Annexure: Summary of Just Share's comments on the draft second NDC, the carbon budget draft regulations, and the TLAB

1. **The draft second NDC**

All signatories to the Paris Agreement are required to submit their NDCs in a five-year cycle, setting out their targets and strategies for achieving the Paris goals. The updated NDCs are due before UNFCCC COP30 in November this year. In its Draft Recommendations for South Africa's 2030-2035 NDC Update, published in June, the Presidential Climate Commission (PCC), noted that "South Africa's NDC must substantially increase both ambition and implementation readiness to respond to escalating climate risks…" and "must include time-bound, system-specific targets for key sectors…".

Each subsequent NDC should, in terms of the Paris Agreement, reflect a country's "highest possible ambition reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances". Importantly, for South Africa, this should include the socio-economic realities of people living in the country.

However, South Africa's draft second NDC, in its current unambitious state, proposes only a 10% reduction in the upper limit reflected in our 2021 update NDC: from 420 Mt CO_2-eq in 2030 to 380 Mt CO_2-eq in 2035.

The draft second NDC was published for public comment on 30 July, with comments due by 29 August. Just Share highlighted several shortcomings of the draft:

- Procedural concerns: The DFFE did not release the full technical reports that were used to inform its proposed targets. After repeated calls from stakeholders, the DFFE released a single document of 154 pages at 16h44 the day before the deadline for comments. It is also unclear which commenting stakeholders received which supporting documents and when.

- Legislative and scientific shortcomings: The draft second NDC does not align with South Africa's constitutional obligations, the Climate Change Act, 2024, or the country's international obligations under the Paris Agreement. The proposed targets are not ambitious enough to reflect the country's fair share or historical responsibility. They also represent only modest reductions from current emissions levels and fall short of the expert recommendations and the best available science, which says that emissions must fall by 43% by 2030. The UCT technical analysis suggests a fair share target range of 261–345 MtCO_2-eq in 2035, which falls below the upper limit of 380 MtCO_2-eq of the second draft NDC.

- Anti-climate corporate lobbying: Corporate lobbying from vested interests delays climate action. The "all-of-economy" framing of the NDC masks the additional responsibility of high-emitters, and the fact that sector-specific targets - namely the Sectoral Emission Targets (SETs) – remain outstanding, further allows high-emitting sectors to avoid accountability. The DFFE needs to explain its remark in the draft NDC that, "it would not be fair to expect poor communities to forego survival emissions" or else it risks being co-opted by anti-climate lobbyists.

- Adaptation and finance: The NDC should better articulate the relationship between climate adaptation and mitigation, as well as improved air quality, to avoid potentially enabling it as an justification to increase carbon intensity under the guise of development. Weak targets also reduce South Africa's attractiveness to international investors, and expose the country to economic risks such as carbon border adjustment mechanisms (CBAMs).

The PPC's draft recommendations and independent analysis from UCT, both informed by Climate Action Tracker and the Climate Equity Reference Calculator, have recommended much lower, more ambitious targets in their modelling of what is required to achieve the long-term goals of the Paris Agreement.

Based on these analyses, Just Share submitted to DFFE an alternative proposed mitigation target of 350 Mt CO_2-eq in 2030 to 248 Mt CO_2-eq in 2035.

In short, the NDC fails to adequately address the urgency of the climate crisis and South Africa's responsibility to take climate action. The influence of anti-climate corporate lobbying on key climate policies has been documented in Just Share's corporate lobbying report, *The Obstruction Playbook*. It is likely that these vested interests will continue to co-opt the soft "all-of-economy" language and framing used in the draft NDC to obscure their sector-specific accountability.

Download Just Share's comments on the draft second NDC

2. **Carbon budget draft regulations and guidelines**

The Climate Change Act 2024, defines "carbon budget" as the GHG emissions allocated to a company "for direct emissions arising from the operations of that [company] over a defined time period".

The fundamental rationale for carbon budgets is the recognition that there is a finite amount of GHGs that humanity can emit in order to avoid climate catastrophe. The carbon budget, then, is a key mechanism to incentivise behavioural change by emitters, and encourage investment in cleaner, low-carbon technologies.

The draft regulations were published for comment on 1 August, with comments due by 30 September. These regulations are intended to operationalise the carbon budget system by establishing the key requirements necessary for mandatory carbon budgeting from data providers (emitters) in high-emitting sectors.

However, Just Share warns that the current draft is at risk of becoming a compliance administration exercise rather than a tool for ambitious mitigation, for the following reasons:

- Purpose and principles: The regulations fail to explicitly link carbon budgets to South Africa's climate commitments, including the Paris Agreement and any constitutional obligations. They also lack provisions to ensure absolute emissions reductions.

- Determination of carbon budgets: The reliance on self-reported data from emitters risks undermining the integrity of the carbon budget system. Budgets should be anchored in the NDCs and SETs, not emitter claims. Historical emitters are further privileged by the creation of a reserve for new entrants, because they are insulated from allocations of new carbon budgets.

- Timelines, thresholds and scope: Administrative timelines for emitters to make their submissions are unclear, which puts the system at significant risk of inconsistent enforcement. It is also unclear which emitters are included or excluded below the required thresholds. Vague rules for new entrants to the carbon budget system further this confusion.

