Overview of the South African Conventional Arms Control System

Mr. E.M. Jele
Director: Conventional Arms Control
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BRIEF

Requested to provide an overview of the South African Conventional Arms Control System with particular reference to risk assessment and licensing processes.

CONTEXT

- Political transition

  - Previous political system: secrecy, closed society and generally unaccountable.

    ○ Arms transfers governed by the Arms Procurement Act of 1968

  - Current system: accountability, transparency and responsibility.

    ○ Arms transfers governed by the National Conventional Arms Control Act of 2002 (as amended in 2012)

IMPERATIVES GUIDING ARMS CONTROL

- International obligations on arms control.

- International consensus on:

  - the sensitivity of defence industry products and services.
  - requirement for effective Arms Control.

- Domestic consensus on Responsible Trade, Regularity and Accountability.

- South Africa to be a Responsible Player in global market.

- Promotion of Certainty, Predictability, Responsibility, Accountability, Regularity and Objectivity.

- Authorization of arms transfer is ultimately a Political Decision.

CONVENTIONS AND AGREEMENTS

South Africa is party to the following conventional arms conventions and agreements:

- ATT – Arms Trade Treaty
- APMBC – Anti-Personnel Mine Ban Convention
- CCW – Certain Conventional Weapons
- CCM – Convention on Cluster Munitions
- WA – Wassenaar Arrangement

CONVENTIONAL ARMS CONTROL

PILLARS OF SOUTH AFRICAN ARMS CONTROL

RSA GOVERNMENT

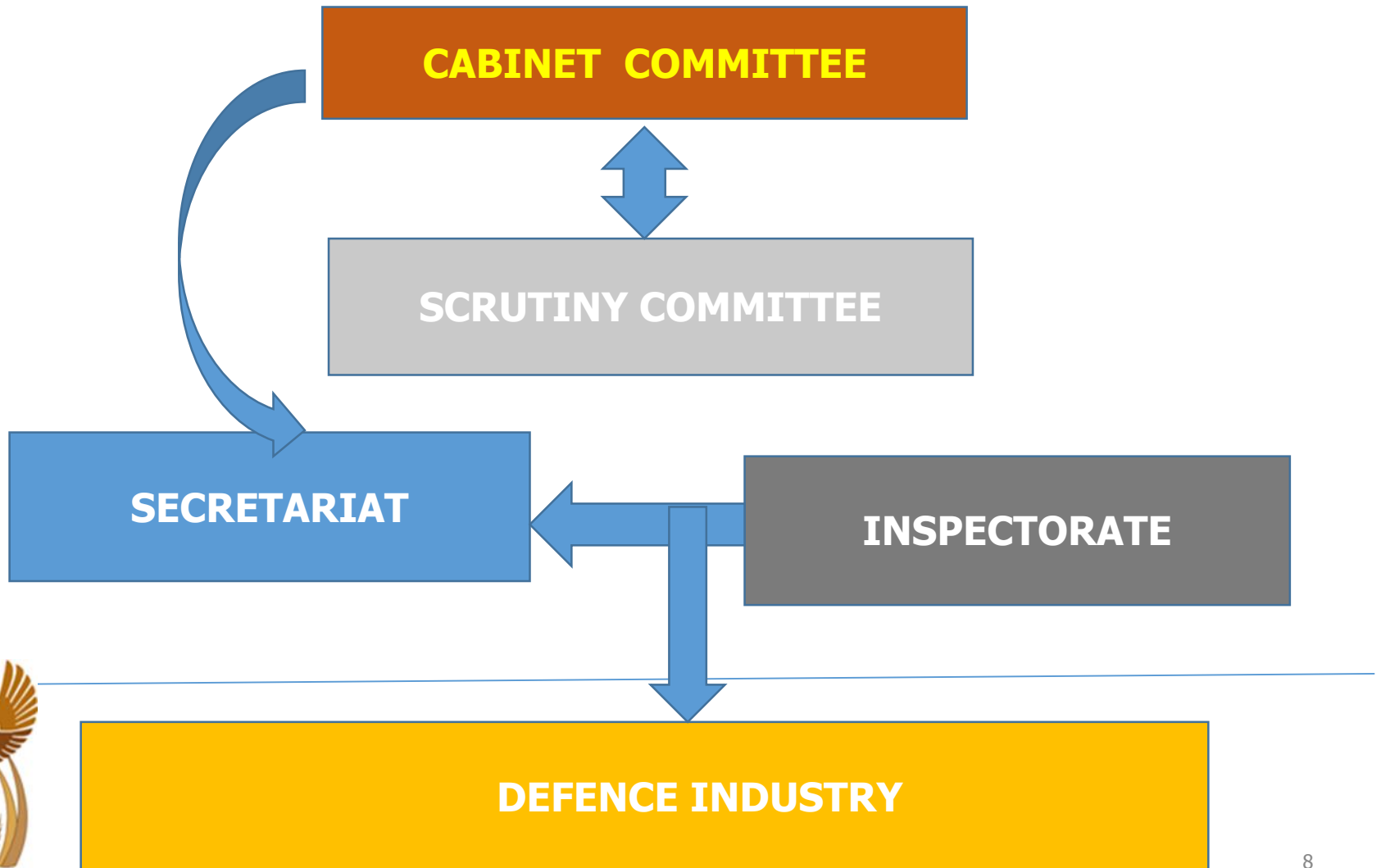| Conventional	WMD	Commercial Firearms
NCAC ACT	NON PROLIFERATION ACT	FIRE ARMS CONTROL ACT & EXPLOSIVES ACT
DOD	DTI	SAPS

