



# **REVISED ANNUAL PERFORMANCE PLAN 2025/26**

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Published by Companies Tribunal, June 2025

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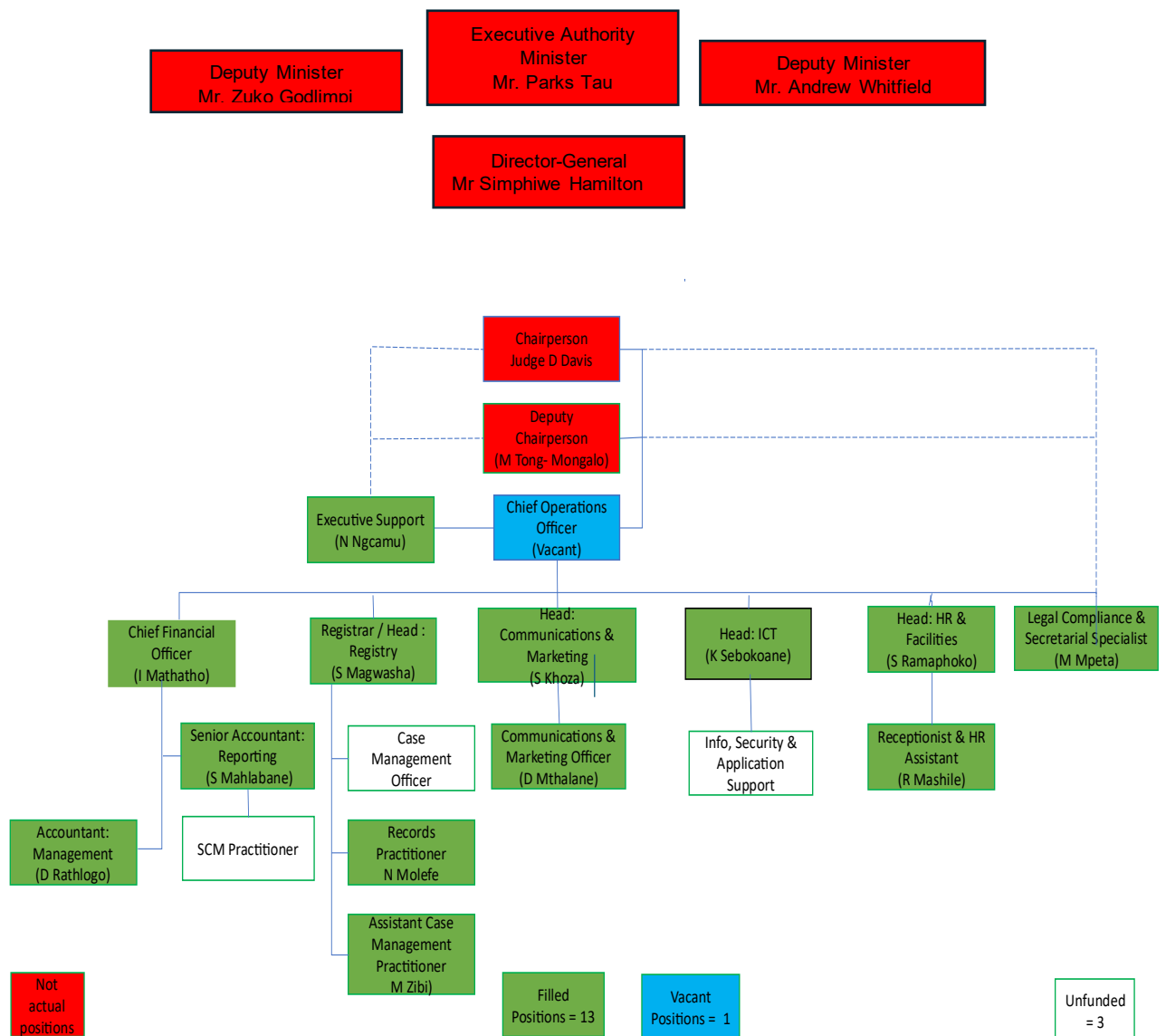
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# Organisational Structure





## Foreword by the Minister

The 7th Administration has placed inclusive economic growth and job creation as its apex priority. This has been underscored by President Cyril Ramaphosa's State of the Nation Address in 2025. This Annual Performance Plan (APP) has a renewed focus on implementation and alignment with the priorities of the government.

This APP will advance the strategic shift initiated in 2024/2025 toward strengthened implementation and the impact of the dtic's work, through greater integration of efforts within the department and our entities, guided by the Medium-Term Development Plan (MTDP) 2024-2029. In this regard, the work of **the dtic** and the entities will be evaluated in relation to outputs specific to the entity's mandate in line with MTDP outcomes and **the dtic** priorities towards contributing to the 5.4% GDP growth by 2030.

