Affairs for certain key industries, as well as for investments under R2.5 million. These recommendations are done in conjunction with the various provincial investment promotion agencies.

TISA provides a comprehensive facilitation service for investors who have to comply with the various elements of the Immigration Act. Alternatively investors may also approach specialist immigration attorneys and practitioners.

Source: www.immigration.org.za

10. Foreign exchange control

There are no restrictions on foreign firms wishing to invest in share capital. Exchange control in South Africa is administered by the South African Reserve Bank's (SARB) Exchange Control Department and through commercial banks that have been designated as "authorised dealers" in foreign exchange.

Investors are advised to ensure that the share certificates are endorsed "non-resident" by an authorised dealer in order to return disposal proceeds and dividends to their country of origin. A record of funds introduced into South Africa should be kept. For every purchase of exchange, irrespective of the amount involved, authorised dealers are required to report to the South African Reserve Bank details of payments received from foreign partners by South African residents.

There are also no controls over the removal by non-residents of investment income or capital gains. However, repayment of foreign loans by South African residents requires prior approval. Dividends may not be paid to non-residents without the approval of the South African Reserve Bank. Dividends paid pursuant to deregistration or liquidation due to non-resident are transferable against documentation confirming this.

All loans from outside the Common Monetary Area to South African residents require prior Exchange Control approval. Approval is normally granted provided the minimum tenure of the loan is for a period of at least one month and a market-related interest rate is charged, i.e. up to prime plus 3% for South African denominated loans and up to prime plus 2% for foreign denominated loans which are not shareholder-related funds, with shareholder's funds restricted to prime.

A South African company that is 75% or more foreign owned is restricted in the amount that it may borrow or access from South African lenders, and is known as an "affected company". The borrowing or facility limit, known as local financial assistance, is based on a pre-set formula.

For companies that are 100% foreign owned, the local financial assistance limit is 100% of the effective capital of the South African company. Effective capital includes paid-up equity capital, preferential shares, undistributed earned profit; shareholders' loans from abroad and, in certain instances, the hard core shareholders' trade credit.

The percentage of effective capital that may be borrowed is:

$$\frac{100\% + (\%\ \text{South African interest})}{(\%\ \text{Non-resident interest})} \times \frac{100\%}{1}$$

The South African Reserve Bank will not permit the remittance of profits or repayment of loans where, as a result of the remittance, the local financial assistance limit will be exceeded, and will require local financial assistance to be reduced before remittance.

For every sale of exchange, irrespective of the amount involved, authorised dealers are required to report to the South African Reserve Bank details of payments made to foreign parties by South African residents.

Royalties, license and patent fees to non-residents, where no local manufacturing is involved, require the approval of the South African Reserve Bank (SARB). Manufacturing royalties (as opposed to sales/marketing royalties) are subject to approval by the Department of Trade and Industry, which will communicate its decision to the licensee or the Exchange Control Department where applicable. This will enable the licensee to approach the bank directly to transfer the royalty payments. Current account payments, e.g. management fees and other fees for services provided, may be paid by authorised dealers on presentation of an invoice, provided that such payments are not calculated as a percentage of sales, profits, purchases or income.

Source: www.reservebank.co.za

11. Business entities and registration

The most common business entities in South Africa are:

- Companies

- Close corporations
- Partnerships and sole traders
- Joint ventures
- Local branch of a foreign company
- Business trusts

Companies (private and public)

These entities may be public (limited) or private (proprietary limited), and are the most common investment vehicles for foreign investors operating in South Africa. They exist as separate legal entities from their shareholders and/or members. No distinction is made in the Companies Act between companies that are locally owned and those that are foreign owned and, once formed, a company has an unlimited lifespan. Both public and private companies must be incorporated and registered with the Registrar of Companies.

Companies incorporated in South Africa must have a registered office and maintain certain statutory and accounting records in South Africa. If the accounting records are maintained outside of the Republic, the company must receive financial information and returns that will enable the statutory financial statements to be prepared. Approval of the name of the company must be obtained from the Registrar of Companies before incorporation.

Public companies may offer their shares for sale to the public, although they need not be listed on the stock exchange or the public to hold an interest in their shares. The number of shareholders is unlimited, there are no restrictions on the transfer of their shares, and they must file a copy of their annual financial statements with the Registrar of Companies, which are available for public inspection.

Private companies, on the other hand, may not offer their shares for sale to the public. The right of transfer of their shares is restricted and the number of members is limited to 50. Private companies are not required to file their annual financial statements with the Registrar of Companies; thus, they are not available to the general public. They must include the word "Proprietary" or (Pty) at the end of the registered name immediately before the word "Limited" or "Ltd". For both types of companies, an audit by a registered accountant and auditor is obligatory.

The Companies Amendment Act, 1999 (Act 37 of 1999) makes provision for:

- A company to acquire its own shares under certain circumstances, thereby providing a mechanism to restructure the company's capital and unlock shareholder value;
- Disclosure of beneficial interest in securities to enable companies to ascertain who its shareholders are; and
- The mandatory appointment of a company secretary for all public companies, excluding a share block company.

In order for the company to buy back its own shares, the following conditions must be met:

- The company's articles of association must permit share buy backs
- Shareholders must be circularised regarding the proposed buy back, and a

special resolution must be passed by the shareholders authorising the buy-back
- The company should be solvent and liquid (otherwise the directors will be jointly and severally responsible); and following the buyback, the company's share capital should not consist wholly of redeemable shares.

Registration requirements

All required registration forms may be purchased from a stationer dealing in statutory forms for approximately R100.

To reserve a name, a CM5 application form (duplicate copies are no longer required), stamped with R50 in revenue stamps, must be submitted to the Registrar's office. In order to save time and costs, it is recommended that three to four alternative names be furnished in order of preference. A preliminary search can be done on the Companies and Intellectual Property Registration Office of South Africa (CIPRO) website.

Following approval, the name will be reserved for a period of two months. Within this period, the documents for incorporation should be submitted. An extension of one month may be granted with the submission of the CM6 form, stamped R20 in revenue stamps. The Registrar must receive the application for extension before the end of the first two-month period.

Legal and other professional fees relating to the registration of a company depend on the complexity of the individual application. For ordinary applications, without complications, legal costs start at about R4 500.

Standard versions of a memorandum and articles of association are included in the Companies Act. A company may choose to submit its own version. However, this may slow down the approval process, as they would require close examination by the Registrar's office.

All companies must have an independent auditor to produce annual financial statements. At the time of incorporation, the auditor is required to sign an acceptance of the office.

Registration applications must be submitted by hand to the Office of the Registrar in Pretoria. If no errors or omissions are made, the application will be processed in three (3) to five (5) business days. A complete application includes:

- Copy of an approved CM5
- Power of attorney (if an attorney is used or if more than one subscriber exists)
- CM22 (notice of postal address and registered office address), in duplicate
- Memorandum and articles of association, in duplicate (one copy bound in book form and certified by a notary public)
- CM1 certificate of incorporation
- CM2 (first page of memorandum of association), stamped with a minimum registration fee of R350, plus R5 per R1 000 of share capital or part thereof and/or R5 per 1 000 shares if no-par-value shares
- CM44 (signature page for subscribers)
- CM46 (certificate to commence business), stamped R60
- CM47 for each director

- CM29 (return of register of directors)
- CM27 (notice of company secretary), if a public company; and
- CM31 (notice of appointment of auditor) in duplicate.

Close corporations

A close corporation does not have directors, as its business is being conducted by the members who must be natural persons (i.e. individuals). Another company, close corporation or trust cannot, therefore, own a close corporation. In a close corporation, the members have the rights and obligations of both shareholders and directors, and consequently, ownership and management of the corporation are not separated.

Close corporations may have up to 10 members. In general, few formal requirements are imposed on close corporations.

The capital of close corporations is called a "contribution". A close corporation is not subject to the stringent capital maintenance rules applicable to share capital in companies. The interest of a member of a close corporation is represented by a percentage, which is established on registration of the founding statement, and which may be changed by the registration of an amended founding statement.

Members of a close corporation enjoy limited liability, which may be lost if they violate certain provisions of the Close Corporations Act. The Companies Act and the Close Corporations Act both allow the conversion of a company to a close corporation and the reverse. They also provide that the legal entity continues after the conversion.

Reporting requirements for close corporations are not as onerous as those for companies. A statutory audit is not required; however, the close corporation must have an accounting officer who must report that the annual financial statements are in agreement with the accounting records.

Registration requirements

Close corporations are required to register with the Registrar of Close Corporations. The reservation of a name is similar to that of a company. No auditors are required for the registration of Close Corporations and lawyers are not necessary. The corporation will need to appoint an accounting officer.

Due to the great number of applications received by the Registrar's office - up to 650 daily - approval takes five (5) business days. Applications may be submitted either by mail or by hand and should include the founding statement application, the CK1 form in duplicate and an approved CK7 form, and an original letter of consent from the accounting officer.

Partnerships and sole traders

Partnerships and sole traders are subject to few statutory requirements, but the partners and the traders generally do not have the protection of limited liability. However, in a partnership in which not all the names of the partners are disclosed, the undisclosed partners may limit their liability to third parties to the amount of their contribution to the partnership.

Under the Companies Act, any unincorporated company, association or partnership may not consist of more than 20 persons, except in the case of certain professional partnerships, where there is no limitation on the number of partners. Registration is not required and there are no statutory reporting requirements, except that for tax purposes financial statements must be produced in sufficient detail to enable tax assessments to be made by the South African Revenue Service.

Joint ventures

A joint venture is a contractual relationship between two or more enterprises engaged in a trade or business that does not qualify as a partnership.

Local branch of a foreign company

With the exception of banking and insurance companies, any foreign company may establish a place of business and carry on its activities in South Africa without forming a separate locally incorporated company. The establishment of a branch requires registration with the Registrar as an "external company" under Section 32 of the Companies Act within twenty-one (21) days after the establishment of a place of business in the Republic.

Registration requirements

The application requirements to establish a branch include:

- A completed application form
- A certified copy of the memorandum and articles of association of the company and a certified translation in one of the official languages of the Republic
- A notice specifying the registered office and postal address of the company
- The consent and name and address of the auditor in South Africa
- A notice of the financial year-end of the company
- Details of the local manager and secretary of the company as well as details of the directors and their consent to act in that capacity; and
- A notice of the name and address of the person authorised to accept service on behalf of the company.

The legal costs should be less expensive than for incorporating a South African company.

A registered office must be established in South Africa and the company must appoint a South African resident to act as its legal representative. A local auditor must be appointed and audited financial statements in respect of the South African branch, together with a certified copy of the most recent financial statements prepared under the requirements of its country of incorporation, must be filed with the Registrar of Companies. In certain circumstances, an exemption may be granted in respect of these filing requirements.

Local equity participation

There are no local equity requirements, except for major banking institutions where local control is required by government policy. However, in the case of business entities with non-resident ownership equal to or greater than 75%, restrictions exist in relation to local borrowings and debt equity ratios.

The company will be taxed at a flat rate of 29%, but no Secondary Tax on Companies (STC) is payable. An external company is taxed on 50% of its net capital gain.

Business trusts

In South Africa, the Trust Property Control Act, 1988 governs the formation and operation of trusts. Through a trust, trustees for the benefit of nominated beneficiaries can carry on a business. The trust affords limited liability in that neither the trustees nor the beneficiaries are liable for the obligations thereof. The trust does not have a separate legal personality (other than for taxation purposes). The trust assets vest in the trustees who hold them for the benefit of others. A trust is usually formed by means of a trust deed that needs to be lodged with the Master of the High Court. No trustee can act in the capacity of a trustee until a written authorisation is obtained from the Master. The Master can request security, but exemption is usually granted.

The benefit of a trust is that the onerous provisions of the Companies Act do not apply. A trust need not submit financial statements and does not have to appoint an auditor. There is no limit on the number of trustees or beneficiaries that are permitted. There are income tax benefits in making use of a trust. Where income is distributed by a trust, it is considered the income of the recipient and is taxed in the hands of the recipient, and not the trust. In this way, effective splitting of income can be achieved, subject to the tax avoidance provisions of the South African income tax legislation. Distributions to beneficiaries of profits of the trust are not subject to STC, as with companies and close corporations. A trust is taxed on 40% of its net capital gain.

For more information, please contact:
Companies and Intellectual Property Registration Office of South Africa (CIPRO)
Telephone: 0861 843 384;
+27 (12) 394 9500 (international)
Facsimile: 0861 843 888;
+27 (12) 394 9501 (international)
E-mail: contactcentre@cipro.gov.za
Website: www. cipro.co.za

12. Sources of finance for foreign investors

The main sources of short-, medium- and long-term financing for companies are commercial banks. Funding an investment by way of a loan is tax efficient: if the funds are used for the purposes of a trade and in the production of income, the interest paid on the loan should be tax deductible subject to the transfer pricing and the capitalisation provisions.

