Regulatory submissions

29 August 2025

Comments on the draft second nationally determined contribution (Department of Forestry, Fisheries & the Environment)

Just Share

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29 August 2025

Dear Mr Steleki

Just Share preliminary comments on the Draft Second Nationally Determined Contribution

Introduction

1. Just Share appreciates the opportunity to provide comment on the draft of South Africa's second Nationally Determined Contribution ("the draft NDC"), published for 30 days' comment on 30 July. Unfortunately, the timeframe provided for written submissions on the NDC is wholly inadequate for a document of such urgency and significance for everyone in South Africa. This severely limits the ability of stakeholders to provide detailed and evidence-based inputs. This is exacerbated by the failure to provide access to any of the technical assessments underlying the draft NDC. Just Share was provided with only one document - at 16h44 on the day before the deadline for comments.[1] As a result, Just Share is only in a position to make preliminary comments on the draft NDC.

2. The NDC is not only a high-level political statement to domestic and international audiences about South Africa's climate commitment, but, as the International Court of Justice confirmed in its 23 July 2025 landmark advisory opinion, if a government publishes an "inadequate" NDC, a "competent court or tribunal" could order it to supply one that is consistent with its obligations under the Paris Agreement.[2] Our NDC must also align with the Constitution of South Africa,1996, the Climate Change Act 22 of 2024, and the best available science. The NDC must reflect urgency and ambition consistent with the country's fair share and historical responsibility for climate change, while being transparent about technical assumptions, methodologies and the basis of target ranges.

3. In this regard, we point out that various civil society organisations, including Just Share (both independently and as part of a civil society request), have called for the Department of Forestry, Fisheries and the Environment (DFFE) to publish the full technical reports used to inform this NDC. Access to these reports, including the three reports referenced as "UCT 2025a"; "UCT 2025b"; and "UCT 2025c" in the draft NDC, is essential to allow for meaningful

[1] A link to a document entitled "Draft Technical analysis to inform the development of the mitigation component of South Africa's second NDC" was sent by DFEE's Mutshidzi Ndiitwani to the writer by email at 16h44 on 28 August 2025.
[2] https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf

public scrutiny of the expert recommendations and advice that DFFE took into account in preparing the draft NDC. Following follow-up correspondence from Just Share, Mr Steleki indicated, on 27 August, that a link to access the documents would be provided on 27 or 28 August. In the late afternoon on 28 August 2025, Ms Ndiitwani, sent a link to the writer. It is unclear whether the 154-page report of slides, prepared by the Energy Systems Research Group (ESRG) of the University Cape Town and entitled "Draft Technical analysis to inform the development of the mitigation component of South Africa's second NDC" ("ESRG draft technical analysis") is "UCT 2025a", "UCT 2025b", or "UCT 2025c" – if any, nor which other analyses remaining outstanding. It is also unknown which other stakeholders received this link – or other technical assessments - from whom, and when.

4. It is wholly unreasonable to expect the public to be in a position to provide substantive comment on the draft NDC in circumstances where a technical assessment of some 150 pages (which does not constitute all of the technical reports that informed the draft NDC) was only made available in the late afternoon of the day before comment was due. This failure to provide an adequate opportunity to assess, understand and interrogate these technical reports has particularly severe repercussions for poor and marginalised communities, who are most directly affected by climate change.

5. We also seek clarity on the monitoring, evaluation and learning (MEL) framework that will be used by DFFE to ascertain the baseline risk assessments, the metrics for risk reduction and the **quantifications of the costs both of inaction and intervention**.

6. In short, we reiterate that our ability to comment on the draft NDC has been hampered by the short time period provided for comment, and the fact that the technical reports which informed the draft NDC were omitted from the public comment process and only one document was made available and only on the day before comment was due.

7. In these circumstances, the **DFFE has failed to ensure procedurally fair and reasonable public participation**.

High-level conclusion

8. The draft NDC does not meet South Africa's legal and international obligations, nor does it represent our fair share in the global effort to limit warming to 1.5°C. The draft NDC reflects only a **10% reduction in the upper limit** reflected in our 2021 updated NDC: from 420 Mt CO_2-eq in 2030 to 380 Mt CO_2-eq in 2035.

