Regulatory submission

14 November 2022

Comments on proposed amendments to the Carbon Tax Act, 2019 (Select Committee on Finance)

In the 2022 Taxation Laws Amendment Bill

Just Share

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Dear Mr Mangweni

SUBMISSIONS ON PROPOSED AMENDMENTS TO THE CARBON TAX ACT, 2019 (IN THE 2022 TAXATION LAWS AMENDMENT BILL)

1. Just Share is a non-profit shareholder activism organisation. We believe that responsible investment is necessary to create a just, inclusive and sustainable economy. We use engagement, advocacy and activism to drive urgent action to combat climate change and reduce inequality.

2. Below are our submissions in relation to the proposed amendments to the Carbon Tax Act, 2019 (CTA) contained in the 2022 Taxation Laws Amendment Bill ("the proposed amendments"). In short, whilst it is encouraging that the carbon tax rate is being increased:

    2.1. the three-year delay in the implementation of phase 2 of the CTA, in circumstances where there are barely more than seven years left in which global emissions must be halved, is deeply problematic for South Africa's ability to limit the worst impacts of the climate crisis;

    2.2. the proposed tax rate increase remains far too small to create the necessary incentivisation to encourage a just transition to a low-carbon economy and to ensure that the "polluter pays", a crucial principle for climate change mitigation and adaptation, and one which is clearly recognised in the CTA's Preamble.[1] This is even more so given the already significant delays to the implementation of the carbon tax. The fact that the

[1] This important principle is recognised in the CTA's Preamble: "the costs of remedying pollution, environmental degradation and consequent adverse health effects and of preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment (the polluter pays principle)".

increase is too small is also clearly demonstrated by expert views, including the view of the National Business Initiative (NBI);[2]

2.3. the proposed amendments make no reference to the process or timing for the extensive tax-free allowances in phase 1 to fall away. With such extensive allowances applicable, even a much more meaningful tax rate would continue to be ineffective in driving the required change; and

2.4. the 2022 Budget Review referenced an increased carbon tax rate being applicable for emissions that exceed the carbon budget to be allocated in terms of the Climate Change Act (once enacted), but this provision has been removed from the current version of the Climate Change Bill. There is currently no penalty or increased tax liability attached to exceeding a carbon budget.

3. We address each of these issues below.

Background

4. SA and climate risk

4.1. The Intergovernmental Panel on Climate Change (IPCC) confirms that, unless there are immediate, rapid, and large-scale global reductions in greenhouse gas (GHG) emissions, it will be impossible to limit global climate change to safe levels. Global emissions must be halved (from 2019 levels) by 2030 – just over seven years away. "Any further delay", to quote the IPCC, "will miss a brief and rapidly closing window of opportunity to secure a liveable and sustainable future for all".[3]

4.2. Article 4 of the Paris Agreement requires all parties to the agreement to submit Nationally Determined Contributions (NDCs) to the United Nations Framework Convention on Climate Change (UNFCCC) every five years, setting out their "highest possible ambition".[4]

4.3. Current climate plans and actions continue to be woefully insufficient to achieve the goals of the Paris Agreement ("the Paris goals"[5]).[6] The UNFCCC's 2022 NDC Synthesis Report

[2] The National Business Initiative (NBI) is "a voluntary coalition of South African and multinational companies, working towards sustainable growth and development in South Africa and the shaping of a sustainable future through responsible business action, thereby demonstrating business action for sustainable growth": https://www.nbi.org.za/about-us/
[3] https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf p 33.
[4] Article 4.3: "Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances".
[5] Article 2(1)(a)-(c) of the Paris Agreement: "Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development".
[6] UNEP, (2022), "Emissions Gap Report", available at https://www.unep.org/resources/emissions-gap-report-2022.

projects that, by 2030, total global GHG emissions, if all the latest NDCs are implemented, are estimated to be just 0.3% lower than they were in 2019.[7]

4.4. The UN Environment Programme (UNEP) produces an annual report assessing the gap between countries' climate ambitions, as expressed through their NDCs, and the emission reductions required to meet the Paris goals. In the latest iteration of this report - which assesses the updated NDCs following COP26 held in 2021 - the UNEP finds that, with current policies in place, the world is on track for a rise in global temperatures of 2.8ºC above pre-industrial levels by the end of the century. With the updated NDCs since COP26, this is reduced to between 2.4ºC and 2.6ºC.[8]

4.5. Climate Action Tracker (CAT) provides independent **scientific analysis that tracks government climate action of 39 countries (covering around 85% of global emissions) and measures it against the Paris goals. As of November 2022, it reports that 22 countries have submitted updated NDC targets since the UNFCCC's 2021 NDC Synthesis Report, and only one** of the countries it analyses has a stronger target than its previous one (Australia).[9] 171 countries have not submitted updated NDC targets. According to its report, "[w]ithout increased government action, the world will still emit twice the greenhouse gas emissions in 2030 than is allowed under the 1.5°C limit of the Paris Agreement".[10]

South Africa

4.6. South Africa has a highly emissions-intensive economy, and severe inequality and poverty. Failure to address the carbon intensity of our economy will have significant negative implications for our economic competitiveness, which will further exacerbate inequality and poverty. The country also faces substantial climate risk.