Restrictions on South African borrowing by foreign companies

A South African company in respect of which 75% or more of its capital, assets or earnings may be paid to the benefit of a non-resident of South Africa, or of which 75% or more of its voting power, power of control, capital assets or earnings are vested in or controlled by or on behalf of a non-resident of South Africa, is restricted in the amount that it may borrow from South African lenders, and is known as an "affected company". Local borrowing for these purposes is widely defined and includes virtually all forms of borrowing and financing facilities, e.g. bank loans, overdrafts, facilities and finance leases, but does not include normal trade credit extended by suppliers of goods or services. The borrowing limit is based on a pre-set formula.

For companies that are 100% foreign owned, the local borrowing limit is 100% of the effective capital of the South African company. Effective capital includes share capital, share premium, retained earnings, shareholders' loans to the extent that these are in proportion to shareholding, deferred tax and the minimum trade credit granted to the local company by its overseas affiliates, to the extent it can be viewed as a permanent intra-group facility.

The percentage of effective capital that may be borrowed is (100% + [% local participation divided by % foreign participation x 100]). Affected companies applying for local finance must complete the MP79 form, which discloses the assets and liabilities of the applicant company prior to the granting of the financial assistance. On application, the assets and liabilities of a number of South African companies under common control can be aggregated for the purposes of establishing the maximum level of local borrowings that may be granted to the group, such that an individual company may be "over borrowed", provided that the group as a whole is in aggregate within the borrowing limit for the group.

The South African Reserve Bank will not permit the remittance of profits or repayment of loans where, as a result of such remittance, the local borrowing limit will be exceeded and will require local borrowings to be reduced before remittance.

Types of loans

Mortgage loans

Each commercial bank applies its own policy in the granting of a mortgage over a commercial property. The factors that it takes into account include the value of the buildings, based on a professional valuation undertaken by the bank, and where they are situated. Normally, South African banks lend about 70% of the value of a commercial property, but this can vary from one bank to another. *See Appendix for a lists of South African banks.*

Unsecured loans

The most common way for a business to finance its working capital is through an overdraft facility. A commercial bank might be prepared to grant this on an unsecured basis depending on the financial standing of the company, taking into account, for example, whether the business has sufficient assets and cash generation ability to service the overdraft. Alternatively, the bank might require security for the loan in the form of, for example, personal guarantees by the directors, physical security such as a bond over an unbonded property, or a cession of the book debts of the company.

Discounting and factoring

South African banks will also, in some cases, be prepared to discount, for example, foreign bills, trade bills, bankers' acceptances or promissory notes. There are also a number of institutions, many associated with the banks that undertake factoring, where the institution will advance money against the client's debtors' book. Normally, factoring gives a better rate than a normal bank cession over a debtors' book, but that also depends on the quality of the book.

Corporate finance

The commercial divisions of the major banks offer standard lending products to medium-sized companies. There are also corporate finance divisions in the major banks, or specialised corporate finance institutions, which offer tailor-made solutions for larger or more complex needs, such as the financing requirements of multinationals or listed companies.

Export finance and guarantees

Commercial banks will assist with export credits, guarantees and letters of credit. The Credit Guarantee Insurance Corporation of South Africa administers an export credit insurance scheme on behalf of the Department of Trade and Industry.

State assistance

The state-owned Industrial Development Corporation (IDC) provides financing to the private sector to facilitate commercially sustainable industrial development and innovation to the benefit of South Africa and Southern Africa. Finance is in the form of equity, quasi equity and medium-term loan finance. Interest rates are competitive, risk related and are based on the prime bank overdraft rate.

The IDC offers specific financing products:

- Bridging Finance: for entrepreneurs who have secured firm contracts - except for construction contracts - with government and/or the private sector and which have short-term financing needs
- Financing for empowerment: for emerging industrialists/entrepreneurs who wish to acquire a stake in formal business by way of management buy-ins or buy-outs, leveraged buy-outs or strategic equity partnerships
- Financing for small-and medium-sized mining and beneficiation: is aimed at small-and medium-sized mining and beneficiation activities and jewellery manufacturing activities
- Financing for the development of the techno-industry: is aimed at entrepreneurs in the IT, telecommunication, electronic and electrical industries wanting to develop or expand their business
- Financing for the development of agro-industries: for entrepreneurs in the agricultural, food, beverage and marine sectors wanting to expand and develop their businesses
- Financing for the development of the tourism industry: is aimed at commercial projects in the medium to large sectors of the tourism industry
- Financing for the expansion of the manufacturing sector: is aimed at entrepreneurs wishing to develop or expand their manufacturing business and create new or additional capacity
- Wholesale finance: for intermediaries

looking for wholesale funding to lend to individual entrepreneurs
- Financing for the export of capital goods: to manufacturers and providers of exported capital goods or services. The aim is to provide competitive US dollar and rand financing to prospective foreign buyers of equipment
- Import credit facilities: for local importers of capital or services requiring medium- to long- term import credit facilities
- Short-term trade finance facilities: for exporters looking for short-term working capital facilities to help them facilitate export orders; and,
- Project finance: aimed at large projects in the Metals, Petro and Chemical, Manufacturing, Agriculture, Minerals and Mining, and Energy market sectors.

13. Regulatory environment

There are regulations governing the conduct of business in various sectors of the economy such as finance, banks, other financial institutions, medicine, and manufacturing and mining.

These regulatory bodies include:

- The Financial Services Board (FSB), a statutory body charged with supervising the activities of financial institutions, including financial services and banking services. The FSB acts in an advisory capacity to the Minister of Finance and its powers include the suspension and withdrawal of authorisations to provide financial services
- The Independent Communications Authority of South Africa (ICASA) regulates television and radio broadcasting, telecommunications and the assignment of radio frequencies. ICASA also regulates the Government-controlled Telkom Limited, which provides telecommunication services, and recently granted a operating licence to a second network operator, Neotel, which will compete against Telkom
- The Securities Regulation Panel (SRP) is a statutory body established to investigate insider trading and regulate acquisitions and takeovers, where there is a change of control in public companies and private companies where the shareholders' interests exceed a prescribed limit. The SRP has the power to compel the making of like offers to minorities or to reverse transactions, which have been implemented. In appropriate circumstances, the SRP will grant exemption from compliance with any or all of the provisions of the Code and Regulations
- Provincial gambling boards regulate gambling and related activities in accordance with national and provincial legislation and regulations
- The Lotteries Act provides for a licence to conduct the National Lottery. The National Lotteries Board regulates the National Lottery and other lawful lotteries.

Relevant laws for business

Competition law

A new Competition Act, 1998 came into effect on 1 September 1999. The Act fundamentally reformed South African competition law and has significant implications for conducting business in South Africa. The Act enables competition authorities to take into account both competitiveness and public interest issues, which include, inter alia, black economic empowerment. The Act also substantially strengthens the powers of the competition authorities on similar lines to European Union (EU), Canadian and USA models by granting them, inter alia, powers of search and seizure.

The Act provides for:

- The establishment of a Competition Commission, Competition Tribunal and Competition Appeal Court. These bodies are independent of the Government although, subject to certain requirements in the Act, the Commissioner is appointed by the Minister of Trade and Industry and the members of the Tribunal and Court are appointed by the President
- Various prohibitions on anti-competitive conduct, restrictive practices (for example, resale price maintenance, price fixing, predatory pricing and collusive tendering) and "abuses" by "dominant" firms (generally defined as firms with at least a 35% market share or, alternatively, market power)
- A notification and prior approval procedure for certain mergers and acquisitions (please refer to Part Five of the Act). A notifiable merger and acquisition may not be implemented without such approval.
- Competition authorities to have jurisdiction outside South Africa, with regard to economic activity in the country, or having an effect on the country.

Significant penalties for contravention of the Act include:

- Divestiture of assets
- Declaring agreements to be void in whole or in part
- Ordering a party to supply goods and services to another party; and
- Fines of up to 10% of a firm's annual turnover in and exports from South Africa.

The Competition Act also applies to agreements and arrangements involving intellectual property. This is a significant deviation from previous competition legislation, which specifically exempted intellectual property from the ambit of South African competition law.

Environmental law

South Africa’s environmental management authorities continuously upgrade legislation to meet international environmental standards. Government departments and provinces have embarked on environmental implementation and management programmes aimed at enhancing uniformity of norms, standards and levels of implementation. Care is taken to ensure that legislation, which determines environmental norms and standards, is compatible with programmes for economic development.

Key legislation relating to environmental management includes:

National Environmental Management Act (NEMA) 100 of 1998

NEMA is the overarching environmental Act for South Africa. The Act requires compliance with international sustainable development and environmental principles, inter alia:

- Giving people access to the judiciary to protect their rights
- Ensuring the State or any other transgressor may be held responsible and legally liable for costs arising from harm to the environment owing to their actions or failure to take action
- Ensuring compliance with legislation
- Development must be socially, environmentally and economically sustainable
- Putting people and their needs at the forefront; and
- Pursuing international best practices with regard to environmental management.

For more information, please contact:

The Department of Environmental Affairs and Tourism

Website: www.environment.gov.za

National Environment Management: Air Quality Act (No. 39 of 2004), 2004

The main purpose of the Act is to protect the environment by providing reasonable measures for:

- The protection and enhancement of air quality of the Republic
- The prevention of air pollution and ecological degradation; and
- Securing ecologically sustainable development while promoting justifiable economic and social development.

For more information, please contact:

The Department of Environmental Affairs and Tourism

Website: www.environment.gov.za

Integrated National Waste Management Strategy (NWMS)

The NWMS guides general waste management. Different spheres of government have different functions in relation to waste management.

For more information, please contact:

The Department of Environmental Affairs and Tourism

Website: www.environment.gov.za

National Water Act (No. 36 of 1998)

This is the overarching Act for freshwater governance in South Africa. The Department of Water Affairs and Forestry regulates the registration and licensing of water use.

For more information, please contact:

The Department of Water Affairs and Forestry

Website: www.dwaf.gov.za

Provincial and Local Regulations

Provinces have the legislative authority to assign any of their legislative powers to Municipal Councils, to inter alia, administer Environmental Impact Assessment (EIA) Regulations.

For more information, please contact the provincial departments:

EASTERN CAPE
Department of Economic Affairs, Environment and Tourism
Website: www.ecprov.gov.za

FREE STATE
Department of Environmental Affairs and Tourism
Website: www.fs.gov.za

GAUTENG
Department of Agriculture, Conservation and Environment
Website: www.gpg.gov.za

KWAZULU NATAL
Department of Agriculture and Environmental Affairs
Website: www.kwazulunatal.gov.za

WESTERN CAPE
Department of Environmental Affairs and Development Planning
Website: www.capegateway.gov.za

LIMPOPO
Dept of Economic Development, Environment and Tourism
Website: www.limpopo.gov.za

MPUMALANGA
Dept of Agriculture and Land Administration
Website: www.mpumalanga.gov.za

NORTHERN CAPE
Dept of Environmental Affairs, Economic Affairs and Tourism
Website: www.northern-cape.gov.za

NORTH WEST
Department of Agriculture, Conservation and Environment
Website: www.nwpg.gov.za

Labour Laws

New labour laws have been introduced in South Africa to:

- Regulate the relationship between employers and employees
- Provide basic employment standards for employees
- Advance historically disadvantaged employees in the workplace; and,
- Improve the skills of employees.

Labour Relations Act

The new Labour Relations Act (LRA) applies to all employees in South Africa, except members of the defence force and national intelligence agencies.

The LRA encourages and regulates collective bargaining between employers and trade unions. Bargaining councils can be formed by agreement between registered trade unions and registered employers' organisations. A bargaining council's primary function is to conclude collective agreements between employers' organisations and trade unions.

Employees have the right to strike on matters of mutual interest, such as wages and conditions of work. They cannot strike on dismissals. The Act also sets down a process, which needs to be followed before the right to strike can be exercised.

These strikes are then regarded as procedural and workers who strike cannot be dismissed for striking.

The LRA regulates unfair dismissal and sets up the Commission for Conciliation Mediation and Arbitration (CCMA) and the Labour Court as dispute resolution bodies. The CCMA handles the bulk of dispute resolution, as almost all disputes have to be mediated by the CCMA first. The Labour Court, on the other hand, has exclusive jurisdiction to deal with matters such as retrenchments, strike interdicts and review of CCMA decisions. Appeals against decisions of the Labour Court lies with the Labour Appeal Court.

Dismissal of employees

In South Africa an employee can be dismissed if there is a fair reason for the dismissal, and a fair procedure is followed before the employee is dismissed.

Fair reason

A fair reason for dismissal includes:

- Misconduct on the part of the employee
- The incapacity of the employee (unable to perform duties properly owing to illness, ill-health or inability); and,
- Operational reasons (retrenchment).

