



# **NEDLAC REPORT TO THE NATIONAL ASSEMBLY PORTFOLIO ON TRADE AND INDUSTRY**

**PROTECTION OF INDIGENOUS KNOWLEDGE THROUGH  
INTELLECTUAL PROPERTY SYSTEM (IKS)**

**"THE BILL"**

**27 JULY 2010**



**Nedlac is the seat of National social dialogue in South Africa and it is, in many respects, a uniquely South African model of social dialogue.**

**It was set up through an Act of Parliament – The National Economic Development and Labour Council Act, Act 35 of 1994.**

**The Council is a representative and a consensus-seeking body where the parties to the Council seek to reach agreement on policy matters through negotiation and discussion based on mandates.**

**One of the most striking features of our system of governance is to ensure consultation and dialogue in order to build not only a shared national vision, but also in actual practice to attain unity of purpose and action**

# Our Mission



## ***Building enduring partnerships***

Promoting a shared vision of South Africa's growth and development strategy, to frame sector and developmental agreements and lay the basis for partnerships in action.



## ***Addressing urgent challenges –***

Selecting from many possible interventions, those which hold the promise of the greatest possible impact in the shortest possible time



## ***Lending a hand***

Securing the commitment and active participation of all constituencies in those areas identified for prioritised action.

# Nedlac's Remit



**Strive to promote** the goals of economic growth, participation in economic decision-making and social equity.

**Encourage and promote the formulation of coordinated policy** on social and economic matters.

**Seek to reach consensus** and conclude agreements pertaining to social and economic policy

**Consider all proposed Labour legislation** relating to labour market policy before being introduced in Parliament

**Consider all significant changes to social and economic policy** before being implemented or introduced in Parliament.



# Nedlac's Architecture



## CONSTITUENCIES

### BUSINESS

- Business Unity South Africa

### LABOUR

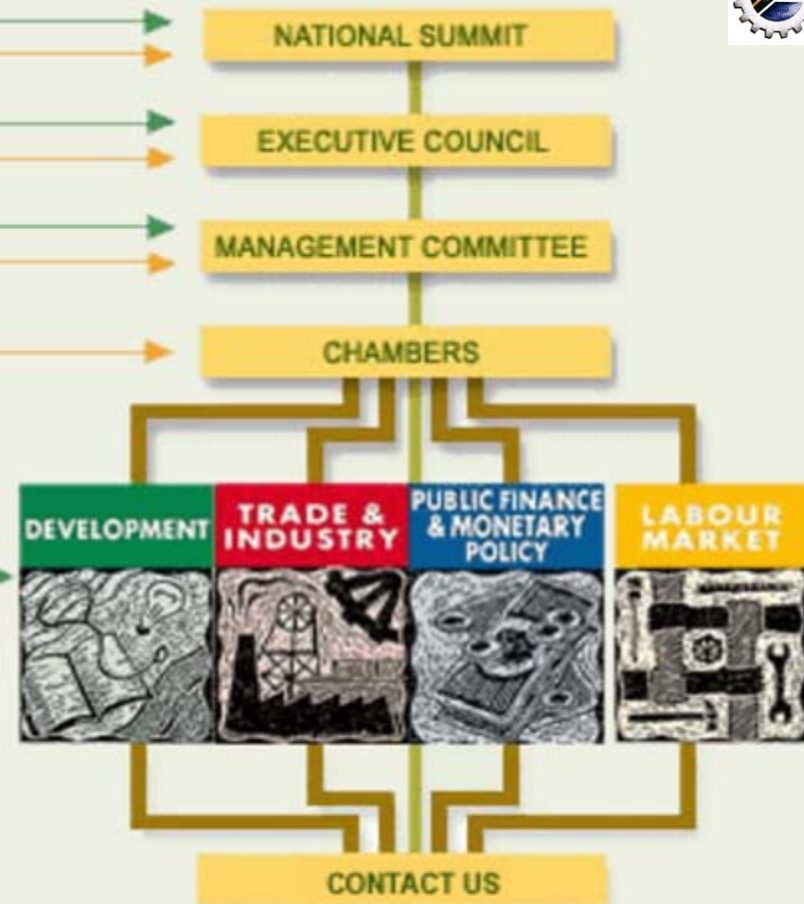
- Congress of South African Trade Unions
- National Council of Trade Unions
- Federation of Unions in South Africa

### GOVERNMENT

- Department of Labour
- Department of Trade and Industry
- Department of Public Works
- National Treasury
- Other Departments

### COMMUNITY

- Women's National Coalition
- South African National Civics Organisation
- South African Youth Council
- Disabled People South Africa
- The National Association of Co-operatives of South Africa
- Financial Sector Coalition



# NEDLAC'S ENGINE ROOM

## TRADE AND INDUSTRY CHAMBER

6 Labour + 6 alt

6 Government + 6 alt

6 Business + 6 alt

(LEAD GOVT DEPT: TRADE &  
INDUSTRY)

## LABOUR MARKET CHAMBER

6 Labour + 6 alt

6 Business + 6 alt

6 Government + 6 alt

(LEAD GOVT DEPT: LABOUR)