4.7. South Africa is the 13th (thirteenth) largest emitter of GHGs globally, with the 5th (fifth) largest emissions per GDP, and the 38th (thirty-eighth) largest per capita emissions (higher than China's and India's, and well-above the global-average).[11] South Africa has the most carbon-intensive economy in the G20 (more than double the global average),[12] and the highest reliance on coal.[13] It is one of the most unequal countries in the world.[14]

[7] UNFCCC, (2022), "2022 NDC Synthesis Report", available at https://unfccc.int/ndc-synthesis-report-2022#Projected-GHG-Emission-levels.
[8] UNEP, (2022), p 35.
[9] https://climateactiontracker.org/climate-target-update-tracker-2022/
[10] Climate Action Tracker, (2022), "Despite Glasgow Climate Pact 2030 climate target updates have stalled", available at https://climateactiontracker.org/publications/despite-glasgow-climate-pact-2030-climate-target-updates-have-stalled/, p 1.
[11] http://www.globalcarbonatlas.org/en/CO2-emissions
[12] https://www.pwc.co.uk/services/sustainability-climate-change/insights/net-zero-economy-index.html While carbon intensity decreased by 2.4% globally in 2019, SA recorded an increase in carbon intensity of 1.3%, the second consecutive year of increase.
[13] https://ember-climate.org/countries-and-regions/countries/south-africa/ 85% of the country's electricity was produced from coal in 2021. The global average is 36,5%, and India is second to SA, generating 74% of its electricity from coal.
[14] https://www.worldbank.org/en/news/press-release/2022/03/09/new-world-bank-report-assesses-sources-of-inequality-in-five-countries-in-southern-africa#:~:text=South%20Africa%2C%20the%20largest%20country,World%20Bank's%20global%20poverty%20database

4.8. South and Southern Africa face severe and growing climate risk and are unprepared to adapt to the worst impacts of climate change. Southern Africa is particularly vulnerable to climate change, with warming in its interior occurring at about twice the global average rate.[15]

4.9. Climate science demonstrates that "substantial changes in the number of extreme temperature events in southern Africa can already be detected…Further drastic increases in events such as heat waves, high fire-danger days and oppressive temperatures impacting on human comfort and health can be expected under futures in which climate change mitigation efforts are low or unsuccessful". Freshwater availability, already critically limited in southern Africa, will be reduced in the future as a result of decreasing rainfall and increasing evaporation. The risk of severe storms, including intense tropical cyclones and thunderstorms, long-term droughts and heatwaves will increase with climate change in southern Africa. As a result, loss of life, injury and damage to infrastructure will also increase. In low mitigation scenarios, agricultural production will reduce and potentially collapse, and livestock production will become increasingly unviable.[16]

4.10. Under all climate change scenarios, South Africa will face "enormous negative physical, socio-economic and ecological impacts". These will include extreme heat stress, extreme weather events, including storms, flooding and droughts, sea-level rise and coastal damage, crop failures and food insecurity, water stress, disease outbreaks, various forms of economic collapse and social conflict and mass migration to informal settlements around urban areas.[17]

4.11. The country already faces severe climate transition risks – in 2019, it was estimated that this risk was more than USD120 billion between 2013 and 2035, and that these risks were expected to accelerate from the mid-2020's.[18] South Africa's economy is particularly vulnerable to trade-related climate change risks arising from measures aimed at transitioning to low-carbon pathways.[19] The Presidential Climate Commission's Just Transition Framework,[20] approved by Cabinet this year, sets out specific climate-related risks relating, *inter alia*, to: the coal value chain; the auto value chain; agriculture; and tourism.[21]

[15] https://www.environment.gov.za/sites/default/files/docs/nationalclimatechange_adaptationstrategy_ue10november2019.pdf ; http://www.csag.uct.ac.za/2019/09/25/twice-the-global-rate/
[16] https://cer.org.za/wp-content/uploads/2021/09/Climate-impacts-in-South-Africa_Final_September_2021.FINAL_.pdf
[17] https://cer.org.za/wp-content/uploads/2021/09/Nick-King-Report-Final.pdf
[18] https://www.climatepolicyinitiative.org/publication/understanding-the-impact-of-a-low-carbon-transition-on-south-africa/
[19] https://www.tips.org.za/research-archive/sustainable-growth/green-economy-2/item/3895-the-global-climate-change-regime-and-its-impacts-on-south-africa-s-trade-and-competitiveness-a-data-note-on-south-africa-s-exports This situation is largely a function of: a) the country's carbon-intensive energy system; b) poor energy efficiency performance; and c) the key role played by energy-intensive industries in SA's economy. The country's vulnerability is also reinforced by the absence of an ambitious climate change framework, SA's relatively long distance to its trading partners and its status as emerging economy and upper-middle-income country (exemptions at the international level are likely to be granted solely to low-income countries and, to some extent, to lower-middle-income countries. Given SA's international status, it is likely that the country will not be treated as leniently by international trade partners as low/lower-middle countries).
[20] https://pccommissionflow.imgix.net/uploads/images/A-Just-Transition-Framework-for-South-Africa-2022.pdf
[21] Pp 10-15.

4.12. A threat-multiplier, climate change will exacerbate and intensify the country's already significant socio-economic challenges, with radical implications not only for South Africa's prosperity and security, but for all aspects of life on earth. Poor and marginalised communities are the most vulnerable to, the least resilient to, and the least responsible for, climate change, making rapid mitigation and adaptation measures in a country like South Africa all the more urgent.

5. Why tax emissions?

5.1. What is glaringly obvious from the failure to reduce GHG emissions and the dire impacts of climate change is that *voluntary* actions and undertakings have dismally failed to ensure adequate levels of protection from climate chaos. Robust regulation is essential and urgent, and polluters must be strongly disincentivised from continuing their emissions.