9. This insufficient adjustment in mitigation effort is despite the five-year difference in the implementation period and in contradiction with the draft NDC itself stating that South Africa's emissions had peaked at 529 Mt CO_2-eq in 2008 and will not exceed our 2022 emissions of 435 Mt CO_2-eq again.

10. With this context, the proposed upper limit of our 2030 range, 420 Mt CO_2-eq, would require the country only to have reduced our emissions by 3.5% over the eight years from that 2022

level of 435 Mt CO_2-eq. Thus, the reduction by 2035 would be by only 13.5% from the 2022 peak – 13 years later. This is despite repeated and increasingly urgent warnings from the Intergovernmental Panel on Climate Change (IPCC) that immediate and significant emission reductions are required to stave off the worst consequences of climate change.[3] The DFFE has proposed this unambitious limit also despite the fact that in South Africa, like all of sub-Saharan Africa, the impacts of climate change will be disproportionately felt by poor and marginalised communities, exacerbating the country's already extreme poverty, inequality and unemployment.

11. We argue that it is inappropriate for South Africa to present its NDC target as a range when, in practice, the upper limit is treated as the de facto target. This undermines the integrity of the commitment by allowing for ambiguity, reducing accountability, and potentially weakening the country's climate ambition. Below, Just Share proposes appropriate 2030 and 2035 targets.

12. Just Share points out that both the 2030 and 2035 target ranges would be significantly lower (more ambitious) were DFFE to be guided by the recommendations of the ESRG draft technical analysis it commissioned, or by the Climate Equity Reference Calculator (CERC),[4] Climate Action Tracker (CAT),[5] or the Presidential Climate Commission (PCC)'s June 2025 draft recommendations on this NDC[6] – which is far more aligned with an ambitious and equitable climate response in keeping with South Africa's constitutional obligations and the principles of a risk-averse, cautionary approach and scientifically-informed climate response, as per the Climate Change Act's section 3 interpretation and application principles and section 24's requirements for the national greenhouse gas (GHG) emissions trajectory.

13. The PCC's June 2025 draft recommendation for the PCC referenced 2021 modelling by the ESRG which indicated that 2030 emissions could lie between 325 to 373 Mt CO_2-eq and a 2035 emissions range of between 248 and 329 MtCO2e in 2035, depending on the pathway considered.[7]

14. The ESRG draft technical analysis to inform the development of the mitigation component of South Africa's second NDC states that, "A robust benchmark for South Africa's 2035 NDC mitigation target range – South Africa's "fair share" contribution to achieving the long-term goals of the Paris Agreement, and consistent with the equity principles of the Agreement, is a range from **261-345 Mt CO_2-eq**, **including land use and natural disturbances**" (our emphasis). The report indicated that, "The wide range of results demonstrate the critical importance of assumptions on GDP growth and policy implementation, and sector trends

[3] https://www.ipcc.ch/assessment-report/ar6/
[4] https://calculator.climateequityreference.org
[5] https://climateactiontracker.org/countries/south-africa/
[6] https://www.climatecommission.org.za/publications/draft-recommendations-for-south-africas-2030-2035-ndc-update
[7] Draft Recommendations for South Africa's 2030-2035 NDC Update; pages 27-29 South Africa's "fair share": mitigation targets in the updated first NDC in an international context (UCT 2021)

driving technology transitions, as well as the consideration of other sources of uncertainty in the underlying evidence base, including uncertainty in estimating GHG emissions from the land sector".[8]

15. The draft NDC indicates that natural disturbances will be **excluded** for accounting against the draft NDC's 2035 range (320-380 Mt CO_2-eq) and indicates that these were 52251 Gg in 2021 and 40864 Gg in 2022 (both iCO_2-eq).[9]

16. ESRG's draft technical analysis finds that **GHG emissions outcomes in 2035 above the fair share range of 261-345 Mt CO_2-eq, including land use and natural disturbances, are not consistent with the 1.5°C goal"**.[10] Despite this, the draft NDC's range is 320-380 Mt CO_2-eq, with the upper limit well above the fair share range.

17. ESRG's draft technical analysis also finds that:

The representative pathway for which investment and just transition requirements has been assessed, results in emissions of 322 Mt CO_2-eq in 2035 and assumes the implementation of the SAREM, the other policies and plans assessed above, and the high economic growth rate specified above.