LEGISLATIVE FRAMEWORK

- The Conventional Arms Control System in is governed by the NCAC Act (41 of 2002 as amended).

- The Act establishes the institutional framework and confers functions and responsibilities.

- The Act regulates the development, manufacture, possession, trade and transfer of conventional arms in South Africa.

- In addition to the primary legislation, there is secondary legislation in the form of:

  - Regulations

  - Control List

THE ARMS CONTROL SYSTEM

CABINET COMMITTEE

SCRUTINY COMMITTEE

SECRETARIAT

INSPECTORATE

DEFENCE INDUSTRY

THE CABINET COMMITTEE

- The President appoints all members to the Committee.

- The Committee consists of 8 Ministers and 4 Deputies.

- Consists of: Foreign Affairs; Defence, Police, Trade & Industry, State Security; Finance

THE SCRUTINY COMMITTEE

Inter-Agency Coordination

Defence

Foreign Affairs

Trade and Industry
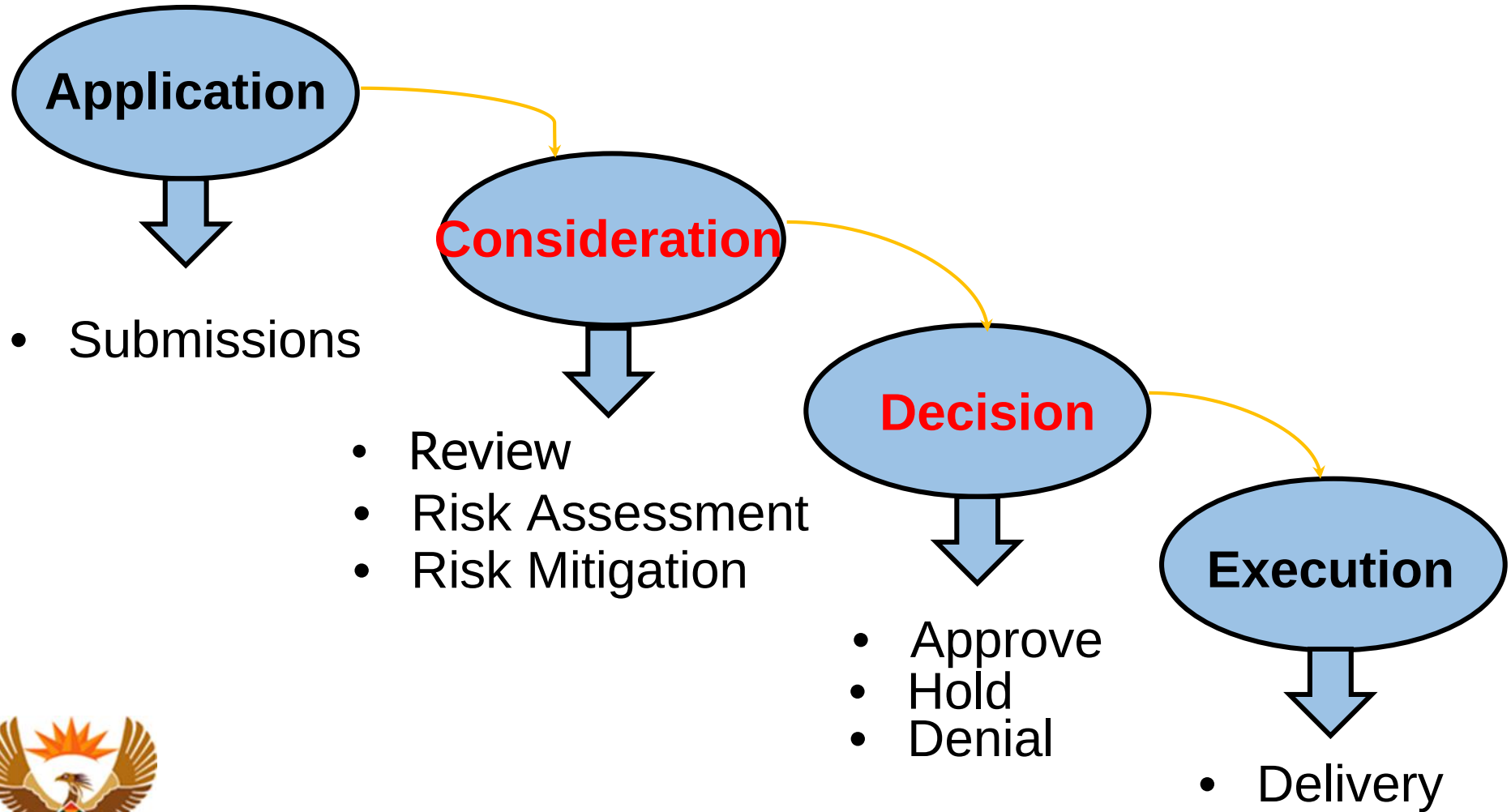
Police

State Security

Public Enterprises

THE SECRETARIAT

- Directorate for Conventional Arms Control is the primary nodal point for conventional arms control.

- Established in terms of s8 of the Act.

- Serves as the Secretariat of the National Authority for Licencing.

- Nodal Point for interface with Defence Industry and other Stakeholders.

ARMS CONTROL PROCESS

Application

Consideration

Decision

Execution

- Submissions

- Review
- Risk Assessment
- Risk Mitigation

- Approve
- Hold
- Denial

- Delivery

ASSESSMENT CRITERIA

- Decision making on arms transfers occurs against a predetermined value system reflecting all relevant aspects.

- Section 15 of the Act sets the Guiding Principles and Criteria to be applied in the arms transfer consideration process. Factors to be considered include the following:

  - Assess each application on a case to case basis.

  - Safeguard national security interest.

  - Avoid transfers that contribute to internal repression including systematic violation and suppression of HRs and fundamental freedoms.

ASSESSMENT CRITERIA

o Avoid transfers that will contribute to escalation of regional conflicts and endanger peace by introducing destabilizing capabilities.

o Adhere to international law, norms and practices and the international obligations and commitments of the Republic, including UNSC arms embargoes.

o Take account of calls for reduced military expenditure in the interests of development and human security.

o Avoid contributing to terrorism and crime.

SOURCES OF INFORMATION - RISKS ASSESSMENT

- Publicly available information

- Government processed information from line function departments.

- Diplomatic missions.

- Information from bilateral and regional cooperation arrangements.

- Information from multilateral institutions.