5.2. In recent submissions to the Parliamentary Portfolio Committee on Forestry, Fisheries and the Environment on the Climate Change Bill, industry – including Business Unity South Africa (BUSA), the Minerals Council and the Chemicals & Allied Industries Association – took the quite extraordinary position that they should not be required to limit emissions from any existing authorised operations. They argue that it is unreasonable to expect industry to reduce emissions where there has been voluntary mitigation and further reduction is not "feasible or available". These untenable arguments make clear that industry intends to continue "business-as-usual" emissions for as long as possible, unless doing so is adequately disincentivised with a carbon tax and significant penalties.

5.3. There is strong consensus that taxing carbon emissions is a powerful tool to change behaviour by altering economic incentives.[22] One of the Paris Agreement's three main goals is to make "finance flows consistent with a pathway towards low GHG emissions and climate-resilient development". Pricing carbon correctly – to reflect the actual costs of emissions to society - would be transformative in limiting the worst impacts of the climate crisis.

5.4. When the burden and responsibility for the damage from GHG emissions is shifted back to the emitters, those companies that wish to continue emitting are liable for carbon tax (the 'polluter pays' principle); alternatively, to limit their tax liability, emitters must transform their operations to be lower-carbon, or wind them down responsibly.

5.5. The CTA's Preamble states that "government is of the view that imposing a tax on [GHG] emissions and concomitant measures such as providing tax incentives for rewarding the efficient use of energy will provide appropriate price signals to help nudge the economy towards a more sustainable growth path".

[22] See for eg: https://www.oecd.org/tax/tax-and-environment.htm; https://carbonpricingdashboard.worldbank.org/what-carbon-pricing#:~:text=Instead%20of%20dictating%20who%20should,and%20paying%20for%20their%20emissions; https://openknowledge.worldbank.org/handle/10986/37455; https://www.imf.org/en/Publications/fandd/issues/2021/09/five-things-to-know-about-carbon-pricing-parry;

5.6. The World Bank Group's October 2022 *South Africa Country Climate and Development Report* (CCDR) "provides analysis and recommendations on integrating the country's efforts to achieve rapid growth, higher employment and lower inequality with the pursuit of a low-carbon and climate resilient development path".[23] It recommends strengthening the "current carbon tax to further incentivize the shift to the use of low-carbon energy sources".[24]

5.7. Carbon-intensive companies – keen to protect their competitiveness and bottom-lines - want to keep the tax as low as possible, by continuing to externalise the costs of their emissions onto the rest of society, and ultimately the fiscus.

5.8. This is circumstances where, in the first quarter of this year, the world's largest energy companies made almost $100 billion in profit. This starkly demonstrates that the industries overwhelmingly responsible for the levels of carbon in the atmosphere remain hopelessly inadequately-disincentivised to change the way they do business.

5.9. The same is true in South Africa. Despite industry claims that the tax is unaffordable, not only have South African fossil fuel companies made significant profits, but as is demonstrated below, when our carbon tax rate is evaluated against expert recommendations, it falls far short of what is needed to ensure urgent decarbonisation.

5.10. This is, in large part, due to dedicated, well-resourced anti-climate lobbying by fossil fuel interests,[25] who frame their objections to an effective carbon tax as being about wanting the carbon tax to be synchronised with other climate policies, such as carbon budgets and sectoral emissions targets, which will be governed by the Climate Change Act (itself mired in delays) when it is eventually promulgated. Lobbying also changed the planned 10% annual escalation rate to one based on inflation. This significantly weakened the regime and, it was argued, made it far more unlikely that the country would meet its obligations – even those far weaker commitments that applied at the time the CTA was passed - under the Paris Agreement.[26]

5.11. As set out from paragraphs 13-21 below, this anti-climate action lobbying very much continues today, despite the fact that the tax is low, phase 1 of the tax has been extended by a further three years, and the current proposed amendments to the tax are still far below what is required to incentivise meaningful climate action.

[23] https://openknowledge.worldbank.org/handle/10986/38216
[24] P 19.
[25] See, for example: https://lobbymap.org/influencer/Business-Unity-South-Africa-BUSA-1d7c6580502e072741174a1d7d09c4b1; https://lobbymap.org/influencer/South-African-Chamber-of-Mines-d9fecc0ed7db4a809c71f3fc6a2b0cd6/projectlink/South-African-Chamber-of-Mines-in-Climate-Change-0013d7336a26e09316ed6b650a90faba; https://mg.co.za/article/2015-06-18-big-business-stalls-crucial-carbon-tax/
[26] https://www.lse.ac.uk/granthaminstitute/news/as-south-africas-carbon-tax-is-delayed-again-what-is-the-story-so-far/

6. Extension of Phase 1 of SA's carbon tax

6.1. To give companies more time to prepare, the carbon tax was introduced in phases; with the first phase intended to run from 1 June 2019 until the end of 2022, and the second, from 1 January 2023 to 2030.

6.2. South Africa's carbon tax started at the base rate of R120 per ton of carbon dioxide equivalent (tCO_2e) emissions. In the first phase - the rate increased annually by inflation plus 2%, and, from January 2023, was intended to increase annually by inflation.

6.3. To provide "significant emitters time to transition their operations to cleaner technologies through investments in energy efficiency, renewables, and other low-carbon measures", significant tax-free emission allowances were granted in the first phase of the tax – ranging from 60% to 95%. Once these exemptions are taken into account, the **effective tax rate is about US$2 per tCO_2e and could be as little as R6 ($0.4). Section 9** below sets out **how low this rate is even when compared to the minimum recommendations of South African organised business, and to those of international bodies.**

6.4. The May 2019 media statement introducing the tax promised that a review of the tax's impact would be conducted before the second phase.