The pathway captures the existing policy direction in South Africa in that it includes consistency with and implementation of existing policy and plans in South Africa including in electricity and industry (SAREM, CTL roadmap, DTIC White Paper EVs), existing NEES implementation trends, grid expansion (NTCSA's Transmission Development Plan and DEE's ITPPPP), modal shift investments (Transnet and PRASA investment plans), DoT's Transport JT Plan, DEE's energy access goals, the JET-IP and National Treasury's carbon tax.

This target level is therefore achievable ***with the existing policy toolbox available*** *to government.*

Estimations for South Africa's fair share (adjusted to include land use emissions) for 2035, using a methodology consistent with equity principles contained in the UNFCCC and its Paris Agreement, range from ***345-261 Mt CO_2-eq****, depending on how the key principles of capability and responsibility are weighted.*

The investment pathway target level is ***above the CAT fair share upper limit*** *for South Africa for 1.5^{o}C in 2035 of 261 Mt, and* ***within the CAT 'almost sufficient' upper limit of 344 Mt*** *for 2035; it is* ***within the CERC fair share range*** *for 2035 for 1.5^{o}C of 261-345 Mt assessed here (dependent on chosen global pathways and weightings).*

[8] Page 2.
[9] Page 15 of the draft NDC, as gazetted.
[10] Page 16.

The target level is above the BUSA/NBI/BCG modelled target for South Africa in 2035 of 310 Mt.

The investment pathway and resulting target level for 2035 of 322 Mt CO_2-eq thus responds to both domestic just transition goals and international equity considerations.[11]

18. **In other words, simply implementing existing the country's policies and plans results in 2035 emissions of 322 Mt CO_2-eq, and yet this (320 Mt CO_2-eq) is indicated as the most ambitious end of the 2035 range in the draft NDC**. This makes even clearer that the draft NDC's range of 320-380 Mt CO_2-eq is not at all representative of South Africa's "highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances", as required by the Paris Agreement.

19. The DFFE's failure to align with the technical reports it commissioned is worrying. It does not explain why it has decided not to set its mitigation target range in line with the ESRG's draft technical analysis. Worse than that, it has set a target range which would, according to the draft technical analysis, have negative impacts. For instance, ESRG's draft technical analysis states that ranges between 340 and 380 Mt CO_2-eq would have several risks; including:

- Inconsistency with South Africa's international fair share contribution;
- Claims of "highest possible ambition" would not be credible;
- Deviation from the outcomes of the first Global Stocktake;
- Missed opportunities for economic diversification and competitiveness;
- Higher exposure to carbon border adjustment measures; and
- Failure to fully implement key policies and plans, crucially the IRP, SAREM and Green Transport Strategy.[12]

20. Despite these warnings, DFFE's current draft 2035 NDC range appears to be a conscious choice to risk locking South Africa into a trajectory of economic risk, competitive disadvantage and increased exposure to litigation and international trade penalties. This, overall, undermines the credibility of South Africa's climate commitments.

21. **In the circumstances, we align with the Life After Coal Campaign (LAC) in proposing a target of 350 Mt CO_2-eq for 2030 and a 2035 target of 248 Mt CO_2-eq. Proposing less ambitious targets significantly limits the prospects of South Africa playing our part in limiting global warming to 1.5°C.**

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[11] Page 132.
[12] Pages 5, 59 and 121.

The danger of anti-climate corporate lobbying

22. **It is essential that DFFE be alive to and guard against such disingenuous arguments as have been made, over the last two decades, by vested interests to delay and weaken a robust regulatory framework aimed at lowering South Africa's emissions.**

23. Irrespective of the lower limit of the NDC range, a high upper limit enables major emitters to argue that there is no need for further emissions reductions or additional regulation when their emissions fall within that allowable range. The upper limit, as explained above, is the de facto target. This framing, which has had decades of success, is the **opposite of ambition.**

24. Further to this, the "all-of-economy, all-of-society" framing used by the DFFE problematically perpetuates the situation created by the absence of sector-specific emissions reduction pathways, such as the yet-to-be-finalised Sectoral Emission Targets (SETs) and implies that the burden of responsible climate action is equally shared by all sectors and members of society. Specifically, and as the PCC notes in its June 2025 draft recommendations, our electricity sector could and should decarbonise relatively easily and quickly, but economy-wide averages can make it easy for the sector, and others, to lag by maintaining their own high emissions within in a broader economy target.

