



MINERALS COUNCIL
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27 October 2022

Ms Azwihangwisi Faith Muthambi

National Assembly

Chairperson

Portfolio Committee on Forestry, Fisheries and the Environment (PCFFE)

Parliament Street

PO Box 15

Cape Town

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Per electronic mail: tmadubela@parliament.gov.za

Dear Ms Azwihangwisi Faith Muthambi,

JOINT POSITION ON THE PIVOTAL NEED FOR THE CLIMATE CHANGE BILL

The Energy Council of South Africa, Business Unity South Africa, Minerals Council South Africa, Business Leadership South Africa (BLSA), and the Energy Intensive Users Group (EIUG) reaffirm their commitment for the development of an effective climate change response for South Africa; including a transition to a low carbon future that addresses energy affordability, security, and sustainability.

To achieve such an outcome, we recognise the critical need for close collaboration between government, business, and society. Government must also play a crucial role in developing clear and coherent policy and regulations that enable business confidence and investment in the energy transition, or else we face the risk of rapid de-industrialisation and job losses if business fails to sustainably transition.

We accordingly acknowledge the importance of the Climate Change Bill (the Bill) as a framework legislation, which, upon promulgation will guide the implementation of the national transition to a low carbon economy in line with our national commitments as well as our fair share effort to the global focus on combating climate change in a just manner.

Business supports and commends the government's intention to develop and implement the Climate Change Bill, as vital to ensuring a globally competitive economy as well as locally resilient to the negative impacts of climate change whilst also looking at our national imperatives.

We have identified areas of further engagement on the Climate Change Bill to enhance the collective response by all stakeholders and assist in reducing potential future risks to implementation and the economy.



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Areas of engagement that we have identified for further clarity and alignment:

- 1. Alignment of policy:** Optimal policy coherence and alignment will create greater business confidence and investment opportunity. In this regard, the carbon budget and the carbon tax have been tabled as two different instruments adopted by the Department of Forestry Fisheries and Environment (DFFE) and the National Treasury (NT). Although these policy instruments have the same objectives of enabling a national transition to a low carbon economy, they have varying rates of emission penalties without integration and lack associated mitigation mechanisms and enabling incentives that will allow business to sustainably achieve such legislated targets. We believe a holistic framework of penalties, incentives, and mitigation is critical to mitigating the risk of non-compliance and de-industrialisation of our economy, as businesses, and the country will not be able to transition sustainably. Business thus calls for more comprehensive engagement with government and a more empirical-based assessment of economic and social consequences of policy misalignment. Business cautions that obligations borne from the Climate Change Bill should not undermine and curtail rights derived from already granted licenses, authorisations and permits, it is therefore imperative that comprehensive policy and legislative alignment is undertaken.
- 2. Nationally Determined Contribution (NDC):** Our NDCs form a crucial part of our climate change commitments within the global community and also serve as the anchor for the Climate Change Bill. Business thus calls for more comprehensive engagement with government on critical enablers of support to achieve ambitious realisation of the NDC particularly focusing on enabling policy, incentives, subsidies, research, and development.
- 3. Carbon budgets:** Currently, carbon budgets are allocated utilising sector contributions to emissions without deeper consideration for complexities such as economic and social impact, ease of transition, and maturity and commercial viability of decarbonisation technology. We believe that further planning and analysis is required to identify sectors that have quicker and lower cost mitigation and adaptation options, while identifying deeper decarbonisation pathways for “hard to abate” sectors, which need more time and capital to respond. We believe that a bottom-up approach would ultimately accelerate the pace of national decarbonisation but with optimal economic, business, and social outcomes.
- 4. Criminal implications for emissions exceedances:** Business broadly accepts financial and criminal consequences for non-compliance to legislation, for example, under the Companies Act. The inclusion of such consequences in legislation is, therefore, in principle, accepted by business. However, considering the uncertainty of climate change and risk associated with the ability of companies globally to achieve decarbonisation targets, which in South Africa is compounded by a legacy of a carbon-intensive economy, a lack of fiscal capability as a developing economy and a lack of government transition support and incentive frameworks, under these circumstances, it seems unreasonable



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that business could be held criminally liable for exceeding an allocated budget without having the ability to mitigate such risk. Business believes that in instances where carbon budgets are exceeded, penalization through imposing a higher carbon tax rate should suffice in fulfilling requirements of sanction and compliance.

Business, therefore, calls on greater collaboration and planning to align legislated penalty mechanisms with appropriate investment support, incentives and mitigating frameworks that will allow business to comply with legislation and sustainably transition.

Business believes that the Climate Change Bill is a critical step in our transition to a low-carbon economy and calls for further and deeper collaboration to ensure that implementation delivers our collective ambitions.

Business remains committed to a transition that is just and equitable for all South Africans. We look forward to partnering with government, civil society, and labour to achieve the collective vision for a low carbon, socially just and climate-resilient South Africa.

We look forward to engaging with the PCFFE on our recommendations.

Kind regards

Cas Coovadia
On behalf of Organised Business