In all the above instances, the procedures contained in the LRA, as well as a company's own disciplinary procedures, must be followed before an employee is dismissed.

Retrenchment

Before an employer can retrench employees, the employer must consult with the employees concerned or their trade unions on, amongst other things, the reasons for the dismissals, the number of employees to be affected, the proposed methods of selecting the employees to be retrenched and severance pay.

Severance pay

With regard to severance pay an employer must pay a retrenched employee a minimum of one week's wages for each year of completed service.

Disputes about dismissals

Disputes over unfair dismissals must first be referred to the relevant bargaining council or the CCMA for conciliation. If conciliation fails, the dispute may be referred to arbitration or the Labour Court, depending on the type of dispute. The process of dispute resolution is speedy: disputes must be referred within thirty (30) days of them occurring, and are usually also set down for conciliation within thirty (30) days.

Basic Conditions of Employment Act

The new Basic Conditions of Employment Act (BCEA), covers the basic floor of rights of South African employees. These conditions are the minimum conditions and can be varied and improved upon by collective bargaining through plant or company level collective agreements or sectoral bargaining councils. They can also be varied through ministerial determination.

The BCEA places obligations on employers in respect of working hours, annual leave, leave pay, maternity leave, family responsibility leave and overtime pay for employees. The Labour Relations Act (LRA) also provides special protection to night workers and shift workers. It also prohibits child and forced labour.

Key provisions of the Basic Conditions of Employment Act

Normal time

The maximum ordinary hours of work that an employee may work in any week or on any day are as follows:

- 45 hours in any week
- Nine hours a day for employees who work five or fewer days in a week; and,
- Eight hours per day for employees working more than five days per week.

Any time worked in excess of these limits will be overtime. An employee's ordinary hours of work may, by agreement, be extended by up to 15 minutes a day to enable the employee to continue serving members of the public after the completion of ordinary hours of work. This is subject to a weekly limit of one hour.

Overtime

An employee may not be required or permitted to work overtime unless there is an agreement between the employer and employee, either in an employment contract for compulsory overtime or an ad hoc agreement for voluntary overtime. An employee who works overtime must be paid 1,5 times the employee's ordinary hourly wage (time and a half). An employee may, however, agree to take paid time off instead of being paid for overtime work. The paid time off must be granted to the employee within one (1) month of the employee becoming entitled to it.

There are 12 South African public holidays.

New Year's Day – 1 January
Human Rights Day – 21 March
Good Friday – Friday before Easter Sunday
Family Day – Monday after Easter Sunday
Freedom Day – 27 April
Workers' Day – 1 May
Youth Day – 16 June
National Women's Day – 9 August
Heritage Day – 24 September
Day of Reconciliation – 16 December
Christmas Day – 25 December
Day of Goodwill – 26 December
If any of these days falls on a Sunday, the following Monday becomes a public holiday.

Work on Sundays

An employee may only work on a Sunday if there is an agreement to this effect. Such an agreement may be general or apply to a particular Sunday only. An employee who normally works on Sundays must be paid one-and-a-half times their normal hourly wage. If an employee does not normally work on a Sunday, the employee must be paid double his or her normal wage.

At a minimum, however, an employee who works on a Sunday must receive at least his or her ordinary daily wage. In other words, an employee who works for one or two hours on a Sunday must be paid at least his or her ordinary daily wage for that work. An employer and employees may agree that the employee be granted paid time off rather than be paid for Sunday work.

Work on public holidays

In the absence of an agreement, an employer may not require an employee to work on a public holiday. An agreement, or contract of employment, may provide that an employee will work on some or all public holidays. If there is no such agreement, the employer will have to secure the employee's agreement for work on any public holiday.

Leave

There are four categories of leave to which employees are entitled:

- Annual leave
- Sick leave
- Maternity leave; and
- Family responsibility leave.

With the exception of employees who work for an employer for less than twenty-four (24) hours a month, all employees have the right to annual leave, sick leave and maternity leave. Family responsibility leave is only for employees who work for an employer on four or more days a week.

Annual leave

An employee is entitled to at least twenty-one (21) consecutive days' (three weeks') leave in respect of each year of employment. Annual leave must be granted within six (6) months after the end of each annual leave cycle. The timing of leave should be agreed upon between the employer and employee. If no agreement can be reached, the employer is entitled to decide when leave must be taken. An employee may not take annual leave during any other period of paid leave in terms of the BCEA, such as sick leave, or during any period of notice of termination.

Sick leave

An employee's sick leave is calculated over a three-year sick leave cycle. During each cycle an employee is entitled to receive paid sick leave for the number of days that the employee normally works during a six-week period. For example, an employee who works five (5) days a week for an employer is entitled to thirty (30) days paid sick leave over the three-year cycle.

Maternity leave

Employees have the right to four (4) consecutive months' maternity leave. Maternity leave may be taken at any time from four (4) weeks before the expected date of birth of the child. An employee is not required to remain away from work for the full four-month period and may choose to return earlier. However, she may not work within six (6) weeks of the birth of her child unless a medical practitioner or midwife certifies that she is fit to do so.

An employee must give an employer at least four (4) weeks' notice before she starts her maternity leave of when she intends to take the maternity leave and return to work. A pregnant or breastfeeding employee may not be required to perform work that is hazardous to the health of the employee or the child.

Family responsibility leave
An employee is entitled to three (3) days' paid family responsibility leave during each annual leave cycle. Family responsibility leave may be taken:

- When the employee's child is born
- When the employee's child is sick; and
- In the event of the death of a member of the employee's immediate family.

Family responsibility leave must be paid at the employee's ordinary wage and on the employee's usual payday.

Age of employment
The BCEA prohibits the employment of any child under fifteen (15) years of age. In addition, a child between the ages of fifteen (15) and eighteen (18) may not be in employment:

- That is inappropriate for the child; and,
- That places at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.

It is a criminal offence to employ a child in contravention of the BCEA.

Employment Equity Act
The Employment Equity Act prohibits discrimination at the workplace and promotes employment equity.

Employees who are discriminated against on a wide range of grounds, including race, gender and disability, are entitled to declare a dispute against their employer. Such disputes are conciliated and if not resolved can either be arbitrated or sent to the Labour Court for adjudication.

Employers who employ over 150 employees are obliged to report to the Department on an annual basis and are obliged to develop employment equity or affirmative action plans. Employers who employ between 50 and 150 employees are expected to report every second year. In the South African environment, the promotion of employment equity will enable enterprises to take maximum advantage of the opportunities offered by diversity.

Skills Development Act/Skills Development Levies Act
The Skills Development Act obliges all employers to look at the issue of training and education. All employers are obliged to contribute an amount equivalent to 1% of their payroll to assigned industry controlled Sectoral Education & Training Authority (SETA).

Employers who submit a sensible training plan will be eligible to receive back a percentage of their contributions.

A National Skills Fund has been established and may, in some cases, be accessed to train local people to benefit from new employment opportunities linked to new investments.

In addition to the above legal requirements, foreign investors are also expected to import new technologies in order to raise the productive capacity of the South African economy.

Recommendations for investors
Though not required by law, it is strongly recommended that investors consult with the relevant industry union(s) during the

start-up phase. Investors should consider that union interests reach far beyond the bread-and-butter issues of wages and benefits. Consultations should include discussion of:

- The enterprise's human resource strategy, including plans for skills and technology transfer
- Plans to address affirmative action
- Possible stake holding / profit-sharing agreements for employees; and
- The enterprise's market plans.

Once the enterprise is in operation, unions also have the right to be consulted on such matters as:

- Proposed restructuring of the workplace
- Planned mergers and acquisitions that would affect labour; and,
- Proposed retrenchments.

For more information, please contact:

The Ministry of Labour
Postal address: Private Bag X499, Pretoria 0001
Telephone: +27 (12) 309-4000
Facsimile: +27 (12) 309-4082/320-2059
Website: www.labour.gov.za

Labour Union Federations
Congress of South African Trade Unions (COSATU)
Telephone: +27 (11) 339-4911
Facsimile: +27 (11) 339-5080
Website: www.cosatu.org.za

Federation of Unions of South Africa (FEDUSA)
Telephone: +27 (11) 279 1800
Facsimile: +27 (11) 279 1821
Website: www.fedusa.org.za

National Council of Trade Unions (NACTU)
Telephone: +27 (11) 833-1040
Facsimile: +27 (11) 833-1032
Website: www.nactu.org.za

Intellectual property

South Africa has a developed system of intellectual property law covering patents, industrial designs, copyright and trademarks. South African intellectual property law has been amended and consolidated in accordance with the World Trade Organisation (WTO) "TRIPS" requirements and the International Convention for the Protection of Performers, Products of Phonograms and Broadcasting Organisations.

Patents

Patents are granted for inventions that have not been previously known and that differ adequately from what was previously done along the same lines. An individual can apply for a temporary patent for the duration of one year, at a cost of R60. Before the expiry of a temporary patent, a patent attorney/agent must file a complete patent application, which costs R266. It takes twelve (12) to eighteen (18) months to obtain a patent in South Africa. Patents last for twenty (20) years from the date of application subject to payment of prescribed renewal fees.

How do you register for patent protection?

First conduct a novelty search to ensure you are not infringing on existing patent rights. You can conduct a search at the office of the Registrar of Patents in Pretoria. A fee of R4 is payable. The

Registrar does not conduct novelty searches; it is the responsibility of the client to personally conduct the search.

All documents except drawings must be:
- In typescript or machine printed, and must be in a dark durable colour
- Free from erasures, alterations, over-writings, interlineations
- Legible
- Allow for direct reproduction by photocopy in unlimited numbers
- Free of cracks, creases and folds. Drawings must be produced on A4 sheets of paper.

The Registrar examines the complete patent application and if found in order, according to the requirements of the SA Patent Act, is published in the Patent and Trademark Journal.

According to the International Patent Convention, an applicant can file an application in another country and claim a priority date, which will then be dated the same as the original South African application.

Benefits of the PCT System:
- No representation required (attorney/agent is optional);
- There is no multiple search
- One month to pay filing fees
- Protection will be granted in 109 member states
- Filing one single application in triplicate; and
- Nationals and residents of South Africa are entitled to a reduction of 75% of the international fee.

Designs

Designs incorporating the visual or aesthetic appearance of an article are protected and registered in terms of the Designs Act, No. 195 of 1993, provided that it is new in comparison to that previously known on articles of a similar nature. Designs are divided into aesthetic and functional designs. Any individual may file for a design; an attorney is not required. The cost of a design application is R110. The duration of registration is fifteen (15) years for aesthetic designs and ten (10) years for functional designs, both renewable at a prescribed renewal fee.

Copyright

Artistic works and other works containing intellectual content such as literary works, music, cinematographic films, sound recordings, drawings (including engineering drawings), plans, computer programmes, pictures of all forms and numerous other two-dimensional and three-dimensional articles having intellectual content are protected by copyright under the Copy Right Act, No. 98 of 1978. Copyright is different from other forms of intellectual property in that it exists automatically and no steps need to be taken, in South Africa, to register it, although in the exclusive case of video recordings and cinematographic films, the copyright can be registered. Copyright endures for fifty (50) years. Cost for cinematographic films is R231.

Trademarks

Trademarks may be registered under the

Trademarks Act, No. 194 of 1993. After an initial term of ten (10) years, a trademark may be renewed for a further 10-year period. Being registered as a trademark protects the name or logo in association with which an article is marketed, or a service is rendered, and even the shape of a special container.

An attorney is not required to file for a trademark. A thorough preliminary trademark search, conducted by an experienced individual, can ensure against possible conflicts, thereby preventing the prolonging of an already lengthy process. The office of the registrar will, on request, do an in-depth search as to possible conflicts for a fee of R85.

The application fee is R266. On average, approval requires at least two (2) years, but a business may trade during that period. All applications may be lodged by hand or by post with the registrar and fees are payable in revenue stamps, excluding the PCT patent applications.

For more information, please contact:
Companies and Intellectual Property Registration Office of South Africa (CIPRO)
Telephone: 0861 843 384 (local)
+27 (12) 394 9500 (international)
Facsimile: 0861 843 888 (local)
+27 (12) 394 9501 (international)
E-mail: contactcentre@cipro.gov.za
Website: www.cipro.co.za

Specialised licenses

Cellular licenses

The Independent Communications Authority of South Africa (ICASA) regulates all wireless transmissions, ranging from cellular to VHF two-way radio to data packet. The Telecommunications Act 103 of 1996 determines the procedures for the application of specialised licenses, e.g. cellular licenses, but application for these types of licenses can only be made on invitation from the Minister for Communications.

In almost all cases, the equipment supplier handles licenses for small-scale communications tools.