6.5. In the February 2022 Budget Speech, Minister Godongwana announced that the first phase of the carbon tax, with its significant allowances, would be extended for an additional three years – until the end of 2025. No explanation was provided for this decision, but the draft explanatory memorandum for the Taxation Laws Amendment Bill ("the memorandum") states that this is "to ensure an orderly just transition and assist with the economic recovery due to the COVID-19 pandemic … [A]ligning the carbon tax rate adjustments for the period 2023 to 2025 with the extension of the first phase is an important price signal to companies to continue to transition their activities towards low carbon cleaner business practices and to take early action".

6.6. It appears that well-orchestrated business lobbying contributed to this delay. By way of example, two days before the Budget Speech announcing the three-year extension, Sasol's then chief financial officer, Paul Victor, gave the following response to a question about carbon tax during Sasol's interim results presentation on 21 February 2022: "on the carbon tax side, we're still very much engaging quite heavily with … through the industry with Treasury … So we are also quite eager to see what the delivery in the Budget speech will be in the next couple of days. And hopefully, that will provide more clarity when the minister of finance speaks to the nation about carbon tax and its future."

6.7. Whilst seeking alignment between the carbon tax, sectoral emission targets and carbon budgets might sound sensible at face value, business has provided no clear justification for it. Given the urgency, it is better to start implementing action as soon as possible, which can be adjusted and aligned as impacts become clearer and other policies are

implemented. **In short, the only thing that the approach of waiting for alignment has achieved to date is to result in a multi-year delay to the implementation of an effective carbon tax.** This is quite clearly what industry intended.

6.8. Ensuring this alignment first requires that carbon budgets be allocated to emitters in terms of the Climate Change Act. That allocation is dependent on the following steps being taken – **and not a single one of these steps has a deadline attached to it**:

6.8.1. First, the already long delayed Climate Change Act must be passed:

6.8.1.1. The Climate Change Bill was introduced into the Portfolio Committee on Environment, Forestry and Fisheries in February 2022. The Committee invited written comment on the Bill by May 2022. The committee has, to date, held three days of public hearings on the Bill.

6.8.1.2. Once the Committee has debated the Bill internally and completed its public participation process, the Committee may agree to it, propose amendments, or reject the Bill.

6.8.1.3. Assuming the Committee passes the Bill or amends it, the Bill (with any amendments) is referred to the National Council of Provinces (NCOP) where it is tabled.

6.8.1.4. It will then be sent to the NCOP's Select Committee on Land Reform, Environment, Mineral Resources and Energy which will receive a briefing on the Bill so that its members can tell their respective provincial legislatures about its contents.

6.8.1.5. The Bill is then considered by each of the nine provincial legislatures. The Select Committee members will consult their provinces so that they can participate in the debate in their own provincial legislatures.

6.8.1.6. Each provincial legislature will refer the Bill to a provincial committee, which will consider the Bill and may hold provincial public hearings on it. NCOP members get a voting mandate from their provincial legislatures. Each provincial delegation has one vote on the Bill.

6.8.1.7. The NCOP delegates then return to National Parliament with a negotiating mandate. The NCOP's select committee will consider the Bill and negotiation will takes place among the nine provincial delegations. At the outcome of these negotiations:

6.8.1.7.1. If the NCOP passes the Bill, it goes to the President for assent and signature.

6.8.1.7.2. If the NCOP rejects or amends the Bill, it goes back to the National Assembly for reconsideration.

6.8.1.8. If the National Assembly accepts the amended Bill, it goes to the President for his assent.

6.8.1.9. If the National Assembly rejects the NCOP amendments, the Bill goes to a Mediation Committee comprising of Members from the National Assembly and Members of the NCOP.

6.8.1.10. If the Mediation Committee is unable to agree within 30 days of the Bill's referral to it, the Bill lapses.

6.8.2. Assuming that all of these steps are taken and the Climate Change Act is ultimately passed, which is highly unlikely to happen before the end of 2023, the following subsequent steps must still be taken:

6.8.2.1. The Minister of Environment, Forestry and Fisheries ("the Minister") must, by notice in the Gazette, publish a list of GHGs which the Minister reasonably believes cause or are likely to cause or exacerbate climate change. There is no timeframe for this list to be published;

6.8.2.2. The Minister must, by notice in the Gazette, publish a list of activities which emit one or more of the GHG listed in terms of the paragraph 6.8.2.1 list and which the Minister reasonably believes cause or are likely to cause or exacerbate climate change. There is no timeframe for this list to be published; and

6.8.2.3. The Minister must allocate a carbon budget to any person that conducts an activity listed in terms of paragraph 6.8.2.2 list. There is no timeframe for a carbon budget to be allocated. When allocating carbon budgets, the Minister must, among other things, consider the alignment of the carbon budgets with the national GHG emissions trajectory. There is also no timeframe for the trajectory to be determined.

6.9. Practically speaking, there is simply **no reason why there needs to be "alignment": a meaningful carbon tax can and should be implemented while the carbon budgets and sectoral emission targets are being determined**.

6.10. In relation to the alignment of mandatory carbon budgets with phase 2 of the carbon tax (now extended by three years), our understanding (although contradictory information has been received on this question from the Department of Forestry, Fisheries and the Environment (DFFE)) is that the intention is not, in fact, for phase 2 of the carbon tax to

be aligned with mandatory carbon budgets (yet to be) allocated in terms of the Climate Change Act.

