NATIONAL TREASURY'S RESPONSES TO PUBLIC SUBMISSIONS ON ESKOM DEBT RELIEF BILL

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BACKGROUND

- On 22 February 2023, the Minister of Finance introduced the Eskom Debt Relief Bill in Parliament, which is a crucial step towards addressing the financial and operational challenges faced by Eskom.
- This Bill is a result of the government's commitment to support Eskom in dealing with its debt obligations and the associated finance costs.
- Parliament conducted public hearings to afford the public an opportunity to also provide their comments and inputs to be considered in the processing of the Eskom Debt Relief Bill.
- National Treasury notes the comments and inputs made by the various stakeholders which include the Financial and Fiscal Commission, Parliamentary Budget Office, Mineral Council of South Africa, Mr. B Cronin - Advocate and academic at UCT, Nedbank, COSATU and Dear South Africa.
- These comments will assist in enriching the Eskom Debt Relief arrangement to ensure that when the proposed debt relief period ends, Eskom returns to financial sustainability without relying further on the fiscus.

Overview of General Comments

- Eskom's situation continues to deteriorate despite fiscal support.
- Eskom seems to be acting with impunity and continues to pass high costs to the end users which negatively impact on business and municipalities.
- Any financial assistance without addressing structural and governance problems, corruption and malfeasance, inefficiencies, and industry-wide issues will do very little to turn around Eskom.
- The debt relief is being implemented in the absence of a larger government strategic plan not only for the future of Eskom but the South African electricity industry.
- Unbundling of Eskom will not solve the country's electricity challenges, rather the entire Eskom or certain parts of the business must be sold or concessioned to the private sector or to be operated by public-private partnerships.
- The law enforcement organs need to play their role in supporting Eskom to tackle the criminality & corruption crippling it.

Overview of Specific comments

- Amending the bill because section 2(b) in the Bill is excessively broad in its framing and threatens to undermine the lawfulness of the entire proposed statute.
- The conditions should be connected to the central purpose of the envisaged statute and the sole discretion of the Minister to determine conditions or conversion of the loan to equity needs to consider other factors.
- The silence on the role of the new Minister of Electricity as it is not highlighted. In fact, the Bill seems to pre-empt the proposals that he will make to the cabinet.
- The need to clarify the process by which the government will directly take over the R70 billion in 2025/26 and impact it will have on the existing Eskom's lenders.
- Removal of the conditions which prohibit Eskom from investing in new generation capacity and attempt to pre-empt and undermine collective bargaining by the conditions attached to wage negotiations in the Bill.
- The need to put in place the necessary measures to address ever increasing municipal debt owed to Eskom.

National Treasury Response: Features of Approach

- National Treasury recognises that while billions of rands have been spent supporting Eskom, there have been limited improvements in the reliability of electricity supply or the financial health of the company.
- The new approach will :
  - Strengthen the balance sheet of the utility, enabling it to restructure and undertake the investment and maintenance needed to support the security of electricity supply;
  - Allow Eskom to focus on plant performance and capital investment and ensure that it no longer relies on government bailouts; and
  - Address Eskom's operational challenges as it is accompanied by an independent assessment of Eskom's coal fleet by international experts.
- In addition, previously Eskom was not been able to improve its financial position because it still relied on borrowings to fund its capital investment requirements – the Eskom Debt Relief completely removes Eskom's borrowing burden for the next three years.
- Previous conditions attached to Eskom's fiscal support were largely operational and compliance driven, whereas the new conditions support the required structural shifts in the business (e.g. to prioritise capital maintenance of the existing fleet and transmission and distribution investment).

National Treasury Response: Features of Approach…2

- National Treasury considered the developments that are happening in the energy sector such as the Amendment of the Electricity Regulation Act, 2006 which is being led by the Department of Mineral Resources and Energy (DMRE) and which has already been approved by Cabinet.

- National Treasury is also working closely with the National Energy Crisis Committee (NECOM) to resolve current electricity supply challenges as well as ensure the broader structural changes to the electricity sector to restore long-term reliability of electricity supply.

- The Bill is not in contradiction with the present unbundling process that is underway at Eskom. Instead, National Treasury continues to play an active role in the unbundling process and is assisting Eskom with the lender engagements process wherein Eskom is seeking lender consent in order to proceed with unbundling.

- The work being undertaken by the National Treasury to explore private sector participation in transmission investment does not imply the privatisation of the NTCSA – instead, it is aimed at unlocking funding to accelerate the much-needed investment in the transmission business to connect additional capacity being procured by the DMRE.

National Treasury Response: Clarity on conditions

- The objective of the restrictions on the new capital expenditure investment is to strengthen Eskom's balance sheet during the debt relief period thus enabling to become self-sufficient and not rely on further government support for its financial sustainability.

- The other key objective of the conditions is to re-direct Eskom to focus on the maintenance aspect of its power plants to ensure that fleet becomes reliable to improve the Energy Availability Factor (EAF) and which will assist in reducing the load shedding.

- Allowing Eskom to largely focus on investing in new generation capacity will reinforce neglect of its current fleet, potentially compromise urgent investment required in the transmission system and will require additional borrowing (which will compromise its ability to achieve financial sustainability).

- Eskom may only implement remuneration adjustments that do not negatively affect its overall financial position and sustainability. This is not to undermine collective bargaining, does not pre-empt the wage negotiation outcomes, but ensures that Eskom is financially self-sufficient.

- The debt relief can only be used to settle debt and interest payments and nothing else.

National Treasury Response: Clarity on debt takeover and municipal debt

- The details regarding the R70 billion debt takeover in 2025/26 will only be made public closer to the time.
- This is due to the sensitive nature of the transaction (some of Eskom's debt is traded) and that lender engagement will be undertaken with the concerned parties.
- Therefore, at this stage it will be premature to indicate the type of instruments that will be considered, and the approach adopted.
- National Treasury has published an explanatory note on 08 May 2023 which outlines further details around the debt relief arrangement.

Municipal debt

- National Treasury has also published a MFMA Circular No. 124 on 31 March 2023 which addresses the debt owed by Municipalities to Eskom subject these municipalities comply with certain conditions over a period of three years.

Thank You