For more information, please contact:
Independent Communications Authority of South Africa (ICASA)
Telephone: +27 (11) 321-8200
Fax Number: +27 (11) 321 8551
E-mail address: info@icasa.org.za
Website: www.icasa.org.za

Banking licenses

A company wishing to conduct banking operations in South Africa has three alternatives. All of these require the approval of the Registrar of Banks, who heads up the Banking Supervision Department of the Reserve Bank.

The three options are:

- A separate banking company
- A branch of an international bank or banking group; and
- A representative office of an international bank.

To establish **a separate banking company**, the investor must begin by incorporating a public company with the Registrar of

Companies. The greater of R250 million or 8% of risk-weighted assets is required as capital to establish a bank. The investor must then supply the information required by the Banks Act with the application form DI 002 for a banking licence. The following information must be included:

- Details of the applicant and the proposed bank, including notice of registered office and postal address of company
- Memorandum and articles of association
- Certificate of incorporation
- Business plan (including predominant business activities planned, schematic representation of group structure, dividend policy, auditors, risk management policy and names of directors and executive directors).
- A number of Banks Act Returns, referred to as "DI Returns" to forecast the position for the ensuing year are required. The forecast DI Returns required are those dealing with the balance sheet, off-balance sheet activities, income statement, liquidity risk, capital adequacy, trading risk, and restriction on investments, loans and advances
- Curriculum vitae of proposed directors and executive officers
- Application for approval of appointment of auditors
- A report from a public accountant on funds received from anticipated shareholders and held in trust
- Planned internal audit activities; and
- Application for permission to acquire share in a bank.

Should a foreign bank seek to establish a **subsidiary or a branch in South Africa**, the procedures are similar to those for other investors set out above. However, foreign banks are also required to include the following with their application:

- Foreign bank holding company resolution approving proposed formation of a bank
- Letter of comfort and understanding from foreign bank holding company
- Letter from the foreign bank's home regulatory authority to the effect that it has no objections to the application and that it will comply with certain minimum standards of supervision; and,
- Board minutes from the holding company empowering an official to sign all documents relating to the application.

Approval time for a banking company, a foreign subsidiary or a branch depends on the quality of the application. Banking licenses are not transferable.

The requirements for establishing a **representative office** are less onerous and it takes considerably less time to obtain approval for a representative office. Representative offices cannot take deposits, but can merely act as information conduits to the parent company.

For more information, please contact:

The Registrar of Banks
South African Reserve Bank
Telephone: +27 (12) 313-3196
Facsimile: +27 (12) 313-3758
Website: www.reservebank.co.za

Land acquisition, rezoning, subdivision and transfer

Land acquisition

There are no restrictions on property ownership by non-residents, save for a prohibition on illegal aliens owning immovable property within South Africa. There are, however, procedures and requirements which must be complied with in certain circumstances, such as, the local registration of entities registered outside of South Africa where it purchases property in South Africa, and the appointment of a South African resident public officer for a local company whose shares are owned by a non-resident. In the event of a non-resident purchasing property in the country with the intention of residing here for longer periods, permanent residency will have to be applied for in accordance with the given requirements and procedures of South African law.

Purchasing property in South Africa as a foreigner

Property of any kind in South Africa is normally purchased through a broker or real estate agent who should be registered as a member of the Estate Agents Board.

The South African Reserve Bank refers to foreigners as non-residents whether they are natural persons or legal entities, whose normal place of residence, domicile or registration is outside the common monetary area of South Africa. Should the non-resident be paying cash for the property, the transaction can be processed without intervention from the South African Reserve Bank.

Non-residents purchasing a property in South Africa may borrow up to a maximum of 50% of the purchase price in South Africa; the other 50% of the funds must be brought into the country by the purchaser and transferred from a recognised foreign bank to a bank in South Africa. The total amount that may be borrowed is at the discretion of the commercial bank offering the loan.

Non-residents who are in possession of a valid South African work permit are considered to be residents for the duration of their work permit, and are therefore not subject to borrowing restrictions placed on non-residents without work permits.

Legal documentation

All contracts to acquire land must be in writing, contain certain prescribed information and be signed by both buyer and seller to be valid and legally binding. Contracts most commonly take the form of an Agreement of Sale or Offer to Purchase.

Once an Agreement of Sale has been signed by both parties it represents a valid and binding document from which neither party can withdraw without legal consequences, save for certain instances where:

- The agreement is subject to certain conditions which are either fulfilled or not fulfilled
- The purchase price is less than R250 000 and certain additional criteria in terms of the Alienation of Land Amendment Act are present entitling the Purchaser to "cool off".

A non-resident must open a 'non-resident' account at a South African commercial bank, to facilitate loan repayments. This account would normally be funded from abroad or from rentals received on the property purchased, subject to the bank holding the account being provided with a copy of any rental agreement.

However, the Exchange Control Authority allows a non-resident desirous of obtaining permanent residence status in South Africa, to be dealt with as a South African 'resident' for exchange control purposes. This takes place upon completion of a so-called Immigrant's Declaration & Undertaking issued by South African banks.

Once such declaration has been completed, such applicant will be eligible to borrow 100% of the purchase price of the property. However, it will then be incumbent upon such person to actually apply for and obtain permanent residence within a reasonable period

Exchange Control is currently going through a process of deregulation in South Africa, to make it progressively easier for foreigners to invest in this country, and for South Africans to do business abroad. However, it remains a complex subject and non-residents investing in South Africa are strongly advised to consult a reputable lawyer or accountant for advice. The Reserve Bank retains considerable control, and while notes and guidelines have been set, allowances will be made for exceptional circumstances.

Source: Pam Golding Properties

Acquiring and disposing of land

Investors face a wide array of possibilities when choosing land for development in South Africa. Private, state, provincial, municipal, and parastatal landholdings are all potentially available for commercial development - each with their own application process. The specific details of this process are determined and administered by the relevant municipality concerned.

Commercial real estate is well developed in South Africa, with private landholdings in both urban and outlying areas. The availability of industrially zoned and serviced land varies by location. Property owners, brokers, managers and developers who are members of the SA Property Owners Association are available to assist investors in locating, leasing, buying and selling private property. Any of these bodies can be contacted through the South African Property Owners Association.

For more information, please contact:
SA Property Owners Association
Telephone: +27 (11) 883-0679
Facsimile: +27 (11) 883-0684
Website: www.sapoa.org.za

Acquiring publicly held land

The process of acquiring publicly held land tends to be significantly slower than with private landholdings. Efforts are under way throughout much of South Africa to make more public land available for private purchase.

State land

All purchases or leases of State land are subject to tender. Two scenarios exist for the acquisition of State land:

- The application by an investor or developer for the use of a particular plot of State land; and,
- A response by an investor to an invitation by government for bids to develop land.

If an investor identifies a plot of land belonging to the State, he or she must provide a detailed proposal as to how the land will be used. The proposal should include:

- A description of the land (available from the Deeds Office)
- Context of the land (within a municipality, town, etc.)
- A description of the investment and how it would facilitate development in the region
- Time frames for development; and
- Participation of South African citizens in ownership, management, and/or marketing.

Upon receipt of the proposal by the Department of Public Works, the following occurs:

- The land is evaluated to determine whether a freehold sale or long-term lease would be more appropriate
- The property is advertised for six weeks for competing developers to respond
- A valuation by an independent valuer is carried out
- The proposal (and any others received from the advertisement) is evaluated by the evaluation committee; and
- The Minister of Public Works then signs the sale.
- The process usually takes three to six months to complete.
- Investors should note that land belonging to many agencies and institutions is subject to a fallback clause. Should any land that is owned by an institution, such as a university, be used for any purpose other than intended, title reverts back to the State. This can cause delays for an investor to acquire land from government organisations.

For more information, please contact:
Department of Land Affairs
Telephone: +27 (12) 312-8911
Facsimile: +27 (12) 312-8066
Website: www.land.pwv.gov.za

Provincial land

In most cases, any sale of provincial land requires a tendering procedure. An investor may identify a site and apply for the use of the site. The application should be made by letter.

The investor must supply the following information:

- What the land will be used for
- Background of the company
- Shareholding of the company; and
- Company's financial projections.

The land is then advertised for tender, and a provincial committee evaluates the responses. Responses are usually judged on project viability, social impact, environmental impact, and best use of the land. The process can take between six (6) and eighteen (18) months.

Municipal land

Local authorities are major holders of public land. Land development falls under the jurisdiction of the relevant municipal council. Municipalities vary greatly in their approach to development - in terms of governing legislation, attitudes and processing systems.

In terms of legislation, some municipalities permit the direct negotiation of land sales, while others require tendering in some or all cases. Tendering typically requires a period of twelve (12) to eighteen (18) months, although the process can be completed in as little as six (6) months. Direct negotiation tends to be significantly quicker, though such agreements may also be subjected to a period open for community objections and appeals.

Rezoning and subdivision of land

Any requests for the rezoning or subdivision of land, regardless of land ownership, must be submitted to the local authorities. Specific application processes vary from jurisdiction to jurisdiction, though typically the applicant must submit a rezoning application, statement of motivation, and a processing fee. The rezone request is advertised for three (3) weeks, after which objections are sought from parties affected by the rezoning. In some cases, the investor is invited to respond to the objections. The application is then reviewed. Rezoning applications can take from as little as three (3) weeks to as long as six (6) months in larger cities.

Transfer of land

Whether land is purchased from private or public sources, the process of transfer of ownership is the same. South Africa is reputed to have one of the best deeds registration systems worldwide, with an exceptional degree of accuracy and of tenure being guaranteed. South Africa offers an unusual degree of certainty with regard to property ownership and property can be owned individually, jointly in undivided shares or by an entity such as a company, close corporation or trust or a similar entity registered outside South Africa.

All land in South Africa, public and private, has been surveyed, beaconed, and assigned plot numbers by the Surveyor General's Office. The role of the Deeds Office in the transfer process is two-fold: (1) to guarantee the title deed, and, (2) to maintain a registry of deed holdings. There are nine regional Deeds Offices throughout South Africa.

The investor, though, has no direct interaction with the Deeds Office. Instead, conveyancers handle the transfer of ownership. It is the accepted practice in South Africa that the seller appoints the conveyancer who attends to the transfer of the legal title in the name of the purchaser and has the responsibility to protect the interests of both the seller and the purchaser.

The conveyancer draws up a deed of transfer based on the existing owner's title deed and attends to the registration of the final document with the Deeds Office.

The conveyancer must submit the following to the Deeds Office for registration:

- Deeds of transfer
- Title deed (from owner)
- Power of attorney
- Rates clearance certificate if applicable; and
- Transfer duty receipt or exemption certificate.

The purchaser pays the costs of transfer, including the conveyancer's fee. Should a mortgage bond be registered over the property as security for the advancement of the purchase price, the bank or financial institution will instruct its conveyancer to register the mortgage bond.

The bank's conveyancer will lodge the following documents to be registered simultaneously with the transfer documents:

- Mortgage bond; and
- Power of attorney.

The mortgagor pays the costs of registering the bond as well as the stamp duty. Should the property being transferred be encumbered by an existing mortgage bond, the financial institution in whose favour it is registered will, after the necessary financial arrangements have been made with the seller, instruct it's attorney to cancel the mortgage bond. This is done simultaneously with registration of transfer of the property. The costs relating to the cancellation are payable by the seller.

Depending on the workload at the Deeds Office, the documents will be in the system after lodgement for a period ranging between two (2) to three (3) weeks.

Fees, taxes and transfer duty

The rate of transfer duty payable depends on the nature of the purchaser. If the purchaser is a company, close corporation or trust transfer duty at a flat rate of 10% of the purchase price is payable. An individual pays transfer duty on a sliding scale from 1% to 8% of the purchase price, depending on the value of the property transferred. The conveyancer will obtain a receipt for the payment of the transfer duty from the Receiver of Revenue for lodgement with his transfer documents at the Deeds Office. Should the seller be registered for VAT, for example, a developer, no transfer duty will be payable by the purchaser, as the seller would have to include the VAT amount in the purchase price. In this case the conveyancer will obtain a transfer duty exemption certificate from the Receiver of Revenue for lodgement with his documents. The purchaser must provide the conveyancer with the transfer duty payable to the Receiver of Revenue prior to registration of the transfer.

Legal protection of property rights in land

Security of tenure in landholding is provided for in Section 25 of the Constitution of the Republic of South Africa, Act 108 of 1996.

Stamp duty

Stamp duty is payable on the registration of mortgage bonds. The rate at present is R0,20 per R100 or part thereof, of the capital amount being secured by the mortgage bond.

Conveyancing fees
Conveyancers charge fees for the work they do in the Deeds Office on behalf of their clients. The fees charged are in accordance with guidelines laid down by the Association of Law Societies.

Deeds Office fees
The Deed Office will charge the conveyancer a registration fee for each transaction registered. This fee is included in the conveyancer's account to the purchaser and varies from R55 to R500 depending on the nature and value of the transaction. The average time required for the complete transfer process – including bond approval, the drafting of the deed and registration with the Deeds Office – is approximately two (2) to three (3) months.