6.11. In other words, the intention is for the carbon tax to continue to apply, and for mandatory carbon budgets to apply, with a penalty tax rate for exceedances of the budget, as soon as the Climate Change Act is promulgated.[27] Apart from the extension of phase 2 until 2026, the inadequate tax rate, and the lack of any penalties in the Climate Change Bill for exceedances of a carbon budget (addressed below), this is supported.

The proposed amendments

7. For the reasons set out above in relation to the urgency of climate action required, we strongly object to the three-year extension of phase 1 of the carbon tax. It is clear from what is set out below in relation to continued lobbying against the tax, that there is no guarantee whatsoever that industry intends to use this period for the purpose set out in the memorandum: "to continue to transition their activities towards low carbon cleaner business practices and to take early action". Instead, Sasol and others continue to oppose the tax, arguing it will have dire socio-economic impacts, and conveniently ignoring the socio-economic impacts of failing to mitigate climate change, which their operations are exacerbating with every ton of carbon dioxide emitted.

8. The **proposed increases to the carbon tax rate falls far below what experts recommend as necessary to meet the goals of the Paris Agreement** (even when the Agreement's wording of "well below two degrees" is considered, rather than the scientifically-required 1.5 degrees[28]). These increases are also **significantly lower than recommended by the NBI**. This is made more problematic by the failure of the proposed amendments to make any reference whatsoever to the plan and timing for the significant tax-free allowances to fall away.

9. Carbon tax too low

9.1. As the World Bank points out, most carbon prices are still significantly below what climate science dictates is required: less than 4% of global emissions are currently covered by a direct carbon price within the range needed by 2030. South Africa is no different.

9.2. The table in Annexure 1 compares South Africa's carbon tax (**excluding the significant tax-free allowances**) to the rates proposed by the International Monetary Fund (IMF), the High Level Commission on Carbon Prices[29], the NBI, and a recent survey of 30 climate economists.

[27] Our understanding is that the CTA will be amended once the Climate Change Bill is enacted to provide for the higher tax rate on emissions exceeding the budget. This will also be aligned with the gazetting of the Carbon Budget Regulations.
[28] https://www.ipcc.ch/sr15/
[29] Led by Nobel Laureate Joseph Stiglitz and Lord Nicholas Stern, the report of the High-Level Commission on Carbon Prices was led by a group of economists convened by the Carbon Pricing Leadership Coalition, supported by staff of the International Bank for Reconstruction and Development/ International Development Association (The World Bank). It represents the collective views of the High-Level Commission on Carbon Prices. The Carbon Pricing Leadership Coalition (CPLC) is a voluntary partnership of national and sub-national governments, businesses, and civil society organisations that agree to advance the carbon pricing agenda. The CPLC secretariat is administered by The World Bank.

9.3. It is clear from Annexure 1 that South Africa's current and proposed carbon tax falls far short of what is required to ensure adequate GHG emission reductions to limit the worst impacts of the climate crisis. To provide some examples:

9.3.1. In **2020**, South Africa's carbon tax rate was USD 8, **before** the significant allowances. The High Level Commission on Carbon Prices recommended that the carbon tax rate be between USD **40-80**/tCO_2e by 2020 – in other words, 5 to 10 times higher than South Africa's rate (without allowances);

9.3.2. In **2021**, 30 climate economists recommended that an adequate carbon tax would be USD **100**/tCO_2e. At the time, again ignoring the enormous tax-free allowances, South Africa's carbon tax rate was USD9 (11 times lower than this expert recommendation);

9.3.3. In **2025**, South Africa's proposed rate will be USD **15/**tCO_2e, with NBI research demonstrating that, in order to meet the goals of the Paris Agreement, by this date, developing countries' carbon tax rate should be at USD **31** (more than double the SA proposed rate – ignoring the allowances that will still apply in 2025), the global rate should be USD **47** (more than 3 times South Africa's proposed rate), and the developed country rate should be USD **59** (almost 4 times CTA-proposed rate);

9.3.4. In 2030, South Africa's proposed rate will be R462 (which was USD 30)/tCO_2e (it remains unclear what precisely the state of allowances will be in 2030):

9.3.4.1. with IMF research demonstrating that, in order to meet the goals of the Paris Agreement (this research appears to accept the Paris Agreement's "well below 2 degrees", despite climate science clearly demonstrating that limiting global average temperature rise to 1.5 degrees is essential), by this date, low-income countries should be at USD **25**/tCO_2e (the only rate that is less than South Africa's proposed rate), middle-income countries at USD **50** (more than 1-and-a-half times higher than the CTA-proposed rate); and high-income countries at USD **75** (2-and-a-half times higher than South Africa's proposed rate);

9.3.4.2. with NBI research demonstrating that, in order to meet the goals of the Paris Agreement, by this date, developing countries should be at USD **56**/tCO_2e (close to double the CTA-proposed rate), the global rate should be USD **79** (more than 2-and-a-half times more than the CTA-proposed rate) and the developed country rate should be USD **102** (3,4 times South Africa's proposed rate);

9.3.4.3. with more updated NBI research, based on ten published scenarios from organisations such as the International Energy Agency, the Carbon Pricing Leadership Coalition, BP, Shell and the World Bank, demonstrating that, in order to meet the goals of the Paris Agreement, by 2030, the global carbon price should be USD **100**/tCO_2e (3,3 times the CTA-proposed rate), and around USD

70/t in South Africa and other developing countries (2,3 times more than South Africa's proposed rate);[30] and

9.3.4.4. with the High Level Commission on Carbon Pricing recommending a rate of between USD **50-100**/tCO_2e. This 2017 Commission also used a 2 degree scenario (rather than 1,5 degrees) and found that: "*Under the 2°C scenario, carbon prices in 2030 rise to US$100/tCO2 in the OECD regions and to **US$75/tCO2** in China, Russia, Brazil, and **South Africa in the power and industrial sectors, accompanied by a phasedown of fossil fuel subsidies***" (our emphasis) (2-and-a-half times more than South Africa's proposed rate).