ASSURANCES AND VERIFICATION

- <u>Assurances</u>:

  - EUCs

  - Further assurances and commitments
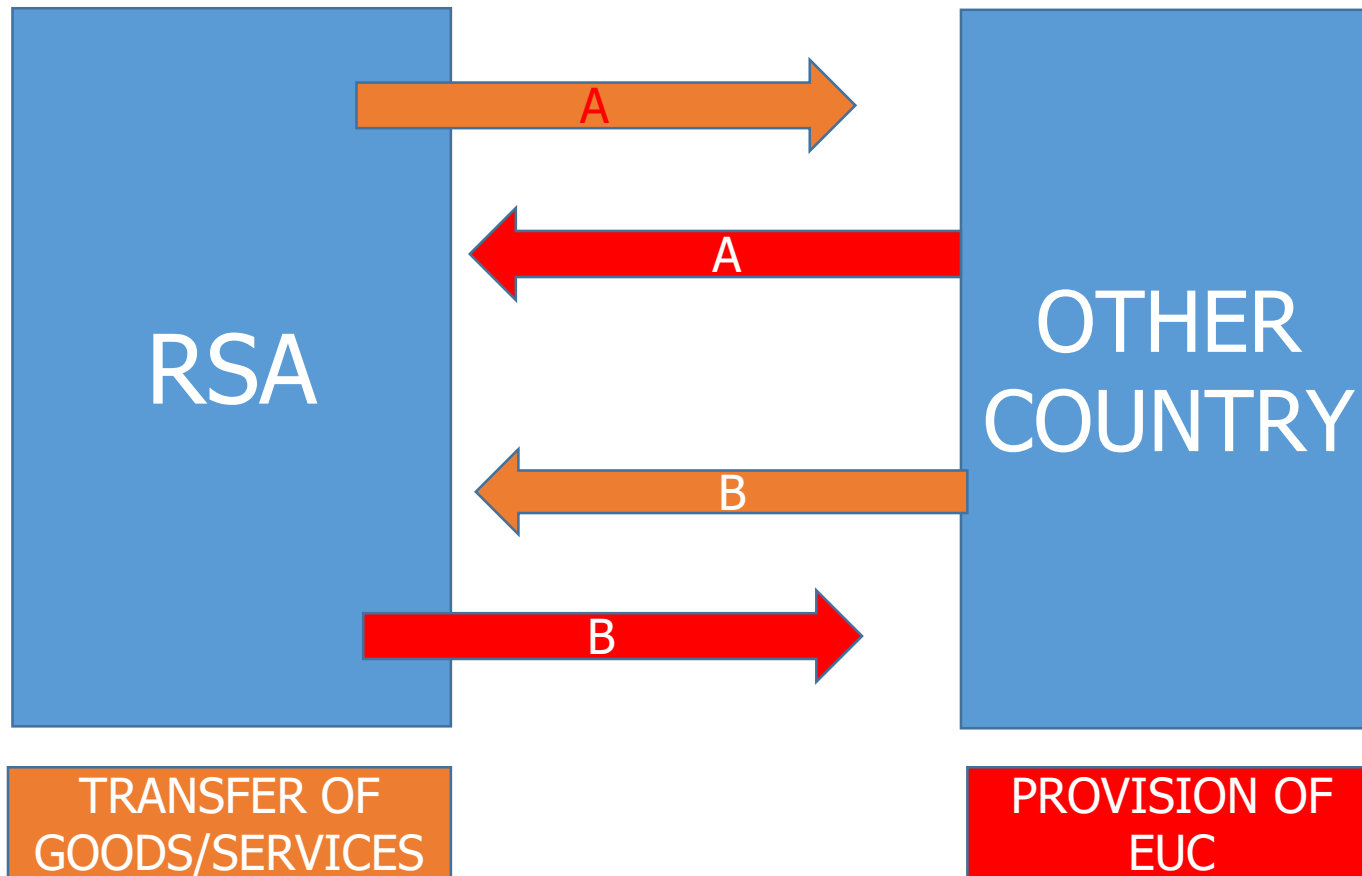
  - Cooperation arrangement

- <u>Verification</u>:

  - Authentication process for End User Certificates
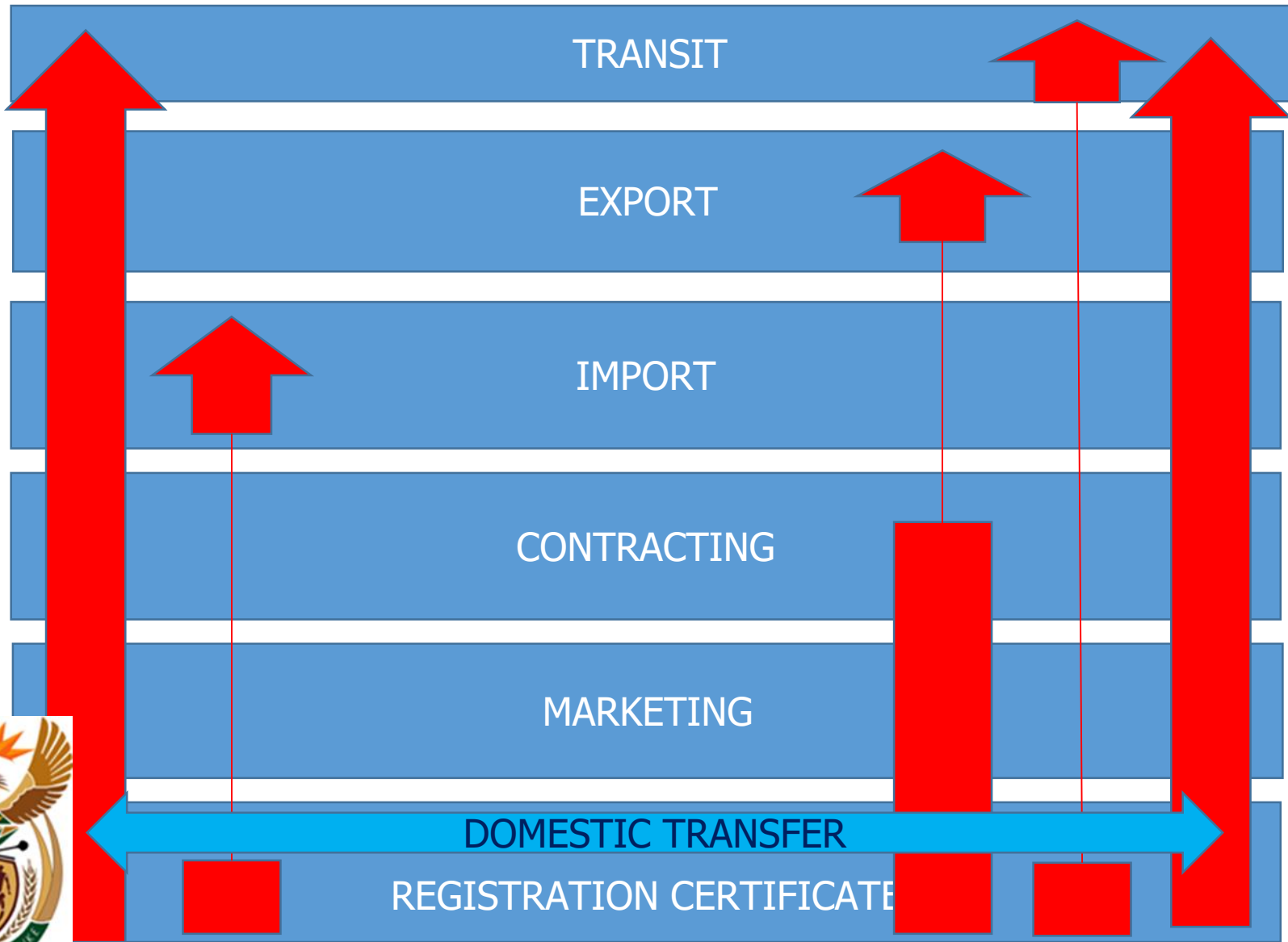
  - Post Delivery Verification
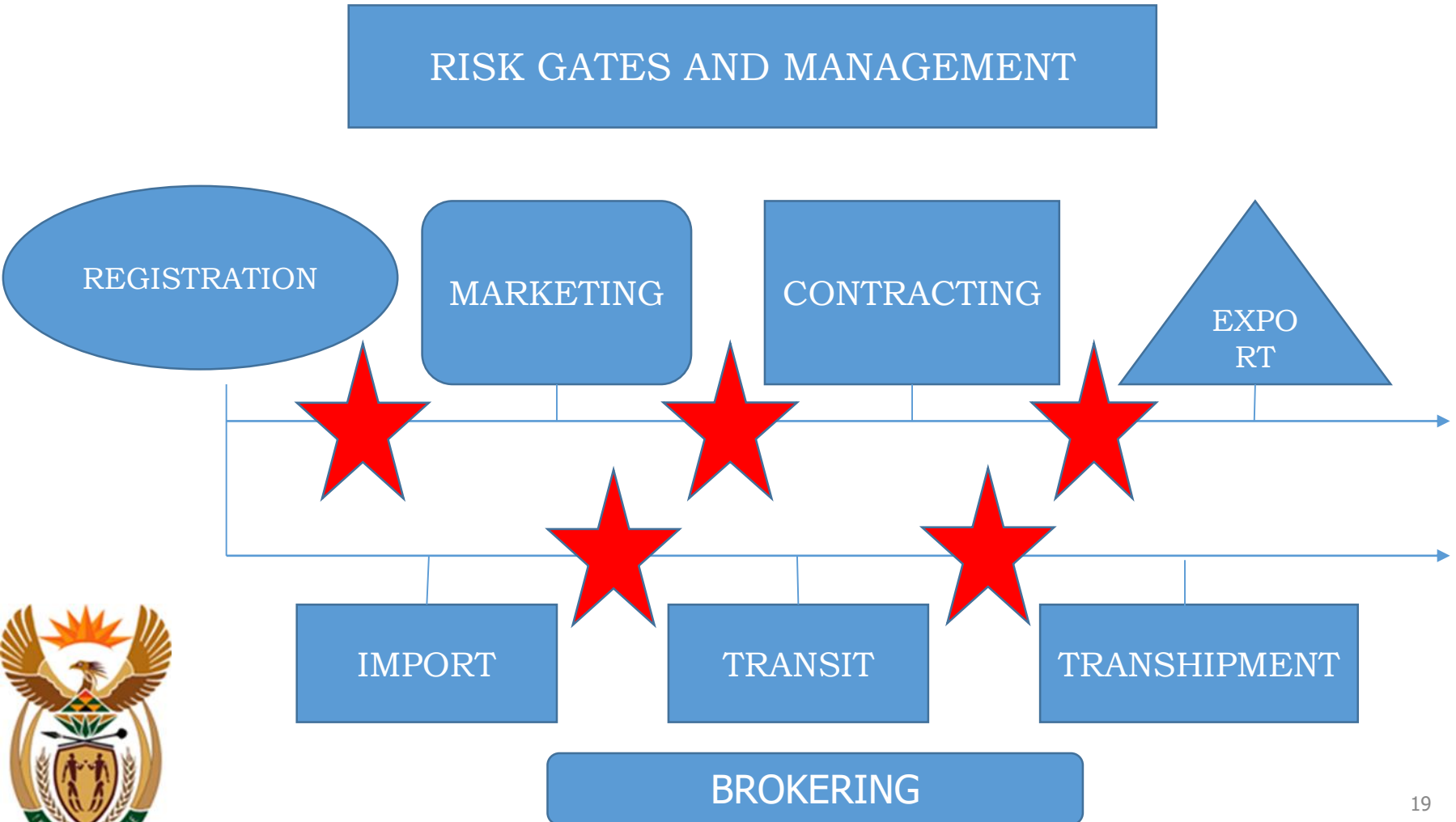
EXCHANGE ASSURANCE

TYPES OF PERMITS AND PROCESS

TRANSIT

EXPORT

IMPORT

CONTRACTING

MARKETING

DOMESTIC TRANSFER

REGISTRATION CERTIFICATE

PROCESS FLOW AND RISK MANAGEMENT

RECORD KEEPING

- Established IT system facilitates processing of applications and issuance of licences.

- Records kept in both electronic and manual (file) forms.

- Live records kept for five years and archived thereafter.

- Secretariat is the custodian of records.

- Legal adjustment required for period of retention of records.

- Maintained database (and additional information from other depts) essential for meeting reporting obligations (national and international).

ACCOUNTING AND REPORTING

- Parliament of South Africa

- United Nations (UNROCA)

- Other organisations: WA, UNPOA and Others

- Auditor-General of South Africa

END

Question and Answers