For more information, please contact:
The Deeds Office Help Desk
Telephone: +27 (12) 338 7205
Facsimile: +27 (12) 338 7186
Website: www.deeds.gov.za

Tax and reporting

Tax registration for business
New enterprises must file with the South African Revenue Services (SARS) for the following taxes: provisional income tax, value-added tax (VAT), and employees' tax (SITE and PAYE).

For corporate entities, the Registrar of Companies or Close Corporations notifies SARS of the incorporation of a new business enterprise once the registration procedures with the relevant Registrar's office have been processed. The business entity is then automatically registered as a provisional taxpayer and issued a registration number. Every enterprise must appoint a public officer within one (1) month after commencing business activities in order to represent it in all dealings with the revenue authorities. The public officer is designated as representative taxpayer in respect of the income and related tax obligations of the entity. The individual appointed as public officer must reside in South Africa and the Commissioner for SARS must approve the appointment.

Reporting
Business entities are required to file annual income tax returns with SARS. Most file their returns with the Receiver of Revenue in the jurisdiction in which they operate. If the SARS office is not equipped to handle the volume of business, they will refer it to the nearest office that can.

Each business entity may select its own financial year-end. Natural persons are not entitled to this privilege - their tax year runs from 1 March to 28 February. Two provisional tax payments based on an estimate of annual income are made during each financial year. The first provisional payment is made after six (6) months of the current financial year have elapsed, the second at the end of the financial year.

For the first payment, the estimate of taxable income may not be less than the "basic amount" - the taxable income reflected in the most recent assessment received from the Receiver of Revenue. In the case of a new enterprise, the basic amount will be nil. If, at the time of making the second provisional payment, the estimate of taxable income is less than 90% of the actual taxable income for the year and less than the basic amount, the taxpayer will be liable for an additional penalty tax of 20% of the difference between the actual tax paid and the lesser of the tax on the basic amount and the tax on 90% of the actual taxable income. To avoid this, it is best to base the estimate for the second provisional payment on the basic amount. A third payment may be made six (6) months after the financial year-end for corporate entities and seven (7) months thereafter in the case of natural persons, to reconcile estimated income with actual income. Interest accrues from the due date of the third payment on any underpayment of tax for the year concerned.

For corporate entities, a copy of the audited financial statements of the enterprise, signed by the auditor and the public officer of the enterprise, must accompany the return, as well as any other documentation necessary to support the information contained in the return.

The aim of SARS is to issue assessments within three (3) months after the filing of returns.

The investigation division of SARS assesses all income tax returns referred to them by the local tax offices. The department also conducts detailed tax audits on a random basis and in circumstances where it is suspected that a return contains material irregularities or omissions.

Taxable income

Income tax is calculated on an enterprise's taxable income earned from South African sources. The rate of corporate income tax was recently reduced to 29% (previously 35%). Companies are not entitled to any rebates except for foreign royalties and foreign taxes paid. Companies are also liable for Secondary Tax on Companies (STC) at 12.5% in respect of all dividends declared after 13 March 1996.

Rebates

Primary rebates are R7,200, and additional rebates for persons 65 years or older are R4,500. The rebates for individuals are deducted from the normal tax determined according to the statutory rates of tax.

Corporate Tax Rate. 2006/7

<u>Small Businesses</u>
Taxable income from
R0 – R40,000 = 0%
R40,001 – R300,000 = 10%

<u>Other</u>
Taxable income
R300,001 and above = 29%

<u>Branch Profit Tax</u> = 34%

<u>Secondary Tax on Companies</u>
12.5% on distributed profits.

Capital gains tax

Capital gains tax is a tax on the sale of your business assets, for example, a delivery vehicle or computer. In the case of an individual, it is a tax that would be levied on the sale of a property used for income purposes. It would also be imposed on the sale of shares in private and public companies. Some exemptions from capital gains would be the sale of the house you live in, as long as the profit is under R1 million. The rates applicable are: 50% for companies and trusts, and 25% for individual. These percentages are included in your income calculated for the year.

Value added tax (VAT)

Business entities conducting enterprises in the course of which the total value of taxable supplies made exceeds R150 000 in any 12-month period are required to register for Value added tax (VAT). Voluntary registration is permissible for those with turnovers of less than R150 000. The standard rate of VAT on the supply of goods and services is 14%. The supply of certain goods and services is exempt from VAT (e.g. the supply of financial services). Similarly, certain supplies are zero-rated (e.g. exports, sale of a business as a going concern).

Registration for VAT must be effected either at the end of any month in which the total value of taxable supplies made by the enterprise for the preceding 12-month period exceeds R150 000 or at the commencement of any month in which it is reasonable to conclude that the total value of supplies to be made in the coming twelve (12) months will exceed R150 000. The enterprise must have an active bank account before registering. The registration application must be accompanied by the following documentation:

- Registration Form VAT 101
- Bank statements or cancelled cheque of enterprise
- Certified copies of ID documents of public officer of company, members of close corporation, or partners of partnership; and,
  - Articles of association of company
  - Founding statement (CK1) of close corporation, or
  - Partnership agreement of partnership.

VAT returns normally cover a two-month period and account for VAT on the supply

Tax rates for individuals are calculated as follows (2006/7):

Taxable income	Rates of tax
R R0-	R R 18% of every R1
100 001 - 160 000	18 000 + 25% of the amount over 100 000
160 001 - 220 000	33 000 + 30% of the amount over 160 000
220 001 - 300 000	51 000 + 35% of the amount over 220 000
300 001 - 400 000	79 000 + 38% of the amount over 300 000
400 001 and over	117 000 + 40% of the amount over 400 000

of goods or services on an invoice basis. They must be submitted to SARS together with payment of any VAT due by the 21st day of the month following the end of the return period. A VAT vendor who is a natural person or an unincorporated body of natural persons, the taxable supplies of whom do not exceed R2,5 million annually, may apply to account for VAT on the payments basis as opposed to the invoice basis. Remittances are filed using VAT Form 201. SARS conducts VAT audits on randomly selected vendors.

Employee tax

All enterprises with employees must register as employers and account for employees' tax [standard income tax on employees (SITE), and pay as you earn (PAYE)]. The main exception to this is directors of private companies whose remuneration is not subject to employees' tax and who are required to register as provisional taxpayers.

SITE is a tax on net remuneration. Net remuneration represents income earned from employment less deductions, for pension fund and retirement annuity fund contributions. Where an employee's net remuneration is R60 000 or less, only SITE is payable. Such an employee need not render returns and will not be subject to assessment (assuming that they earn no other income). If an employee's net remuneration for the year exceeds R60 000, employee's tax will comprise both SITE and PAYE. Such employees are required to render tax returns and are subject to assessment. The employees' tax withheld by the employer will be credited against the tax assessed. In the event of the assessed tax being less than the SITE paid, no refund of SITE will be made, although overpaid PAYE will be refunded.

Employers must register with their local SARS office (using Form IRP 101). Registration must be effected within fourteen (14) days after the liability to pay any amount by way of remuneration arises.

Employers are required to deduct employees' tax from employees' remuneration on a monthly basis. Employers must pay the tax to SARS within seven (7) days of the end of the month in which the tax was withheld. Form IRP 201 must accompany the payment. The tax withheld represents an advance payment of normal income tax on behalf of the employees concerned. Employers are also required to file annual employees' tax reconciliation forms IRP 501 with SARS and to issue employees' tax certificates IRP 5 to all employees on an annual basis.

Accounting policies

The Companies Act requires all public and private companies to maintain accounting records in one of the official languages of the Republic. Similar provisions exist for close corporations under the Close Corporations Act. Companies and close corporations are required to follow statements of generally accepted accounting practice in preparing their final statements, and to achieve fair presentation, other entities should also follow these standards.

Certain companies, including public companies and foreign companies with branches in South Africa, are required to file their financial statements with the Registrar of Companies.

Directors of companies listed on the main board of the Johannesburg Securities Exchange are required to report on their company's compliance with the Code of Corporate Practices and Conduct, and similar disclosure by all other entities is encouraged.

For more information, please contact:

South African Revenue Service (SARS)

Postal Address: Private Bag X923, Pretoria, 0001

Telephone: +27 (12) 422 4000

Facsimile: +27 (12) 422 6848

Website: www.sars.gov.za

14. Prospecting and mining rights

The Mining Titles Registration Amendment Act, 2003 (Act 24 of 2003), was promulgated on 26 November 2003 to re-regulate the registration of mineral and petroleum titles and related rights. According to the Mining Titles Registration Amendment Act (MPRDA), the functions relating to the registration of minerals falls under the ambit of the Director-General of the Department of Minerals and Energy. In addition, incentives for the beneficiation of minerals and metals are also being developed.

This legislation will assist in providing access to precious metals and diamonds to promote the culture of local value addition or beneficiation, with a view towards creating jobs, promoting skills development and increasing foreign direct investment and export earnings.

The mineral industry in South Africa is mainly regulated by three acts:

- The Minerals Act, 1991, regulates prospecting for and optimal exploitation of minerals and the rehabilitation of the surface of land during and after prospecting and mining operations.
- The Diamonds Second Amendment Act, 2005, controls the possession, purchase, sale, processing and export of diamonds.
- The Mine Health and Safety Act, 1996, provides for the protection of the health and safety of employees and other persons at mines.

The Minerals Act and the Mine Health and Safety Act are administered by the Department of Minerals and Energy. Mineral rights are regarded as an indigenous development as a result of the mineral wealth of the country. It is defined as a limited real right in property, which entitles the holder or the person who has acquired the consent of the holder, to go upon the land and search for minerals, remove and dispose of them.

Mineral rights

Registration particulars in respect of mineral rights can only be obtained from the relevant deeds offices. Under Section 5 of the Minerals Act, the holder of minerals rights, or any person who has acquired the consent of such holder, has the right to conduct prospecting or mining operations subject to being granted the necessary prospecting permit or mining authorisation from the Department of Minerals and Energy. If the State is the holder of the mineral rights, the prospective applicant is required to obtain the requisite consent from the Minister of Minerals and Energy by concluding a contract (prospecting contract or mineral lease agreement) with the State.

Procedures

The Department of Minerals and Energy has regional offices in each province, managed by a Director of Mineral Development. Once the permission of the mineral rights holder has been obtained, an application for a prospecting permit or mining authorisation may be lodged with the Director of Mineral Development at the Department of Minerals and Energy. The director evaluates the application, giving special attention to the manner in and scale on which it is intended to prospect or mine the mineral concerned, and to the manner in which the applicant intends to rehabilitate the land involved.

The Minerals Act requires that the holder of a prospecting permit or mining authorisation shall submit an environmental management programme (EMP) to the Director of Mineral Development for approval, and no operations may be commenced until such approval is obtained. In order to speed up the approval process, the EMP is usually submitted at the same time as the application for a prospecting permit or mining authorisation.

To ensure that all aspects of the environment are considered, the Act stipulates that before the director approves the EMP, he or she is required to consult with each department charged with the administration of any law relating to the environment. Approval of an EMP may therefore take a considerable period of time. However, the legislation does provide for the granting of temporary permission to proceed with prospecting mining operations, but such permission will only be granted after consultation with other departments and under stringent conditions.

Export of minerals

The export of minerals is not prohibited by the Minerals Act. The export of diamonds is controlled in terms of the Diamonds Second Amendment Act, 2005. The export of tiger's eye and sugelite (also known as lavulite or lazulite) is controlled by export control regulations promulgated under the Import and Export Control Act, 1963. In terms of the regulations, only properly processed tiger's eye articles, as defined in the regulations, may be exported without an export permit being obtained. An export permit in respect of tiger's eye or sugelite is issued on the recommendation of the Department of Minerals and Energy.

Although the International Trade Administration Commission (ITAC) issues export permits, the permission from the Department of Minerals and Energy, as controlling authority, must be obtained beforehand. Any queries regarding the export of a particular mineral may be directed to the ITAC.

For more information, please contact:

Department of Minerals and Energy
Telephone: +27 (12) 317 8000
Facsimile: +27 (12) 320 1955
Website: www.dme.gov.za

15. Site development

Although the procedures for developing a site are generally consistent throughout the country, the individual municipality or local authority defines the specific steps an investor must take. In most cases, the approval of plans, the assessment of environmental impact, and the provision of utilities, including water, sewerage, and electricity, is handled exclusively by the municipality concerned.

In general, in areas where land is already serviced and no upgrades are required, utility hook-ups are fairly simple and swift. Where capacity upgrades or servicing is required, the wait for connections may be longer.