## STANDING COMMITTEES

-SECTION 77

-DEMARCATIONS

-TESELICO

## PUBLIC FINANCE AND MONETARY POLICY CHAMBER

6 LABOUR + 6 alt

6 GOVERNMENT + 6 alt

6 BUSINESS + 6 alt

LEAD GOVT DEPT: NATIONAL  
TREASURY

## DEVELOPMENT CHAMBER

6 Labour + 6 alt

6 Government + 6 alt

6 Business + 6 alt

6 Community + 6 alt

LEAD GOVT DEPT: PUBLIC WORKS

# NEDLAC PRINCIPALS



## Government



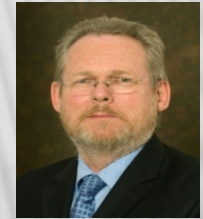
Minister of Public  
Works  
J Doidge



Minister of  
Finance  
P Gordhan



Minister of Labour  
M Mdladlana



Minister of Trade and  
Industry  
Dr R Davies

## LABOUR



Dennis George  
General Secretary  
FEDUSA



Manene Samela  
General Secretary  
NACTU



Zwelinzima Vavi  
General Secretary  
COSATU



Futhi Mtoba  
President of Busa



Andre Lambrecht  
National Chairperson

## BUSINESS



SANCO



Laura Kganyago  
WNC



Mike Ka Toni  
DPSA



Thulani  
Tshefuta

## COMMUNITY

## OVERALL CONVENORS



Jimmy Manyi  
Government



Bheki Ntshalintshali  
Labour



Dr Lotter  
Business



Lulama Nare  
Community



# MODUS OPERANDI



**Negotiations** that aim to deliver formal consensus-based agreements on the economic and social fronts.



**Consultations** that aim at developing policy prior to it being tabled for negotiation or implemented.



**Information sharing**, workshops, roundtable discussions and seminars that report on and assess the implementation of social and economic policies.



**Research** that guides the formulation and implementation of social and economic policy.



**Resolving socio-economic disputes** in terms of section 77 of the LRA.



# Key Achievements to date

Created a forum in which the social partners have been able to work on their relationships and build some level of trust;



Being an important instrument to strengthen democratic governance and transparency in the decision-making process;



Provided the space for the evolution of a new approach to policymaking and changes to legislation, thereby contributing towards better and more democratic policies that enjoy wide acceptance;



Given birth to a range of tripartite bodies and thereby promoted the concept of social dialogue;



Created a central forum where greater consensus has been achieved amongst key stakeholders on a diverse range of policy issues;.

# Key Achievements to date



Contributed to the development of a sophisticated and modern industrial relations system;



Helped to ensure a major investment programme in skills development;



Spearheaded initiatives such as the Proudly South African Campaign, Workplace Challenge; Growth and Development Summit; South Africa's Response to the Global Economic Crisis, National Electricity Accord, amongst others.



Minimised, and in some instances even completely eliminated, the prospect of the national policies being challenged through the Courts.

# PROCESS



- Tabling of policy proposals is governed by an agreed Protocol for tabling and consideration of issues in Nedlac.
- Government tables its programmes of policy and legislation in Nedlac – often at the beginning of the first quarter.
- Labour, Business and the Community constituencies likewise table their own policy issues for inclusion in the Work programme.
- Issues are tabled at least three months before sign-off is required however the Protocol has provisions for issues that require quicker sign-off.
- Parties agree at the outset whether the issue is being tabled only for consultations or negotiations, or both.
- Parties then agree on a process and timeframes to expedite the matter.





- In cases where the issue falls within the terms of reference of more than one chamber, a joint negotiation committee or task team is established.
- There may also be instances where the intervention of the relevant Minister may be required.
- In the event that Government indicates that giving effect to the policy require legislation, then Government tables the draft Bill at Nedlac for consideration.
- Once the process of engagement on the policy has been finalised, a Nedlac report is prepared for ratification by the Nedlac Executive Council.



- The Nedlac report, after sign-off by the relevant Nedlac Executive Council, is sent to the relevant Minister who in turn tables it in Parliament.
- Parties are bound not to re-open discussion in Parliament on any area where agreement was reached in Nedlac.
- However parties have the right to raise issues in Parliament on which there had been no agreement, or on which a Nedlac agreement was silent.
- If parties raise issues during the Parliamentary process on which the Nedlac agreement was silent, or new issues, which go beyond the reservations captured in the Nedlac report, they inform Nedlac of such issues for the record.
- Nedlac does from time to time get given an opportunity to brief relevant Portfolio Committees on the Nedlac report, albeit on an adhoc basis.

# PROCESS FLOW

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Historically the policy making process in SA assumed the following process flow:

- × Green Paper
- × White Paper
- × Draft Bill
- × Bill





# **NEDLAC INPUT ON THE BILL**

## **[AREAS OF AGREEMENT [SECTION 4]**

# Conclusion

- ✘ Inherent in social dialogue is that it takes time for it to produce meaningful consensus that ultimately leads to real partnership.
- ✘ It would therefore be correct to assume that if government tables a policy that does not solicit broader consensus among the key social partners, that should be taken very seriously by the legislators.
- ✘ This should also inform legislators of the potential implementation difficulties that the policy would likely to suffer if signed off;



## CONCLUSION

- ✘ Nedlac has acted as an important yardstick to measure the extent to which policies could find resonance with the needs of the citizens.
- ✘ Therefore it follows that where social partners find absolute consensus or sufficient consensus on the policy thrust, ownership of such policies is co-shared.
- ✘ This arguably makes implementation much easier and most of all prevents unnecessary legal challenges and squabbles.



## Conclusion



The full text of the Nedlac report is attached hereto marked  
Annexure A.



# THANK YOU