25. It has been over a year since the DFFE proposed SETs went out for public comment,[13] and yet **this draft NDC makes no mention of the progress on that process and how it is integrated into the proposed emissions target ranges up to 2030 and 2035.**

26. As extensively documented in Just Share's recent corporate lobbying report *The Obstruction Playbook* (May 2025), in the twenty-year timeline of industry interventions in South African climate policy, high-emitters repetitively deploy a series of arguments to convince policymakers that their proposed courses of regulatory action are unwise and will have devastating "unexpected" consequences.[14]

27. These arguments are framed around three themes, expanded on in the report: the emitters' "positive contribution" to society, South Africa's status as a developing economy, and the need for "alignment", incentives and low ambition. One of the most persistent arguments by industry actors, particularly in our high-emitting sectors, is that South Africa should be granted more time to decarbonise due to our status as a developing country with a "relatively small" share of global emissions. This is misleading and an incomplete reflection of the country's historical and ongoing responsibility for global GHGs.

[13] https://www.gov.za/documents/notices/national-environmental-management-air-quality-act-sectoral-emission-targets
[14] https://justshare.org.za/wp-content/uploads/2025/05/JS-Lobbying-Report-Obstruction-Playbook-digital-1.pdf

28. As the DFFE is aware, South Africa is among **the top 20 largest GHG emitters in the world**,[15] and our economy has already reaped the benefits of over a century of fossil fuel use to drive industrial development. Continued reliance on coal and other fossil fuels now places us at a growing competitive disadvantage in a rapidly decarbonising global market.[16]

29. Framing South Africa as a "special case" that requires lower ambition fails to acknowledge both our historical emissions and our significant current contributions to the climate crisis. It also ignores the mounting economic, social and environmental costs of inaction.

30. We note, with urgency, the **ongoing leniency still being granted to Sasol and Eskom**.[17] Both companies have received multiple extensions and "suspensions" of compliance with the minimum emission standards (MES), despite the fact that the MES were first set in 2010 (with the active involvement of both companies) and intended to limit harmful air pollution by prescribing the bare minimum pollution standards for different types of toxic pollutants. Eskom and Sasol have also been granted this ongoing leniency despite damning evidence of devastating health impacts from their air pollution.[18] It is also worth pointing out that although Sasol's most recent sulphur dioxide emissions leniency was granted subject to a variety of conditions, including that it is required to publish monthly compliance reports on its website – from April 2025[19] – it has, to date, only published one monthly compliance report.[20]

31. Although the MES govern toxic air pollutants and not GHGs, these two companies are also the continent's biggest GHG emitters.[21] The March 2025 update of the Carbon Majors database - which includes emissions of the world's largest oil, gas, coal, and cement producers over the period 1854-2023 - ranks Sasol 51st out of 180 producers (169 active and 11 inactive entities).[22] Sasol's Secunda coal-to-liquids facility is the world's largest single point source of GHGs.[23]

32. The failure to hold these two major emitters accountable fundamentally undermines and contradicts any claimed ambition in the NDC.

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[15] https://ourworldindata.org/co2-and-greenhouse-gas-emissions
[16] https://zerotracker.net/insights/south-africas-export-engine-at-risk-as-biggest-markets-go-clean
[17] https://justshare.org.za/wp-content/uploads/2023/08/Summary-Sasol-Limited-approach-to-SO2-MES.pdf
[18] Government continues to give Sasol and Eskom a free pass on carbon emissions and toxic air pollution
[19] Minister grants Sasol's SO_2 appeal, & Carbon Majors Database confirms Sasol one of world's largest carbon emitters since Paris Agreement
[20] https://www.sasol.com/esg/environment/air-quality/atmospheric-emissions-licences-disclaimer
[21] https://justshare.org.za/wp-content/uploads/2022/11/221122_Sasol_Air-quality-briefing_final.pdf
[22] https://carbonmajors.org/briefing/The-Carbon-Majors-Database-2023-Update-31397; https://carbonmajors.org/Entity/Sasol-139
[23] Sasol Sustainability Report 2020 page 8.