Building permits

The municipal authority with jurisdiction over the particular site, will issue building permits. Each municipality has its own application process. Most applications must meet both the building codes of the municipality, and the national codes set out in the National Development Act. The Act specifies that each structure must conform to over 20 requirements. Decisions to consult with exterior bodies, such as the Department of Health, local fire department, and Ministry of Environment and Tourism, are made by the engineer in the local authority.The following areas are included in the approvals:

- Fire
- Pollution control
- Health impact
- Frontage works
- Elevation control
- Drainage and coastal engineering
- Roads
- Sanitation
- Sewerage reticulation; and
- Structures.

Once plans are approved, the municipality conducts a minimum of five inspections of the building site. Some municipalities conduct more, especially in the case of a multi-storey building. Other inspections may be carried out from time to time, depending on the specifics of the building.

Environment assessments

Some applications for building permits will require an environmental impact assessment. An environmental consultant must carry out the assessment - at the expense of the landowner. Some investors have recently carried out social impact assessments as well. It has been estimated that the environmental impact assessments cost up to 5% of the investment.

There is no established criterion for determining when an assessment is required. Assessments are carried out at the request of the municipality, although some investors have been required to carry out assessments as a result of environmental activist pressure. Companies are advised to carry out assessments before the erection of a manufacturing or processing plant.

Electricity connection

Eskom, a State-owned enterprise, generates most of the electricity in South Africa. Eskom sells to local authorities, who act as redistributors. The local redistributors, in turn, supply the majority of electricity to end-users. There are approximately 450 local redistributors. Eskom, in certain cases, sells directly to the end-user:

(1) When the local redistributor is unable to meet the needs of heavy electricity users, or
(2) When no local redistributor has jurisdiction over a particular geographic area.

Procedures

The application and installation procedures are simple and swift for a site with an existing structure and an adequate electrical supply already in place, i.e. where no equipment upgrades or added infrastructure is required. An application for the supply of electricity should be submitted to the nearest Eskom sales office at least seven (7) days prior to the requested connection date. Connection fees range from R2,000 - R4,000, depending on the category of service (standard users, off-peak users, or peak users). A cash deposit or bank guarantee may also be required to cover costs in event of non-payment.

Eskom is also able to meet the needs of investors who require capacity upgrades, such as for energy-intensive factories. For capacity upgrades, the waiting time depends on the availability of the size of transformer required. Costs are also dependent on the size of the upgrade.

The utility is also able to supply greenfield sites in serviced areas. However, investors should prepare their applications well in advance, as installation can take up to twenty-four (24) months for large projects. Investors may submit either an application for the supply of electricity or a letter of requirements to the nearest Eskom office. Eskom will provide an estimated quote of installation costs within fourteen (14) days of the initial application. The quote is subject to negotiation.

Water connection

Local municipalities generally provide water connections. Connection times are usually fast, with the exception of those sites not serviced. The time required for connection times to serviced sites ranges from one (1) day to two (2) weeks. Times required for connection to un-serviced sites ranges from one (1) month to one (1) year and more.

Telephone connection

Telkom can usually provide a line within one week if lines are in place. It has established seven call centres across South Africa and in many cases can connect a line within one day. The installation fee is R316 and R232 for more than one additional line. The company will usually dispatch a sales representative for any request for more than three lines. Any investor must provide a surety from a South African citizen. Failure to acquire a surety will require a deposit of R1 000.

If an equipment upgrade is required, Telkom can upgrade a facility within four months, depending on the need. No additional fees are required, unless the upgrade is not in Telkom's strategic plan. If the upgrade is not within its strategic plan, Telkom will base its fees on a cost recovery basis. No special forms are required.

Telkom can provide a number of means by which an investor can receive telecommunications services in an un-serviced area, but it requires approximately two to four months, depending on the type of solution. Radiophone systems are installed in a number of remote areas around South Africa.

16. Importing and exporting

Customs procedures affect new business operations in many areas. Most firms rely on imports for initial capital equipment and for needed production materials and supplies. Exporting firms rely on timely clearances to expedite shipments and for documentation to secure rebates.

Import permits

Most goods may be imported into South Africa without restriction. However, the importation of certain goods specified by government notice is permitted only subject to the issuance of an import permit. All second-hand goods, including waste and scrap of whatever nature, require an import permit. For goods subject to restriction, importers must be in possession of the required permit before the date of shipment.

The International Trade Administration Commission of South Africa (ITAC) controls the issuing of permits. Although additional and prior authorisation may be required from other departments with jurisdiction over the control of the goods in question. The permit can be acquired within three (3) days, depending to the nature of the application.

For a complete list of goods currently subject to import control, an importer should approach the ITAC. There is no fee applicable. Permits are valid from the date of issue until the end of the calendar year.

Applications should be filed at least two weeks prior to the date of shipment in order to ensure approval in time for shipment.

Export permits

A number of products are currently subject to export control and licensing. Exporters should apply directly to the government agency that controls the specific permit in question. Currently restrictions exist on strategic goods (exhaustible resources); agricultural products and metal waste and scrap. Metal scrap must first be offered to downstream manufacturers at a discount to the price at which it can be exported (15% discount for non-ferrous; 7,5% for ferrous). If manufacturers turn down the offer, an export permit may be issued.

Registration as importer/exporter

All importers and exporters in South Africa are required to register with the Commissioner of the South African Revenue Service. Form DA163 covers importers and exporters, as well as clearing agents and warehouse licensees. Forms are submitted to the South African Revenue Service Commissioner's Office in Pretoria, and may be submitted by fax. Upon registration, applicants are issued with a customs code number. The registration process can take as little as one day, though traders are permitted to use a general code number issued by Customs in order to begin importing or exporting immediately, if required.

Customs clearance procedures

Import process

The clearance of imported goods generally takes a maximum of twenty-four (24) hours for airfreight and two (2) to three (3) days for sea freight, depending on the port of entry. All required documentation must be submitted to Customs and Excise before goods can be cleared through customs. Most transactions are covered by a bill of entry, Form DA500.

Other required documentation includes:

- Commercial invoice
- Prescribed certificate of origin when preferential duty rates are claimed
- Negotiable copy of bill of lading or equivalent document
- Import permit, if required
- Rebate permit 470.03, if applicable (for raw materials to be processed and re-exported – see below); and,
- Payment, by a bank guaranteed cheque, for all applicable duties and taxes (including VAT), if not qualified for a deferment.

Import shipments may be cleared through customs prior to the goods arriving at a South African port. In order to avoid unnecessary delays, an importer may wish to submit an application for a tariff heading. These can be acquired from the Commissioner in Pretoria.

In the case of sea freight, once customs has been cleared, the importer must pay dues to Harbour Revenue, and receive a wharfage order. The importer then pays the operator and receives a release. At this point, the importer can go to the terminal and collect his goods.

Use of a freight forwarder is strongly recommended. Freight forwarders commonly apply for all licenses and registration numbers. They can apply for tariff headings, and provide assistance in properly classifying goods. Through the use of technology, they can clear goods more quickly than an individual investor, and provide ground transport for the goods to reach the investor.

Export process

All required documentation must be submitted to Customs and Excise before goods can be cleared through customs. Most transactions are covered by a bill of entry, Form DA550. Customs can process paperwork within twenty-four (24) hours.

All exports must reflect payment from the receiver of the goods. Exporters must complete Form F-178, available at commercial banks.

Other required documentation includes:

- Export invoice; and,
- Export permit, if required.

Electronic processing

The larger Customs offices accept electronic versions of required documentation to expedite the clearance process. The electronic version must still be accompanied by a paper version, as a paper document is still regarded as the legal declaration.

To facilitate clearance, Customs and Excise, in co-ordination with Portnet and Spoornet, has also introduced electronic processing for the clearance of containerised cargo through a select number of district offices. Customs electronically communicates its instructions directly to the depot or terminal operators.

Deferment of payment scheme

A deferment scheme is available to qualified importers that allow the deferment of applicable import duties, surcharges, and VAT. Payment is generally deferred for thirty (30) days and seven (7) days to settle the account. To apply for deferment, importers may apply to the local Customs Controller. Required documentation includes:

- Application for deferment
- Statement of income
- Balance sheet.

The local controller will make its recommendation to the Commissioner. Following approval, the applicant will be required to submit additional documentation, including a signed agreement and any required surety bond.

Duty drawback scheme

A duty drawback scheme provides refunds for import duties paid on materials used in the production of an export. Manufacturers may apply for refunds upon export of the final product. Manufacturers must provide proper documentation to reconcile imported materials with exports.

Bonded warehouses

Secure bonded warehouse facilities are available at all points of entry and may be used to store imported goods without payment of duties until required for use, resale, or re-export. Goods withdrawn from a bonded warehouse are liable for the duty applicable only if cleared out of bond for home consumption.

Manufacturing under rebate programme

South African Revenue Service also administers a programme for manufacturing under rebate, whereby manufacturers may claim a rebate on imported materials used in the production of exports. Imported materials must be used within twelve (12) months.

This facility is exclusively export driven, and to qualify manufacturers must have secure facilities on their premises for the storage of dutiable materials. The room is subject to inspection by Customs. It is recommended that building plans be submitted to Customs prior to construction to ensure that all requirements are met. Upon approval, manufacturers are also required to draw up a bond. The entire process can take from two (2) weeks to two (2) months, depending on the length of time required to obtain the bond. If the process needs to be expedited, Customs will accept a cash deposit until the bond is obtained.

Manufacturers are required to submit reconciliation statements to Customs within twelve (12) months of the date of importation of imported materials.

Clearing agents
Clearing agents/customs brokers are available throughout South Africa to attend to all formalities necessary for the clearance of goods through customs, including any required permits, documentation, payment of duties, port charges, forwarding, and transport costs. In addition to registering for a customs code, clearing agents are required to put up a bond.

For more information on importing and exporting, please contact:
ITAC
Telephone: +27 (12) 394 3590; 0861 843 384
Facsimile: +27 (12) 394 4628; 0861 843 888
E-mail: info@itac.org.za
Website: www.itac.org.za

For more information on Customs and Excise, please contact:
South African Revenue Service (SARS)
Telephone: +27 (12) 422-4000
Facsimile: +27 (12) 422-6991
Website: www.sars.gov.za

17. Incentive programs for investors

Industrial Development Zone Programme (IDZ)

An IDZ is a purpose-built, industrial estate linked to an international airport or port, which contains a controlled Customs Secured Area (CSA). A CSA is exempt from duties, VAT and import duty on machinery and assets. The aim of an IDZ is to provide demand-driven infrastructure and to generate sustainable local and foreign investment and improve international competitiveness.

There are currently four IDZs in South Africa, all strategically positioned close to an international port or airport, namely COEGA and East London IDZs in the Eastern Cape, OR Tambo International Airport IDZ in Gauteng and Richards Bay IDZ in KwaZulu Natal.

The IDZs also consist of industries and service areas that are designed to:
- Provide a location for the establishment of strategic investments
- Promote and develop links between domestic and zone-based industries to optimise use of existing infrastructure, generate employment and create technology transfers.
- Enable exploitation of resource-intensive industries.

Each IDZ offers:
- Direct links to an international port or airport
- World-class infrastructure, specially designed to attract tenants
- Suitability for export-oriented production
- Dedicated customs support services to expedite excise inspection and clearing
- Duty-free importation of production-related raw materials and inputs
- A zero rate of VAT on supplies procured from South African sources
- Import status for finished goods, which are sold into South Africa
- Government incentive schemes
- Reduced taxation and exemption for some activities/products
- Access to the latest information technology for global communications.

For more information, please contact:

East London IDZ
Telephone: +27 43 702 8200
Facsimile: +27 43 736 6405
Website: www.elidz.co.za

COEGA IDZ
Telephone: +27 41 408 4800
Facsimile: +27 41 408 4998
E-mail contact.centre@coega.co.za
Website: www.coega.com

Richards Bay IDZ
Telephone: +27 35 789 3400
Facsimile: +27 35 789 1668
Website: www.tikzn.co.za

OR Tambo International Airport IDZ
Telephone: +27 11 689 1600
Facsimile. +27 11 689 1601
Website www.blueiq.co.za

Critical Infrastructure Programme (CIP)

This programme provides subsidised support for economic infrastructure required for committed productive investments, including new or expanding existing projects. It also assists companies with a top-up grant, with funding ranging from 10% to 30% of the qualifying development costs.

The scheme aims to:

- Improve the competitiveness of South African industries
- Achieve economic growth and create employment
- Support the development of industrial activities that have strategic economic advantage for South Africa
- Achieve a geographical spread of economic activities within South Africa and prioritise rural and economically depressed areas.

Private sector enterprises, private /public partnerships, industrial development project operators, strategic Investment programme applications and investors in strategic economic projects may apply for assistance under the scheme. The following qualifying costs may be claimed for:

- Costs incurred directly in the installation, construction and erection of infrastructure
- Remuneration costs incurred by the applicant for payment of employees undertaking project work
- Costs of materials directly consumed during the installation, construction and erection of the infrastructure
- Cost of new capital items, e.g. test equipment.