These outputs can be realised through the achievement of predetermined objectives as outlined in the APP. The Companies Tribunal aims to achieve these outputs through reduction of time to resolve disputes thus reducing red tape, advocacy services and procurement from disadvantaged communities which contributes to SMMEs support and appointment of interns which contributes to job creation for the youth.

The scope of the outputs collectively still encompasses the identified dtic's new industrial strategy, which include among others, Digitalisation, De-carbonisation and Diversification will be pursued across **the dtic** group and will build the growth momentum necessary to achieve MTDP target of 3% growth.

I hereby endorse the APP for 2025/26 in accordance with the request by the Speaker. I wish to thank the Chairperson, Deputy Chairperson, Tribunal members and all the Companies Tribunal staff for the work done and wish them well in executing the APP and aligning their work to government's overall programmes and priorities.

A handwritten signature in black ink, appearing to read 'P. Tau', written over a horizontal line.

Mr Parks Tau, MP

Minister of Trade, Industry and Competition



## Accounting Authority's Statement

I am pleased to present the 2025/26 Annual Performance Plan (APP) for the Companies Tribunal (the Tribunal). The APP sets out a three-year plan for the Tribunal to deliver on its mandate and realize its vision "To be a world class adjudicatory and dispute resolution organization that contributes to the promotion of fair and ethical business practices."

The Tribunal's APP is informed by firstly, the values and founding provisions of the Constitution, and the Companies Act, No. 71 of 2008 (the Act) as amended. Secondly, the economic growth plan that drives a regulatory environment that enables investment, trade and enterprise development in an equitable and socially responsible manner. Lastly, the three strategic priority areas of the Seventh Administration, namely inclusive growth and job creation; reduction of poverty and tackling of high cost of living; and building a capable, ethical and developmental state. For example,

- The ease of doing business through reduction of timeframes to reduce red tape , and of procurement from suppliers who are in compliance with the BBBEE Act and codes of good practice.
- To enhance the sustainability of South Africa's business environment and support competitiveness through outreaches, collaborations and seminars held to support SMMEs.
- The appointment of interns to contribute towards job creation and increase practical work experience.

The mandate of the Tribunal remains two-fold: adjudication and resolution of disputes through Alternative Dispute Resolution (ADR) promoting access to justice through speedily resolution of company disputes. The Tribunal may also perform any other functions assigned to it in terms of the Act or any laws mentioned in Schedule 4 of the Act.

The major challenges that may impact negatively on the Tribunal's ability to deliver on its plans include limited funding and as a direct consequence of this, the inability to fully market the institution, to grow the caseload and to fully capacitate the institution as per the approved structure. These are long standing but urgent challenges that need urgent solutions failing which, the Tribunal's ability to execute its mandate will be negatively impacted.

In an environment characterised by a difficult economic climate, the use of ADR as a preferred mode of resolving company disputes is expected to rise over the next 5 years. ADR saves costs associated with litigation. The current mandate of the Tribunal is limited, however with the current amendments to section 166 and 195, the Companies Tribunal has exclusive right to arbitrate company disputes, its decision is final and binding on both parties. In addition, the Tribunal's mandate has been extended relating to B-BBEE matters, it is anticipated that the case load will increase.

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**Judge Dennis Davis**

**Chairperson: Companies Tribunal**



## Overview by the Acting Chief Operations Officer

The Tribunal is a quasi-judicial authority and a statutory entity. The Tribunal ensures that all stakeholders, particularly vulnerable or under-resourced parties have fair and equal opportunities to access justice, resolve disputes efficiently, and seek remedies through a transparent, accountable and user-friendly process. The Tribunal's priorities are aligned to the Medium-Term Development Plan as the implementation framework for the NDP, **the dtic** priorities and its mandate as envisaged in its enabling legislation. The Tribunal supports government procurement of locally manufactured goods and services. It is committed to ensuring that at least 85% of its procurement is through designated groups, that are BBBEE compliant between levels 1 and 4. To ensure sustainability of these suppliers, the Tribunal further commits to processing invoices within twenty business days of receipt.

The Tribunal commits to hiring three interns annually totalling 15 during the five-year period as a means of contributing to the expansion of job training opportunities for the Youth. As a core function and contributing towards capable state, the Tribunal assist companies resolve Companies Act related disputes speedily at no cost to the companies. As such, it creates a conducive environment for small and medium sized businesses to thrive. The turnaround times on the issuing of decisions on opposed, unopposed and ADR matters, are 30, 20, and 20 business days, respectively. The Case Management System is an automated system which allows the public to submit their applications online. Further, the Tribunal is able to hold hearings with parties on a matter both physically and virtually as required by the parties. These are the ways in which the Tribunal ensures ease of doing business to the public.