9.4. Quite apart from several of these expert assessments not evaluating the need to limit global average temperature rise to 1.5 degrees, they also do not consider what is called the **social cost of carbon** - an estimate of the economic costs, or damages, of emitting one additional ton of carbon dioxide into the atmosphere, and thus the benefits of reducing emissions. When making this calculation, the main components have been described as "what happens to the climate and how these changes affect economic outcomes, including changes in agricultural productivity, damages caused by sea level rise, and decline in human health and labor productivity".[31]

9.5. Studies have found that this value in 2020 ranges between USD150 and 350/tCO_2e.[32] "When taking more robust climate science and updated models into account, this new study suggests that the economic damage could in fact be over $3,000 per tonne of CO_2".[33] **This serves to illustrate how out of kilter the proposed amendments are with the urgent need to reflect the true cost of emissions and the need for polluters to pay for these emissions.**

9.6. According to the CCDR (which also recognises the distributional impacts of a carbon tax, as discussed from paragraph 12):

9.6.1. the "current carbon tax rate (R144, or about $8.70 per ton) and the partial coverage are considered too low to significantly affect business behaviors. To be effective, the rate should be increased faster to make it economical for firms to invest in green technology";[34]

9.6.2. a "broader and higher carbon tax will accelerate the low-carbon transition of the economy while accelerating economic growth. It will accelerate the transition to a low-carbon economy by incentivizing more responsible behaviors, and raise more revenue that can be used by the government to finance the investments and social programs necessary during the transition. Such tax could bring around 1.4 percent of

[30] https://www.sustainablefinance.org.za/uploads/files/Transport-Report-V6-2-1.pdf, p 28.
[31] https://news.stanford.edu/2021/06/07/professors-explain-social-cost-carbon/#Definition
[32] https://iopscience.iop.org/article/10.1088/1748-9326/ac1d0b/pdf
[33] https://www.ucl.ac.uk/news/2021/sep/economic-cost-climate-change-could-be-six-times-higher-previously-thought
[34] P 19.

GDP per year in additional revenue to the government over the period 2022–2050;[35] and

9.6.3. "[b]roadening the scope of the carbon tax and increasing its rate will help reduce GHG emissions and generate benefits for most of the population as more jobs will be created through a shift toward more labor-intensive industries, and more exports generated through improved competitiveness in international markets".[36]

9.7 The **proposed amendments - including those beyond 2030 - should prescribe a carbon tax rate related to GHG emission reductions commensurate with the best available climate science**.

10. Allowances remain

10.1. As set out above, significant tax-free emission allowances were granted in the first phase of the tax – ranging from 60% to 95%. Once these exemptions are taken into account, the effective carbon tax rate for South African polluters is about US$2 per tCO_2e and could be as little as R6 ($0.4). Reducing companies' carbon tax liability by almost 100% clearly makes the carbon tax meaningless. The intention of the tax is to disincentive companies from using carbon because it is too expensive to do so. If the tax is too cheap, companies will simply absorb this cost and continue with business as usual, rendering the carbon tax superfluous. This is precisely the impact we have seen since the introduction of the first phase.

10.2. Minister Godongwana had indicated in the February Budget Speech that these allowances would "rapidly fall away" in the second phase (from 2026). However, the proposed amendments contain no information in relation to the process or timing of these allowances falling away.

10.3. As set out above, South Africa faces a number of severe risks as a result of the country's extremely high carbon-intensity. Companies have had at least a decade to prepare for the carbon tax, and now with the extension of the first phase by a further three years, have even more time to take the necessary steps to transition in alignment with climate science. Despite this, there are still vociferous objections to the carbon tax, and to the allowances being removed. The more notice and information that can be provided about the allowances falling away, the better. This should be publicised for comment as soon as possible.

[35] P 21.
[36] P 34.

11. Carbon budget exceedances not penalised

11.1. The 2022 Budget Review referenced a higher carbon tax rate of R640 ($40) applying to GHG emissions that exceed a company's carbon budget (which will, in time, be allocated to corporate emitters under the Climate Change Act).

11.2. A 2018 version of the Climate Change Bill provided that it was a criminal offence to exceed a carbon budget. A 2021 version stated that a person whose GHG emissions exceeded their carbon budget would be subjected to a higher carbon tax rate on emissions above the carbon budget as provided for in the CTA ("the modalities of which will be outlined in the carbon budget regulations, including modalities and procedures for dealing with non-implementation of mitigation plans").

11.3. The version of the Bill now with the Portfolio Committee of Forestry, Fisheries and the Environment no longer makes exceedance of a carbon budget an offence, **nor does it make such exceedance subject to a higher carbon tax rate**, despite this being stated in the 2022 Budget Review.

11.4. As we commented on the Bill, it is unacceptable that no penalty is attached to exceeding a carbon budget. No public explanation has been provided for the removal of the provision regarding a higher tax rate on emissions exceeding the carbon budget. Both of these are important mechanisms to help to ensure compliance with carbon budgets. However, we reiterate that the carbon tax is too low to ensure the necessary emission reductions. Without meaningful penalties, a climate science-based tax, and strict compliance and enforcement, the CTA will not "provide appropriate price signals to help nudge the economy towards a more sustainable growth path". Instead, South Africa will continue to face escalating climate risk.