For more information, please contact:

the dti Customer Contact Centre
Telephone: 0861 843 384 (local);
+27 (12) 394 0000 (international)
E-mail: investmentsa@thedti.gov.za
Website: www.thedti.gov.za

Technology and Human Resources For Industry Programme (THRIP)

The Technology and Human Resources for Industry Programme (THRIP) is a partnership programme, which challenges companies to match government funding for innovative research and development in South Africa. Managed by the National Research

Foundation (NRF) on behalf of the Department of Trade and Industry (**the dti**), THRIP focuses on projects that specifically promote and facilitate scientific research, technology development and technology diffusion, or any combination of these.

All projects funded by THRIP must include human resource development, but the choice of technological focus is left to the industrial participants and their partners. The industry and **the dti** share the costs – and therefore the risk – of developing commercial technology on a R2 to R1 basis (industry: **the dti**). **the dti's** support may be doubled if a project supports certain THRIP priorities.

Funding takes place in the following ways:

- Firms and THRIP invest jointly in research projects where project leaders are on the academic staff of South African Higher Education Institutions (HEIs)
- THRIP matches investment by industry in projects where researchers/experts from Science, Engineering and Technology Institutions (SETIs) serve as project leaders and students are trained through the projects
- Technology Innovation Promotion through the Transfer Of People (TIPTOP) schemes promote the mobility of researchers and students between the industrial participants, HEIs, and SETIs involved in joint projects. Four TIPTOP schemes are available, namely:
  - The exchange of researchers and technology managers between HEIs, SETIs and industry.
  - The placement of SET graduates in firms, while they are working towards a higher degree on a joint research project.
  - The placement of SET graduates in small, medium and micro enterprises (SMMEs).
  - The placement of SET skilled company employees within HEIs or SETIs.

For more information, please contact:
The Executive Director
Postal address: PO Box 2600, Pretoria, 0001
Telephone: +27 (12) 481-4078
Facsimile: +27 (12) 481-4197
E-mail:Thrip@nrf.ac.za
Website: www.nrf.ac.za/thrip

Support Programme for Industrial Innovation (SPII)

The programme, administered by the Industrial Development Corporation of South Africa, promotes technology development in the manufacturing and IT industry through innovation of new products and processes.

All private sector firms and commercialised state owned companies, which incur direct costs in the development of innovative new products/processes qualify for the funding. The SPII is focussed specifically on the phase that begins at the conclusion of basic research (at the stage of proof of concept) and ends at the point where a pre-production prototype has been produced.

Support is provided in the form of product process development, a matching scheme and a Partnership Scheme:

Product process development

Financial assistance is provided for small, very small and micro enterprises in the form of a grant of between 65% and 85% of the qualifying cost incurred during the technical development stage with a maximum grant amount of half a million Rand (R500,000) per project. For enterprises with more than 25% black shareholding, the grant is 65%, for enterprises with between 25% and 50% black shareholding, the grant amount is 75%, and for enterprises with black shareholding of more than 50%, the grant amount is 85%.

Matching scheme

This is a conditional grant that is repaid by means of levy sales. Financial assistance is provided to SMEs with more than 200 employees, a turnover of more than R51 million, and assets less than R19 million, in the form of a grant of up to 50% of the qualifying cost incurred during the technical development stage up to a maximum grant amount of one and a half million Rand (R1,500,000) per project.

Partnership scheme

Financial assistance is provided in the form of a conditionally repayable grant of 50% of the qualifying cost incurred during development activity, with a minimum grant amount of one and a half million Rand (R1,500,000) per project, repayable on successful commercialisation of the project. In considering support for a project under SPII, there should be a clear indication of the causality (additionality) that will follow from the support.

For more information, please contact:

The SPII Champion

Telephone: +27 (11) 269 3911

Facsimile: +27 (11) 269 3126

E-mail: SPII@idc.co.za

Website: www.spii.co.za

National Industrial Participation Programme – NIPP

The programme seeks to leverage economic benefits and support the development of South African industry through government procurement. The programme is targeted at the South African industries, enterprises, and suppliers of goods and services to government/parastatals, where the imported content of goods and services equals to or exceeds US$10 million.

The primary customer of NIPP is the South African industry that benefits through the NIPP business plans which, when implemented generate new or additional business activities through one or more of the following: investment, export opportunities, job creation, increased local sales, SMME and BEE promotion, research and development and technology transfer. The secondary customer of the NIPP is the foreign supplier who benefits from the programme through increased participation in the South African economy.

In the case of foreign customers, the imported content of the purchase or lease contract for goods and services must equal to or exceed US$10 million to qualify for participation. In the case of South African industries, participation is dependent on enterprise capability to satisfy the requirements of both the programme and the foreign supplier.

For more information, please contact:

the dti Customer Contact Centre

Telephone: 0861 843 384 (local);

+27 (12) 394 9500 (international)
Website: www.thedti.gov.za

Film incentives

A large Budget Film and Television Production Rebate Scheme has been introduced where an eligible applicant will be rebated a sum totalling 15 percent for foreign productions, or 25 percent for qualifying South African Productions. This includes official co-productions of the Qualifying South Africa Production Expenditure ("QSAPE") that the applicant has spent on an eligible film production.

The objective is to provide additional financial incentives for the production of both foreign and domestic large budget film and television projects in South Africa. In establishing the rebate, the government recognises that large budget film productions contribute to South Africa's economic development and international profile by providing valuable economic, employment and skill development opportunities for the South African film production industry. The rebate will ensure that South Africa remains competitive in attracting large budget film productions from abroad.

A finite sum has been allocated over an initial three-year period. The maximum rebate for each project will be R10 million in order to attract an optimum number of productions.

For more information, please contact:
the dti Customer Contact Centre
Telephone: 0861 843 384 (local);
+27 (12) 394 9500 (international)
Website: www.thedti.gov.za

Export Marketing & Investment Assistance Scheme (EMIA)

The EMIA Scheme partially compensates exporters and investors for costs incurred in respect of activities aimed at developing export markets, and assists with the facilitation of investments into South Africa. Any assistance provided under the EMIA Scheme is at the discretion of the CEO of Trade and Investment South Africa (TISA).

Eligible applicants for the scheme are:

- South African based manufacturers of products including small, medium-sized and micro enterprises (SMMEs), previously disadvantaged individuals (PDIs) and other businesses
- South African export trading houses
- South African commission agents representing at least three SMMEs or previously disadvantaged individuals (PDI)-owned businesses; and
- South African export councils, industry associations and joint action groups representing at least five South African entities.

Entities/divisions/subsidiaries forming part of a group, joint venture or partnership will qualify for EMIA assistance at the discretion of the EMIA Scheme.

For more information, please contact:
The Director: Export Promotion
Telephone: +27 (12) 394 1021
Facsimile: +27 (12) 394 0117
Website: www.thedti.gov.za

18. Broad-based black economic empowerment (BBBEE)

As part of the country's growth strategy, the South African government has developed policies on Broad Based Black Economic Empowerment that will help bring the country's black majority into the economic mainstream. Through the BBBEE policy, the government will:

- Empower more black people to own and manage enterprises. An enterprise is regarded as black owned if it is 50.1% owned by black persons, and where black people have substantial management control of the business
- Promote human resource development of black people, through, for example, mentorships, learnerships and internships
- Ensure that black-owned enterprises benefit from its preferential procurement policies
- Assist in the development of operational and financial capacity of BEE enterprises, especially SMMEs and black owned enterprises.

Since the Broad-Based Black Economic Empowerment Act 2003 came into operation, major deals have been signed to herald in a new era of sustainable growth, these include:

- Barclays acquiring almost 60% in ABSA, which have black minority shareholders, and
- Anglo American and Kumba Resources establishing the country's largest black-owned, controlled and managed company, Newco, valued at R16-billion.

The government has introduced codes of good practice on BBBEE to provide a standard framework for the measurement of broad-based black economic empowerment across all sectors of the economy. The first phase of these codes will encourage all entities, both public and private, through the issuing of licenses, concessions, sale of assets and preferential procurement, to implement proper BBBEE initiatives.

The second phase of the codes of good practice on BBBEE, covers five components of the BBBEE scorecard: Preferential procurement, employment equity, skills development, enterprise development, residual (industry specific and corporate social investment initiatives), and qualifying small enterprise sections. Other statements covered include fronting practices, specific verification issues relating to the complex structures, multinationals and State-owned / public entities.

Source: The Department of Trade and Industry

19. Key private public partnerships (PPPs)

The South African government regards Private Public Partnerships as an important tool for the development of its infrastructure projects, sustainable job creation and economic growth. The South African law defines Private Public Partnerships as a contract between a public sector institution/municipality and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project.

All South African PPPs are governed by Treasury Regulation 16 and are subjected to three strict tests:

- Can the institution afford the deal?
- Is it a value-for-money solution?
- Is substantial technical, operational and financial risk transferred to the private party?

Types of PPPs

A "PPP" is a commercial transaction between an institution and a private party in terms of which the private party –

- Performs an institutional function on behalf of the institution; and/or
- Acquires the use of state property for its own commercial purposes; and
- Assumes substantial financial, technical and operational risks in connection with the performance of the institutional function and/or use of state property; and
- Receives a benefit for performing the institutional function or from utilising the state property.

20. Foreign trade relations

South Africa is engaging with key developed markets in order to actively maintain and expand its relations with traditional trading partners. The country is also developing bilateral trade relations with key markets in Africa, South America and Asia. These offer vast export opportunities to South Africa because of their rapid growth and also because the structure of the country's trade reflects a higher proportion of value-added exports. In the light of the complementarities that emerge from comparable levels of industrial development, these economies also offer unique opportunities in terms of investment, joint ventures, and technology transfer. In order to maintain and expand trade relationships with established markets, as well as new developing markets, the country enjoys the following market access conditions:

- **European Union (EU):** The Trade, Development and Co-operation Agreement (TDCA) is now in its 7th year of implementation. The free trade area, accompanied by a process of customs tariff phase-down on both sides of the border, has started to kick-in in a powerful way. South Africa is obligated, after a phase down period ending on 1 January 2012, to grant duty-free access to 86% of imports from the EU. The EU in return, after a phase-down period ending on 1 January 2010, will liberalise 95% of its imports from South Africa. The agreement, which was extended to 10 new EU member states in 2004, is an important component of South Africa's foreign trade policy, with the EU being by far the country's largest trade and investment partner, accounting for about 40% of South Africa's total trade with the world. The impact on trade and investment flows between South Africa and now 25 EU member states will contribute positively towards the restructuring of the South African economy and its long-term economic growth potential.

- **The Southern African Development Community (SADC):** Trade Agreement envisages an FTA by 2008, when more than 85% of intra-SADC trade would be duty free. The SADC Protocol on Trade was launched in September 2000, with important progress having been made towards the achievement of an FTA by 2008. Outstanding issues such as the need to improve market access and to resolve the rules of origin for certain commodities are currently receiving attention. This agreement is an extremely important tool to foster regional economic integration and prosperity in so far as it encourages intra-regional trade and promotes investment and technology transfers.

- **The African Growth and Opportunity Act (AGOA):** builds on existing U.S. programmes designed to increase trade and investment between the United States and developing countries. The Act expands benefits available under the GSP, which offers duty-free treatment to imports of selected products from specific beneficiary countries. AGOA provides three important benefits to Sub-Saharan African exporters. Firstly, it extends the duty-free treatment under the GSP programme to September 2015. Secondly, the AGOA eliminates most of the limitations of the GSP programme for Sub-Saharan African countries. Thirdly, it AGOA expands the product coverage of the GSP programme exclusively for products of Sub-Saharan Africa. Naturally, South Africa as a Sub-Saharan African country stands to gain from all these benefits.

  The Act includes duty-free treatment of 1835 tariff line items in addition to the standard GSP list of approximately 4,600 items currently available to non-AGOA GSP beneficiary countries. These tariff line items include all major industries and also additional commodities, which were previously excluded from GSP treatment such as footwear, textiles, apparel products, luggage, handbags and flatware. Furthermore, AGOA provides duty-free and quota-free access to the US market without limits for apparel made in Sub-Saharan African countries from US fabric, yarn and thread. It also provides for substantial growth of these commodities given the relatively high limits set on the volume of their exports to the US.

- **European Free Trade Association (EFTA):** The free trade area with EFTA (Iceland, Liechtenstein, Norway and Switzerland) is expected to enter into force in 2007. In terms of access into EFTA the latter offered South Africa full duty and quota-free access at entry into force-industrial products. On processed agricultural products, EFTA is offering the same treatment that what it accords to the EU. For its part, South Africa offered EFTA what it had already offered the EU on both processed agricultural products and on industrial products with some marginal adjustments. EFTA and South Africa also provided limited access in basic agricultural products.