Since its inception, the Tribunal's performance has been satisfactorily in delivering its core mandate and I am confident that even during this period it will deliver fully on its mandate and thus contribute to the realisation of a fair and ethical corporate environment.

A stylized handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

---


**Mrs Irene Mathatho**  
**Acting Chief Operations Officer**

## Official sign-off

It is hereby certified that this APP was:

- developed by the management of the Companies Tribunal (**the dtic**) under the guidance of the Accounting Authority, Judge Dennis Davis and the Deputy Chairperson, Minah Tong-Mongalo.
- prepared in line with the Tribunal mandate, current strategic plans of the Companies Tribunal and **the dtic**; and
- accurately reflects the performance targets, which the Companies Tribunal will endeavour to achieve given the resources made available in the budget for 2025 to 2026.

**Mr Simukele Khoza**  
Head: Marketing and Communication

  
Signature:

**Ms Irene Mathatho**  
Chief Financial Officer

  
Signature:

**Mr Kaykay Sebokoane**  
Head: Information Communication and Technology

  
Signature:

**Mr Sammy Ramaphoko**  
Head: Human Resource and Facilities

  
Signature:

**Mr Selby Magwasha**  
Head: Registry

  
Signature:

**Mr Mesuli Mpeta**  
Legal Compliance and Secretarial Specialist

  
Signature:

**Mrs Irene Mathatho**  
Acting Chief Operations Officer

  
Signature:

**Judge Dennis Davis**  
Executive Authority

 13 June 2025  
Signature:



## **PART A: OUR MANDATE**

## 1. CONSTITUTIONAL MANDATE

### **Constitutional mandate: -The Constitution of the Republic of South Africa**

The Tribunal plays a crucial role in protecting the rights enshrined in the **Bill of Rights**, ensuring fair business practices and addressing prohibited conduct. Its adjudicative mandate directly impacts the following constitutional provisions:

- g) **Equality (Section 9)** – The Tribunal is accessible to all consumers and businesses, ensuring equal protection under the law. It upholds diversity and rejects all forms of discrimination.
- g) **Human Dignity (Section 10)** – Through its decisions, the Tribunal ensures that prohibited conduct does not infringe on human dignity.
- g) **Privacy (Section 14)** – While carrying out its legal responsibilities, the Tribunal safeguards personal privacy.
- g) **Access to Information (Section 32)** – Transparency is fundamental to democracy. The Tribunal ensures that citizens have timely and accurate information to make informed decisions and hold leaders accountable.
- g) **Just Administrative Action (Section 33)** – The Tribunal hears all parties fairly and provides clear reasons for its decisions promptly.
- g) **Access to Courts (Section 34)** – The Tribunal provides a free, efficient alternative to traditional courts, resolving disputes quickly and fairly.
- g) **Public Administration Values (Section 195)** – As a state institution, the Tribunal adheres to the principles of ethical, transparent, and efficient governance.

By resolving cases efficiently and cost-effectively, the Tribunal contributes to **economic transformation and industrialization**. Its swift and fair rulings promote global competitiveness, enhance ease of doing business, and position South Africa as a desirable investment destination.

## 2. LEGISLATIVE AND POLICY MANDATES

The Tribunal is established by the Act, as a juristic person. In terms of the Act, the Tribunal has jurisdiction throughout the Republic. It is independent and subject only to the Constitution and law.

The Tribunal's mandate in terms of the Companies Act is to:

- a) Adjudicate in relation to any application that may be made to it in terms of the Act and make any order provided for in the Act in respect of any such application.
- b) Assist in the resolution of disputes as contemplated in Part C of Chapter 7 of the Act.
- c) Perform any other function assigned to it by or in terms of the Act or any law in Schedule 4.

The Tribunal is tasked with fulfilling its functions in alignment with the principles of the Constitution, International Law, and the Companies Act. It is expected to operate in a

manner that is simple, ethical, efficient, equitable, transparent, accountable, and impartial, ensuring no bias or prejudice.

By streamlining business processes, implementing an electronic case management system, and reducing administrative burdens, the Tribunal fosters an environment conducive to entrepreneurship. This approach not only supports the ease of doing business but also attracts both local and international investments, ultimately stimulating economic growth.

### 3. INSTITUTIONAL POLICIES AND STRATEGIES

#### Industrial Policy Framework

The Companies Tribunal is an entity established by the laws administered by **the dtic**, the department coordinates the activities of the regulatory entities through incorporating the work of **the dtic** within a number of its own targets. The Industrial Policy in South Africa focuses on decarbonisation, diversification and digitisation (the 3D's).