33. We also call for the DFFE to quantify and clarify those emissions defined as "survival emissions":[24] what percentage of the NDC target range do these emissions comprise, and what portion has been genuinely allocated to meeting the needs of poor and vulnerable communities?

34. The industry players opposed to climate action have mastered the art of economic hostage-taking: inflating their contributions to society and ignoring the damage they cause, while creating a false dichotomy between climate action and economic prosperity.

35. As is evident again and again in the sources cited in Just Share's report, high emitters and their industry association representatives have captured the language of the just transition by acknowledging the risks of climate change, while simultaneously stripping it of urgency by framing climate action as an attack on jobs and competitiveness.

36. The implications of corporate influence are profound: the failure of government's climate policy response to drive meaningful GHG emission reductions by big polluters means that the just transition to a low carbon economy is not currently supported by a robust regulatory framework which holds emitters accountable. This threatens to leave South Africa economically vulnerable, environmentally compromised, and increasingly out of step with global efforts to mitigate climate change.

37. It is prudent that the DFFE guard strongly against allowing anti-climate lobbying tactics and narratives to capture the NDC process, otherwise we can expect to continue to have one of the **lowest carbon taxes in the world**[25] and a slow and compromised Climate Change Act, which, more than a year post its enactment, still has several provisions not yet in operation and no penalties applicable to a failure of corporate polluters to comply with legislated carbon budgets.[26][27]

Adaptation

38. Although the draft NDC acknowledges that "Health is a key dimension of human development. In this regard, the co-benefits of mitigation in improving air quality is significant",[28] it should also reference and acknowledge that, as set out above, our country's two largest emitters, Sasol and Eskom, one of which operates the world's largest single point source of GHG emissions, are also the two biggest emitters of toxic air pollutants.

39. While the adaptation component of the draft NDC is more robust than previous NDCs, it is incomplete without a stronger articulation on the potential co-benefits, inclusive of but not limited to improved air quality, that would result from explicit integration with mitigation

[24] Page 14 of the draft NDC, as gazetted.
[25] South African Reserve Bank Occasional Bulletin of Economic Notes 2024
[26] https://justshare.org.za/wp-content/uploads/2025/05/JS-Lobbying-Report-Obstruction-Playbook-digital-1.pdf
[27] https://justshare.org.za/media/news/weak-regulation-of-corporate-carbon-budgets-means-that-polluters-wont-pay/
[28] Page 17 of the draft NDC, as gazetted

measures. In its June 2025 draft NDC recommendations, the PCC stresses the importance of avoiding maladaptation and ensuring cross-cutting benefits. Without this interdependence between our adaptation and mitigation efforts, there is a risk of adopting carbon-intensive adaptation measures justified as “development”, a pattern that has been observed in past corporate lobbying and that continues to hold significant sway in government decision-making.

Finance and implementation

40. Diluted emissions reduction targets have significant potential to reduce South Africa’s attractiveness as a recipient of climate finance. Simply, if our NDC remains weak, we lose out in the competitive global environment for such finance.

41. At the same time, however, the NDC should clearly set out all that can be achieved with domestic resources such as increasing our carbon tax, introducing loss and damage levies as per the “polluter pays” principle and mainstreaming climate response in public budget allocations for service delivery and development. Through demonstrating real commitment to climate action and robust domestic initiatives to mitigate and adapt to climate change, we strengthen the country’s case for international support.

Conclusion

42. Given the extremely limited time remaining to halve global greenhouse gas emissions this decade, South Africa’s NDC update must prioritise rapid and ambitious action and not preserve space for corporate polluters to maintain the status quo. We urge DFFE to:

- Set targets of 350 Mt CO_2-eq and 248 Mt CO_2-eq for 2030 and 2035, respectively.
- Release all technical reports and data and assumptions underpinning the NDC.
- Explicitly acknowledge and reject lobbying arguments that undermine ambition and delay climate action.
- Integrate mitigation and adaptation to avoid maladaptation and maximise co-benefits.
- Provide sector-specific emissions reduction pathways and define “survival emissions” transparently.

43. We remain available to discuss any aspect of these comments in further detail.

Yours faithfully
JUST SHARE

Per:

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