- Independent verification: The independence of verifiers is compromised if they are contracted by the companies whose data they are assessing. Crucially, the verification process should be transparent, with all reports made automatically available to the public.

- Mitigation plans: Self-declaration of baseline GHG emissions presents a loophole for emitters to manipulate their baselines to make their reductions appear more ambitious. Plans must be assessed against the latest NDC trajectory and rejected if inconsistent.

- Ministerial powers: The minister should have clear discretionary power to adjust carbon budgets, especially in cases where South Africa's international obligations increase. These powers, however, should only be employed to enhance ambition, not to dilute it by increasing carbon budgets.

- Transparency and accountability: The regulations do not require public consultation in the formulation of carbon budgets. Nor do they require publication of key documents such as carbon budgets, mitigation plans, progress reports or carbon tax payments. These are matters of the highest public interest, and claims of commercial confidentiality cannot be used to block transparency.

Just Share urges the DFFE to amend the regulations to reflect climate science, to enforce real reductions and to ensure transparency and justice in the carbon budget system. The importance of this is heightened by the fact that the only consequence for violating carbon budgets is a carbon tax that is too low to be an adequate deterrent.

Download Just Share's comments on the draft regulations

3. **Amendments to the Carbon Tax Act, 2019 in the TLAB**

The carbon tax is one of South Africa's central GHG mitigation policies intended to support the achievement of the NDC.

According to National Treasury, the carbon tax has been implemented in a phased manner "to allow businesses time to make the necessary structural adjustments to their production processes and practices, and flexibility to transition their activities and invest in energy efficient, renewables and other low carbon technologies".

Phase 1 accordingly included numerous tax-free allowances, providing carbon tax exemptions for 60-95% of emissions. It was initially proposed to run from 2015-2020 but was extended to the end of 2022, and then again to 31 December 2025.

Phase 2 was supposed to ramp up the effectiveness of the tax to "provide a strong price signal to both producers and consumers to change their behaviour over the medium to long term" - i.e. to finally give effect to the "polluter pays" principle. In November 2024, National Treasury published its Carbon Tax Discussion Paper (discussion paper) in which it discussed various proposals for phase 2 of the carbon tax.

However, in the March 2025 Budget Review, most of the proposals in the discussion paper had been abandoned. In fact, it appears from the TLAB that, as in the first phase of the carbon tax, between 85-95% of tax-free allowances may be retained in Phase 2.

The draft amendments to the TLAB were released for public comment on 16 August with comments due by 12 September. Key issues raised in Just Share comments include:

- Basic tax-free allowance: The retention of the 60% basic tax-free allowance until 2030 significantly weakens the impact of the tax. The rationale for a basic tax-free allowance was to give industry time to transition their operations and prepare for a carbon tax. It was intended to be a transitional measure for the initial phase of the carbon tax and there is no longer a need for it in phase 2. The proposed 5% increase in the offset allowance also poses a risk to the effectiveness of the tax.

- Carbon budget and carbon tax – higher tax rate: The proposed "punitive" rate of R640/tCO_2e for exceeding the carbon budget is significantly below the optimal tax rate, even for the standard carbon tax. It is vastly insufficient to act as a deterrent in the same way that a criminal penalty and/or meaningful administrative fine would. If the tax on excess emissions above carbon budgets is not set at a rate high enough to be an adequate disincentive to emissions, emitters will simply "budget" for the payment of the taxes. The TLAB also makes no provision for the rate to increase over time, such as, at a minimum, being linked with inflation.

- Electricity price neutrality extension and electricity levy repeal: The proposed Phase 2 carbon tax reforms fail to incentivise meaningful change in the electricity sector, particularly for Eskom, due to the commitment to “price neutrality”. The proposed tax structure will replace the existing Environmental Levy with a carbon tax. However, the carbon tax liability for electricity will be capped at the price of the environmental levy, now called an “Environmental Levy Equivalent”. This effectively shields Eskom from financial consequences for its actual emissions and, ultimately, undermines the tax’s purpose of driving decarbonisation in the electricity sector.

- Paris-alignment: both the headline and effective carbon rates are far from being sufficient to incentivise GHG emission reductions commensurate with the best available climate science. Assuming maximum allowances, the carbon tax rate remains well below global average emissions prices such as those recommended by the High Level Commission on Carbon Prices and the IMF.

Just Share warns that South Africa’s low carbon tax rates will lead to revenue losses through CBAMs, such as those already being imposed by trading partners like the EU – with revenue going to the trading partner instead of to South Africa – whereas it should be recycled to assist with our country’s decarbonisation.

The fundamental rationale for a carbon tax is the recognition of the failure of the market to properly internalise the cost of carbon which is borne by society instead of by emitters. The tax, then, should correct this market failure by implementing the “polluter pays” principle and incentivise behavioural change and investment in cleaner, low-carbon technologies.

However, the many iterations that the carbon tax has undergone since its original conception in Treasury’s 2010 discussion paper (Reducing Greenhouse Gas Emissions: The Carbon Tax Option), the delays, allowances and deductions, and dilution of the headline tax rate, have made it imperative that Treasury sends a clear message reminding emitters about what the purpose of the carbon tax is.

[Download Just Share’s comments on the draft TLAB]