12. Design of the tax and use of the proceeds

12.1. Of course the design of an appropriate and effective carbon tax goes far beyond the rate of the tax. Carbon pricing must form part of a supportive policy package. As with all taxes, carbon taxes affect some people more than others – what is called their distributional impact.

12.2. The CCDR also recognises the need to mitigate impacts on the most vulnerable households and businesses,[37] and recommends that government "carefully weigh options for how to best allocate the revenue collected from the carbon tax".[38]

12.3. As the World Bank points out, carbon pricing has vast potential to aid pandemic recovery, to help vulnerable communities adapt to inevitable climate impacts, and to support just transitions.

[37] P 19.
[38] P 34.

12.4. We understand that the carbon tax goes to the National Revenue Fund. Revenues from carbon taxes should be used for climate change adaptation and mitigation. Specifically, carbon taxes must be used to ensure that the poor have access to clean and safe energy, and to invest in communities as part of the low-carbon just transition.

The pushback continues and intensifies

13. In late August, both in the media[39] and in its annual financial results,[40] Sasol complained that the carbon tax rate increase and/or the allowances falling away would have a significant impact on its operations. Sasol and the Minerals Council have argued that there will be "dire negative socio-economic implications" of the proposed increase.

14. The United Nations-backed Principles for Responsible Investment (PRI) notes that: "climate policy lobbying is often carried out by powerful trade associations, industry bodies and think tanks funded by member companies with various interests in the course of climate action (and ultimately shareholder capital) … trade associations tend to adopt positions of the most vocal members or largest financial contributors on a given topic".

15. In South Africa, despite fossil fuel companies and lobbyists succeeding in: delaying the carbon tax for about a decade; securing a very low tax rate for phase 1; securing enormous tax-free allowances for phase 1; securing a very low escalation rate for the tax; and ensuring the three-year extension of phase 1 of the carbon tax, inclusive of the significant tax-free allowances, Sasol, the Minerals Council and others representing fossil fuel interests are now pushing back on the current weak proposed amendments to the carbon tax rate and future plans to do away with allowances. Lobbyists are arguing that the tax will have a negative impact on their businesses. That, of course, is precisely the purpose of a carbon tax: once polluters are forced to internalise the costs of their emissions, they will decarbonise and transition to lower-carbon operations.

16. Sasol and the Minerals Council also: threaten "trade-offs to balance the people, planet and profit agenda" and "dire negative socio-economic implications that this has on the mining industry", "warn against the potential unintended consequences of a poorly implemented tax"; warn against "additional pressure on some already struggling mining operations"; claim that they "cannot pursue growth and take significant capital investment decisions to re-industrialize the country as our current business is at risk of closing"; and warn that the tax and its implication could "destroy the base business and the greening of our industries in South Africa".

[39] See for example: https://www-news24-com.cdn.ampproject.org/c/s/www.news24.com/amp/fin24/companies/sasol-warns-carbon-tax-poses-big-risk-to-its-business-and-it-may-have-to-scale-back-20220822; https://www.engineeringnews.co.za/article/sasol-prepares-to-ramp-up-decarbonisation-capex-from-2025-2022-08-23

[40] Annual financial results for the year ended 30 June 2022, and Sasol President and CEO and CFO annual results announcement as delivered on 23 August 2022, available at: https://www.sasol.com/investor-centre/financial-results

17. Sasol's Secunda coal-to-liquids plant is the world's largest single-point source of GHG emissions,[41] and one of the biggest corporate emitters of GHGs on earth.[42] As a "carbon major",[43] Sasol is one of the 90 largest fossil fuel and cement producers responsible for some two-thirds of all carbon dioxide emitted since the 1750s. Its emissions are larger than many entire countries' emissions. It is not disputed that Sasol plays an important role in the South African economy. However, the cost of the extraordinarily high "externalities" caused by Sasol – in terms of carbon emissions and toxic air pollution – is currently born entirely by the taxpayer, and will soon be borne by the economy as a whole, as our emissions-intensive economy starts to attract negative trade consequences. By threatening "dire consequences" as a result of the carbon tax, Sasol is holding the South African government – and everyone in South Africa – to ransom in order to protect the profitability of its shareholders.

18. To illustrate this, on 22 August 2022, it was reported in the press that Sasol regarded the proposed increases in the carbon tax as posing a "significant risk" to its business and warned that these could cause it to curtail operations and green initiatives.[44] On the very next day, it posted a 147% jump in full-year core profit.[45]

19. Working on a conservative cost of carbon assumption[46] of USD 180 a tonne:

> *when organised business in SA says it cannot afford to pay a tax of $30 a tonne on carbon in 2030 it is in effect demanding a continued subsidy of more than $150 per tonne of carbon dioxide to bolster operations. This subsidy will be paid primarily by the poor and climate vulnerable. To then suggest the tax should be diluted to save jobs is invidious in the extreme.*[47]

20. As is set out in the next section, various other associations have now joined this call to oppose a meaningful carbon tax.

