



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

PROGRESS REPORT ON THE WORK OF THE GOVERNANCE TASK TEAM OCTOBER 2021 AND NEXT STEPS

1. PURPOSE

To:

- Provide Exco with a progress report on the work of the Governance Task Team.
- Seek Exco approval of the consensus Governance Task Team recommendations.
- Seek Exco approval that the Governance Task Team continue to oversee the implementation of the above-mentioned recommendations and report back to Exco.

2. BACKGROUND

- 2.1. The Nedlac Executive Council established a Governance Task Team to review the Nedlac Founding Documents, including the Nedlac Act, Nedlac Constitution and Nedlac Protocols. In 2020/21, the task team agreed to undertake a research study on a Nedlac Fit for Purpose in partnership with Mistra and the ILO.
- 2.2. The purpose of the study was to, among others, address the current context of economic and health crisis and how Nedlac should become fit for purpose.
- 2.3. The study was conducted between November 2020 and May 2021 and the recommendation by the study were presented in a workshop with core-participants on 25 June 2021. A report of this was presented to the Exco meeting on 28 July 2021
- 2.4. The Governance Task Team processed the recommendations made by the workshop and the study between July and October 2021. Below is the summary of the deliberation by the Governance Task Team.

3. SUMMARY OF DELIBERATIONS OF GOVERNANCE TASK TEAM

Below, the Governance Task Team developed a number of recommendations. In the majority of instances there was consensus. On one matter, business is to revert.

- 3.1. **Mandate and role of Nedlac:** Nedlac should be a place where social partners come together to:
 - a. Engage on critical issues

- b. Advise on the development of policy and legislation before being finalised by the executive and/or going into the parliamentary process.
- c. Strive to reach agreement on important socio-economic issues where each social partner has a role to play (social compacting).
- d. Hold each other accountable for the commitments they have made at Nedlac through monitoring of these commitments.

Going forward some of the concepts used in the mandate need to be clearly defined.

- 3.2. **Founding documents:** Nedlac has organically evolved from the founding documents and these documents have been overtaken by events. In this regard appropriate amendments need to be made to the:
 - a. Nedlac Act
 - b. Nedlac Constitution
 - c. Protocols for consideration of issues

Depending on the above process, a new Declaration (looking forward to the next 25 years) could be drafted.

- 3.3. **Model of Nedlac:** The Theory of Change in the Strategic Plan should guide the development of a new model for Nedlac.
- 3.4. Labour, Business and Community supported the proposal of pro-actively putting critical issues on the **agenda of Nedlac**. Government however cautioned against this. It was agreed that there should be a protocol to guide what issues are tabled at Nedlac.
- 3.5. The Nedlac Act should be amended to clarify which **legislation needs to come to Nedlac** and a new protocol should be drafted to clarify and codify the process of inputting into the legislative process.
- 3.6. With respect to **representivity and inclusivity by stakeholders who do not currently participate at Nedlac**, representivity should be broadened and be guided by agreed admission criteria. The process of admission should be proportional, transparent, and be renewable. The Nedlac Act and Constitution should be amended to ensure improved representivity and inclusivity in line with the role of Nedlac. Issues to be addressed should include: how to manage and capacitate a broader range of stakeholders, admission criteria, issues of legitimacy, how mandating would work, how representatives should not become passive beneficiaries and how larger numbers of participants should be managed.
- 3.7. The Task Team had different views on **representivity and inclusivity in relation to equal representation and participation by all social partners in all structures of Nedlac**. The Community constituency was of the view that all social partners should have equal participation and representation in all Nedlac structures while Business and Labour maintained that labour market

issues should remain in tripartite structures. Government was of the view that the current status should be maintained.

- 3.8. **Capacity building** will focus on Business, Labour and Community as well as the secretariat to ensure Nedlac can deliver on its mandate.
- 3.9. Research, knowledge management and monitoring and evaluation (M&E) of the work of Nedlac should be enhanced to improve the effectiveness of the Nedlac secretariat. M&E should be restricted only to work undertaken by Nedlac.
- 3.10. There was no consensus reached on the **location of Nedlac in government**. Government, Labour, and Community proposed that Nedlac should remain in the Department of Employment and Labour (DEL). Business was of the view that Nedlac was dealing with ministerial cross-cutting socio-economic issues, as a result it would be best placed in the Presidency. In the event that Nedlac remained in DEL, a mechanism needed to be put in place to escalate the non-responsiveness of a Department. Business requested to be given more time to engage internally with the view to reconsider its position on this matter, and requested other parties to also reflect on this issue.
- 3.11. It is not always necessary or possible to reach agreement in Nedlac. To manage the process of **achieving agreement and what to do if there is a lack of consensus**, a protocol should be developed.
- 3.12. Nedlac should **communicate to the public on issues** which are on the agenda and issues that have been agreed upon at Nedlac. Social partners should then be the communicators of what they have achieved at Nedlac.

4. PROPOSED NEXT STEPS

The Governance Task Team has proposed that the following next steps be undertaken:

- (a) A Progress Report on the work of the Governance Task Team be tabled to Exco in October 2021.
- (b) The Exco should be requested to allow the Task Team to continue overseeing the following next steps:
 - 4.1. Redrafting of the Nedlac Founding Documents focusing on the following areas:
 - 4.1.1. **Role of Nedlac** to incorporate a broader role than was initially envisaged.
 - 4.1.2. **Reviewing the scope of issues** that are brought to Nedlac for consideration to include all significant socio-economic issues.
 - 4.1.3. **Reviewing the structures and processes of consultation and negotiation.**
 - 4.1.4. **Strengthening Nedlac's role in inputting into key policy and legislative matters**, relationship with Parliament and following up on Bills that have been through Nedlac.
 - 4.1.5. **Reviewing and updating the nature and process of representivity** of all social partners at Nedlac with clear criteria, a clear and transparent

process and mechanisms in place to manage potentially increased representivity.

4.1.6. **Address representivity and inclusivity by all social partners in all Nedlac structures.**

4.1.7. **The respective roles** of the Presidency, Deputy President, Minister in the Office of the Presidency, Minister and Department of Employment and Labour.

4.2. Reviewing the **Strategic Plan for 2020/2025 and the Annual Performance Plan 2022/23** in respect of the following areas:

4.2.1. Identifying the new issues that should be **pro-actively put on the agenda of Nedlac for social compacting**;

4.2.2. **Capacity building** of Nedlac social partners and secretariat; and

4.2.3. Role of the Nedlac secretariat in respect of **research and knowledge management**.

4.3. Consider **new or revised protocols** in respect of:

4.3.1. Communication

4.3.2. Process of inputting in the policy and legislative process;

4.3.3. Process of reaching agreement in Nedlac and processes when agreement can't be reached; and

4.3.4. Process of deciding which issues to be put on the agenda of Nedlac.

4.4. Consider a new **Declaration** setting out the vision, mission and values for Nedlac for the next twenty-five years.

5. RECOMMENDATIONS

That Exco:

- Notes the progress made by the Task Team.
- Approves the consensus recommendations set out in the body of the report which, for clarity's sake, are:
 - Mandate and role of Nedlac
 - Model of Nedlac
 - Issues to be tabled on the Agenda of Nedlac
 - Inputting into the legislative process
 - Representativity and inclusivity by stakeholders who do not currently participate at Nedlac
 - Capacity Building
 - Role of Nedlac Secretariat
 - Communication
- Approves that the Governance Task Team continues to oversee the implementation of the recommendations and report back regularly to Exco.