- **Mercosur:** A preferential trade agreement, covering around 1,500 products, was concluded in December 2004 between SACU and South American

Mercosur group of countries. Discussions are continuing on issues including rules of origin, sanitary and phyto-sanitary regulations, customs procedures and additional products

- South Africa is also involved in discussions on preferential negotiations with a number of other countries, including future possible partners such as the United States, India and China, amongst others.

21. Investment promotion agencies

Investment Promotion is a strategy government (national, provincial & local) uses to promote and maintain new and additional foreign and local direct investment into the country as well as into Africa. To this end, each province is served by its own independent investment promotion agency. Investment promotion activities are coordinated with the national investment promotion agency. These agencies inter-alia provide the following services to the prospective or current investor:

- Promotion of investment opportunities
- Marketing of investment projects
- Information on the various investment sectors and industries within South Africa
- Facilitation of investment missions, including travel itineraries
- Introduction to key stakeholders in private and public sectors
- Introduction to potential joint venture partners and black economic partnerships
- Consultation on the prevailing regulatory environment
- Information on incentive packages
- Guidance with plant/site locations – Industrial Development Zones
- Assistance with work permit applications
- Logistical support for relocation
- Dedicated aftercare service

The following are agencies, that can be of assistance to new as well as current investors in South Africa:

NATIONAL

Trade and Investment South Africa (TISA), a division of the Department of Trade & Industry (**the dti**), has established trade and investment promotion offices world-wide to facilitate trade and investment flows. **the dti** is also providing supportive services to NEPAD, which plays a critical role in catalysing trade and economic development on the African continent.

Trade and Investment South Africa (TISA) division
Physical Address: 77 Meintjies Street, Sunnyside, Pretoria, 0002, South Africa
Postal Address: Private Bag X84, Pretoria 0001, South Africa
Courier delivery address: 12 Esselen Street, Sunnyside, Pretoria, 0002, South Africa
Telephone: 0861 843 384 (local); +27 (12) 394 9500 (international)
Website:www.thedti.gov.za
E-mail: investmentsa@thedti.gov.za

REGIONAL

GAUTENG

Gauteng Economic Development Agency (GEDA)

Physical Address: 56 Main Street, Johannesburg, South Africa
Postal Address: P.O. Box 61840, Marshalltown, 2107, South Africa
Telephone: +27 (11) 833 8750 Facsimile: +27 (11) 836 9070
E-mail: info@geda.co.za Website: www.geda.co.za

MPUMALANGA

Mpumalanga Economic Growth Agency (MEGA)

Physical address: 33 Van Rensburg Street, Nelspruit 1200, South Africa
Postal address: PO Box 5838, Nelspruit, 1200
Telephone: +27 (13) 752-2440 Facsimile: +27 (13) 755-1756
E-mail: trade-investment@mega.gov.za Website:www.mega.gov.za

KWAZULU NATAL

Trade and Investment Kwa Zulu Natal (TIKZN)

Physical address: 3rd Floor The Marine, 22 Gardiner Street, Durban
Postal address: PO Box 4245, Durban, 4000, South Africa
Telephone: +27 (31) 366-0600 Facsimile: +27 (31) 304-4471
E-mail: tik@tikzn.co.za Website: www.tikzn.co.za

EASTERN CAPE

Eastern Cape Development Corporation

Physical address: Ocean Terrace Park, Moore Street, Quigney, East London
Postal address: PO Box 11197, Southernwood, East London, Eastern Cape, South Africa, 5213
Telephone: +27(43) 704 5600 Facsimile: +27 (43) 743 6036
E-mail: info@ecdc.co.za Website: www.ecdc.co.za

WESTERN CAPE

The Western Cape Investment and Trade Promotion Agency (Wesgro)

Physical Address: Waldorf Arcade, 12th Floor, 80 St Georges Mall, Cape Town, 8001
Postal Address: P.O. Box 1678, Cape Town, 8000, South Africa
Telephone: +27(21) 487 8600 Facsimile: +27 (21) 487 8700
E-mail: info@wesgro.org.za Website:www.wesgro.org.za

FREE STATE

Free State Development Corporation

Physical address: 111 Zastron Street, Bloemfontein, 9300
Postal address: PO Box 989, Bloemfontein, 9301
Tel: +27 (51) 400 0800 Fax: +27 (51) 447 0929
E-mail: fdccorp@fdc.co.za Website: www.fdc.co.za

NORTHERN CAPE

Department of Economic Affairs and Tourism

Physical address: 13th Floor Post Office Building, Market Square, Kimberley
Postal address: Private Bag X 6108, Kimberley, 8300
Telephone: +27 (53) 839-4002 Facsimile: +27 (53) 832-6805
Website: www.northern-cape.gov.za

NORTH WEST PROVINCE

Invest North West

Physical address: 171 Wolmarans Street, 1st Floor Old Mutual Building, Rustenburg
Postal address: PO Box 6352, Rustenburg, 0300
Telephone: +27 (14) 594-2570 Facsimile: +27 (14) 594-2575
Website: www.investnorthwest.co.za

LIMPOPO

Trade and Investment Limpopo

Physical address: 130 A Marshall Street, Polokwane
Postal address: PO Box 3490, Polokwane
Telephone: +27 (15) 295-5171 Facsimile: +27 (15) 295-5197
Website: www.til.co.za


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SOURCES AND ACKNOWLEDGEMENTS

Companies and Intellectual Property Registration Office of South Africa (CIPRO)
Cliff Dekker Attorneys
Creamer Media's Engineering News
Deloitte and Touche
Department of Economic Affairs and Tourism, Northern Cape
Department of Environment Affairs and Tourism
Department of Home Affairs
Department of Minerals and Energy
Department of Trade and Industry
Eskom
Free State Development Corporation
Gauteng Economic Development Agency (GEDA)
GCIS Yearbook 2005/6
Independent Communications Authority of South Africa (ICASA)
Industrial Development Corporation of South Africa (IDC)
International Marketing Council
International Trade Administration Commission of South Africa (ITAC)
Invest Northwest
Joburg Metropolitan Council
Julian Pokroy Attorneys
Mercer Human Resources Consulting
Mpumalanga Economic Growth Agency (MEGA)
National Association of Automobile Manufacturers of South Africa (NAAMSA)
Organisation for Economic Co-operation and Development (OECD)
Pam Golding International
PPP Unit, National Treasury
Small Enterprise Development Agency (SEDA)
Telkom Ltd
Trade and Investment Limpopo
Trade and Investment South Africa
South African Revenue Services
South African Reserve Bank
Standard Bank Group Limited
Statistics South Africa
UNCTAD World Investment Report
Werkmans Attorneys
The Western Cape Investment and Trade Promotion Agency (Wesgro)

APPENDIX: List of South African Banks

REGISTERED BANKS - LOCALLY CONTROLLED

ABSA Bank Limited
Telephone: +27 011 350 4000
Website:www.absa.co.za

African Bank Limited
Telephone: +27 11 256-9000
Website: www.africanbank.co.za

Capitec Bank Limited
Telephone: + 27 21 809-5900
Website: www.capitecbank.co.za

FirstRand Bank Limited
Telephone: +27 011 282 8000
Website: www.firstrand.co.za

Imperial Bank Limited
Telephone: +27 011 275 3000
Website: www.imperialbank.co.za

Investec Bank Limited
Telephone: +27 11 286 7000
Website: www.investec.com

Marriott Corporate Property Bank Limited
Telephone: +27 31 333 6600

MEEG Bank Limited
Telephone: +27 11 43 702 9600
Website: www.meegbank.co.za

Nedbank Limited
Telephone: +27 011 294-4444
Website: www.nedbank.co.za

Rennies Bank Limited
Telephone: +27 011 407 3000
Website: www.renniesbank.co.za

Sasfin Bank Limited
Telephone: +27 11 809 7500
Website: www.sasfin.co.za

Teba Bank Limited
Telephone: +27 011 518 5000
Website: www.tebabank.co.za

The Standard Bank of South Africa Limited
Telephone: +27 11 6369111
Website: www.standardbank.co.za

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REGISTERED BANKS - FOREIGN CONTROLLED

Albaraka Bank Limited
Telephone: +27 31 366 2800
Website: www.albaraka.co.za

Habib Overseas Bank Limited
Telephone:+27 11 834 7441

HBZ Bank Limited
Telephone: +27 31 267 4400
Website: www.hbzbank.co.za

Mercantile Bank Limited
Telephone: +27 11 302 0300
Website: www.mercantile.co.za

The South African Bank of Athens Limited
Telephone: +27 11 634 4300
Website: www.bankofathens.co.za

REGISTERED BRANCHES OF FOREIGN BANKS

ABN AMRO Bank N.V.
Telephone: +27 11 685 2000

Bank of Baroda
Telephone: +27 31 209 0133

Bank Of China Limited, Johannesburg Branch
Telephone: +27 11 520 9600

Bank of Taiwan South Africa Branch
Telephone: +27 11 880 8008
Website: www.bot.com.tw/english

Calyon Corporate and Investment Bank
Telephone: +27 11 448 3300
Website: www.calyon.com

China Construction Bank Corporation - Johannesburg Branch
Telephone: +27 11 520 9400
Website: www.ccbjhb.com

Citibank N.A.
Telephone: +27 11 944 1000
Website: www.citibank.co.za

Commerzbank Aktiengesellschaft
Telephone: +27 11 328 7600
Website: www.commerzbank.com

Deutsche Bank AG
Telephone: +27 11 775 7000
Website: www.db.com

HSBC Bank plc - Johannesburg Branch
Telephone: +27 11 676 4200
Website: www.hsbc.co.za

JPMorgan Chase Bank, N.A. -Johannesburg Branch
Telephone: +27 11 507 0300
Website: www.jpmorgan.com

Société Générale
Telephone: +27 11 448 8400
Website: www.socgen.com

Standard Chartered Bank - Johannesburg Branch
Telephone: +27 11 217 6600
Website: www.standardchartered.com

State Bank of India
Telephone: +27 11 778 4500
Website: www.statebank.co.za

REGISTERED MUTUAL BANKS

GBS Mutual Bank
Telephone: +27 46 622 7109
Website: www.gbsbank.co.za

VBS Mutual Bank
Telephone: +27 15 516 3542/4410
Website: www.vbsmutualbank.co.za

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FOREIGN BANKS - REPRESENTATIVE OFFICES

American Express Bank Limited
Telephone: +27 11 721 4196/ 4199

Banco BPI, SA
Telephone: +27 11 622 4376/86

Banco Espirito Santo e Comercial de Lisboa
Telephone: +27 11 616 5382/9

Banco Privado Português, S.A.
Telephone: +27 11 666 1605
Website: www.bpp.pt

Banco Totta & Açores SA
Telephone: +27 11 616 3156/7

Bank Leumi Le-Israel BM
Telephone: +27 11 328 1700

Bank of Cyprus Group
Telephone: +27 11 784-3941

Barclays Bank Plc
Telephone: +27 11 328 3225

Barclays Private Clients International Limited
Telephone: +27 11 328 3225

Bayerische Hypo- und Vereinsbank Aktiengesellschaft
Telephone: +27 11 877 0900
Website: www.hvbgroup.com

BNP Paribas Johannesburg
Telephone: +27 11 447 2934
Website: www.bnpparibas.com

Crédit Industriel et Commercial
Telephone: +27 11 646 0930/47

Credit Suisse Securities (Europe) Limited
Telephone: +27 11 505 0003
Website: www.CSFB.com

Credit Suisse (South Africa) (Pty) Ltd
Telephone: +27 21 415 7880
Website: www.credit-suisse.com

Dresdner Bank AG
Telephone: +27 11 380 0600

Dresdner Kleinwort Limited
Telephone: +27 11 380-0600

Export-Import Bank of India
Telephone: +27 11 442 8010
Website: www.eximbankindia.com

Fairbairn Private Bank (Isle of Man) Limited
Telephone: +27 11 480 1691
Website: www.gerrardpb.com

Fairbairn Private Bank (Jersey) Limited
Telephone: +27 11 480 1698
Website: www.gerrardpb.com

First Bank of Nigeria
Telephone: +27 11 784 9922 & 784 9925

Fortis Bank (Nederland) N.V.
Telephone: +27 11 883-3861/ 884 6931
Website: www.fortisbank.com

Hellenic Bank Public Company Limited
Telephone: +27 11 783 0155
Website: www.hellenicbank.com

HSBC Bank International Limited
Telephone: +27 21 405 6553/ +27 11 676 4216

Icici Bank Limited
Telephone: +27 11 676 7801

ING Bank (Switzerland) Ltd
Telephone: +27 11 784 1464

Laiki Banking Group
Telephone: +27 11 263 9880

Lloyds TSB Offshore Limited
Telephone: +27 11 881 5987

Millenium BCP
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N M Rothschild & Sons (CI) Limited
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