21. "Organised Business Joint Position on Carbon Tax"

    21.1. On 13 September 2022, the Energy Council of South Africa, the Minerals Council South Africa, Business Leadership South Africa (BLSA), BUSA, the South African Petroleum Industry Association (SAPIA), and the Energy Intensive Users Group (EIUG) published what they referred to the "organised business joint position on carbon tax".[48]

    21.2. Essentially, this position is to oppose an increase in carbon prices until after 2035. Business recommends, *inter alia*:

[41] Sasol Sustainability Report 2020, p 8, available at: https://www.sasol.com/investor-centre/sustainability-reporting
[42] https://www.climateaction100.org/about/
[43] https://climateaccountability.org/carbonmajors.html
[44] https://www.engineeringnews.co.za/article/sasol-warns-carbon-tax-could-prompt-it-to-scale-back-operations-2022-08-22/rep_id:4136
[45] https://www.engineeringnews.co.za/article/sasol-profit-surges-on-higher-oil-chemicals-prices-2022-08-23
[46] See footnotes 32 and 33 above.
[47] https://www.businesslive.co.za/bd/opinion/2022-09-21-james-reeler-business-plea-to-soften-carbon-tax-is-a-false-economy/
[48] https://www.busa.org.za/organised-business-joint-position-on-carbon-tax/

21.2.1. that annual carbon tax increases continue to be "**based on the current CPI +2% structure until at least 2030**, to allow for reviewing and aligning different policies";

21.2.2. the retention of the **current enacted allowances to 2030** and "introduction of other supporting policies and measures to encourage decarbonisation and growth of low-carbon sectors"; and

21.2.3. that a higher carbon price **only be considered post-2035**, "the exact date of which should be informed by a more detailed analysis of viable mitigation and socio-economic considerations".

21.3. Variations on this position were presented to the Standing Committee on Finance on 14 September 2022 by a variety of industries and associations that stand to be negatively impacted by the carbon tax. It is not, however, clear, that every organisation that forms part of the associations that signed on to the "organised business position" understands its implications.

21.4. Business argues that it has made these recommendations "to avoid just transition impacts earlier than planned and to avoid unintended and adverse consequences to an already fragile economy". It is not at all clear what it means by this statement, which appears to ignore the plethora of reports and expert evidence on, *inter alia*, the inevitable impacts of climate change, the risks of a failure to transition timeously, and the significant decarbonisation potential of an adequate carbon price.

21.5. The position states that business seeks to avoid the impacts of a "just transition". We assume that this is not what was intended. As articulated in the Presidential Climate Commission's Framework for a Just Transition (which has been adopted by Cabinet), such a transition aims, amongst other things, to achieve a good quality life, decent work, and social inclusion for all; to put people at the centre of decision-making; and to build the resilience of people and the economy.

21.6. Business is, of course, aware that globally the transition is already under way, and South Africa's trading partners will increasingly place conditions and penalties on imports which are produced or manufactured in carbon-intensive economies. Business will also be aware that there are huge opportunities inherent in the transition, and a wide range of risks associated with failing to act.

21.7. Business's position statement recognises that a "carefully designed and well-implemented carbon price serves as a key mechanism towards driving positive behavioural change in combating climate change and realising South Africa's Nationally Determined Contribution (NDC)". However, the statement does not claim that its position of seeking no meaningful increase in carbon tax until after 2035 could realise the NDC. Indeed, it could not.

21.8. As set out above, the proposed amendments to the carbon tax rate fall far short of what is required to achieve adequate GHG emissions reduction. Despite this, and all of the other delays and concessions given to business, it still persists in its vocal opposition even to the inadequate increases proposed to the CTA.

21.9. These companies has been well aware of the imperative to decarbonise their operations for decades, but have consistently failed to take the requisite action at the pace required to reduce emissions in line with climate science. If the government allows Sasol and other companies to strongarm it into continuous delays to a meaningful tax, they will continue to take advantage of this to delay operational changes, which will mean that the costs of their emissions will continue to be offloaded onto the rest of society.

Conclusion

22. As the Committee will know, failing to take more significant steps to reduce emissions in the short and medium term, will require steeper and deeper emission reduction cuts in future, with more severe consequences for our economy and the majority of people in South Africa.

23. Please let us know should you require clarity on any aspect of these comments, and please keep us updated on the further progress of these amendments.

Yours faithfully
JUST SHARE

Per: 

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Annexure 1: Carbon Tax Rate Recommendations

Year	International Monetary Fund (2022, 2021)			High Level Commission on Carbon Prices (2017)	National Business Initiative (NBI) (2021)			Survey of 30 climate economists (2021)	CTA rate (current and proposed, and disregarding allowances)	
	($/tCO2e)			($/tCO2e)	($/tCO2e)			($/tCO2e)	($/tCO2e)	(R/tCO2e)[49]
2020				40-80					8[50]	*127*
2021	Phased in gradually over time to reach the 2030 rates							100 (median view; range from 50-250)	9[51]	*134*
2022									9[52]	*144 (announced in budget speech as rate effective from January 2022)*
2023									10[53]	*159 (effective from 1 January 2023)*
2024									12	*190*
2025					31[54]	47[55]	15		15	*236[56]*
2026									20	*308*
2027									22.5	*347*
2028									25	*385*
2029									27.5	*424*
2030	25[57]	50[58]	75[59]	50-100	30	79	102		30	*462*
2031 and beyond									To be announced by the Minister in the national annual budget	
2035					69	103	160			
2040					128	128	182			
2045					140	195	235			
2050					188	263	250			

[49] 1 USD/16 ZAR.
[50] 1 USD/16 ZAR
[51] 1 USD/15 ZAR.
[52] 1 USD/16 ZAR.
[53] 1 USD/15.4 ZAR until 2030: based on own calculations of the rate National Treasury must have used to convert the USD amounts in the previous version of the Bill to the current Rand amounts.
[54] Developing countries, power and industry sources.
[55] Global.
[56] May be adjusted, in 2025 and thereafter at three-year intervals, by the amount announced by the Minister in the national annual budget to take account of the impact of exchange rate movements on the comparability of the rate to global carbon pricing.
[57] Low-income countries.
[58] Middle-income countries.
[59] High-income countries.