The **Government of National Unity (GNU) Statement of Intent** provides a foundation that underpins the Industrial Policy imperatives. GNU's priorities are:

- i. Inclusive growth and job creation;
- ii. Poverty reduction and strengthening the social wage; and
- iii. A capable, ethical and developmental state.

The 7<sup>th</sup> Administration has placed Industrial policy at the centre of the economic development strategy, mobilising an all of government approach working in partnership with industry to set out and deliver long-term plans to address the high unemployment rate, the low economy growth rate and inequality. The industrial policy is the anchor around which the Administration will align and deploy trade instruments, incentives, tools and regulation. To achieve the strategic priorities set out by GNU, a suite of interlocking and cross cutting tools has been deployed across the economy. To meet the GNU priorities, **the dtic** has developed eleven (11) strategic priorities. The Companies Tribunal shall contribute towards three (3) basic minimum programme of priorities in line with the aims of industrial policy contained in one of the 3D's outcomes being diversification as follows:

- i. Supporting government procurement of locally manufactured goods and services;
- ii. Job training; and
- iii. Capable, ethical and developmental state.

### 4. RELEVANT COURT RULINGS

There is a significant concern about potential litigation risks facing the Companies Tribunal due to cases being reviewed by the High Court, with specific applications for costs against the Tribunal. This situation may warrant legislative intervention to protect the members and staff of the Tribunal from legal action related to their work in performing the Tribunal's mandate.

Given that the Companies Tribunal operates as an adjudicatory body, it is common for legislation to provide protections or immunities to members and staff in the course of their duties, to prevent personal liability. This could be an important area for lawmakers to address

to ensure that Tribunal members can carry out their responsibilities without the constant threat of legal costs or challenges.

This matter requires attention of the relevant legislative authorities to draft amendment that outlines clear protections for Tribunal members and staff, reducing the likelihood of costly and time-consuming litigation.

There is a provision in the Financial Advisory and Intermediary Act (the FAIS Act) with such an exemption and it reads as follows:

“Section 43: Limitation of liability

43. The Minister, the Board or a member thereof, any officer or employee assisting the Board, the registrar, the Advisory Committee or any member thereof, the Ombud and any employee in the Office of the Ombud, or other body or person performing any function in terms of this Act is not liable for any loss sustained by or damage caused to any person as a result of anything done or omitted by any of them in the bona fide exercise of any power or carrying out of any duty or performance of any function under or in terms of a provision of this Act.”

## 5. ALIGNMENT TO NATIONAL DEVELOPMENT PLAN (NDP) AND MTDP 2024-2029

The Tribunal also derives its mandate from the NDP 2030 developed by the National Planning Commission (NPC) in 2012. The NDP aims to reduce inequality and eliminate poverty by 2030 and is grounded in six pillars that outline the objectives to be achieved by 2030. The Tribunal's priorities are aligned to the Medium-Term Development Plan as the implementation framework for the NDP as detailed below:

**Strategic Priority 1: Transformation:** The Industrial Policy seeks to build a new model of growth and economic inclusion that unites South Africans in the economy and promotes inclusive industrial, geographical and demographic transformation. Coupled with this is the focus on gender sensitive industrialisation looking to enhance participation of black people, women and youth in economic activities by removing barriers to entry. There is a strong need to strengthen measures that have been put in place for women's empowerment, especially in manufacturing and value-added services. The Companies Tribunal is intentional in sourcing business from black people, women and the youth.

**Strategic Priority 2: Inclusive Growth and Job Creation:** The government aims to stimulate economic growth that benefits all South Africans, with a particular focus on job creation. This involves fostering a business-friendly environment, encouraging public-private partnerships, and implementing policies that promote market-driven growth. To this effect, this is one of the eleven priorities of **the dtic**. In turn, the Tribunal will contribute to this commitment by employing three interns annually for job experience purposes.

**Strategic Priority 3: Building a Capable, Ethical, and Developmental State:** The Government of National Unity (GNU) is committed to strengthening state institutions by promoting efficiency, reducing corruption, and ensuring that public officials are appointed based on merit rather than political loyalty. This includes reforming the public sector and state-owned enterprises to improve service delivery and governance.

These priorities are part of a broader strategy to align the government's actions with the National Development Plan (NDP) and Sustainable Development Goals (SDGs), ensuring a better quality of life for all South Africans by 2030. These alignments ensure that the Tribunal is integral to achieving the broader objectives of the South African Government of National Unity (GNU).

## **5.1 Linkage to the DTIC's strategic priorities**

The Tribunal contributes to the country's economic growth plan by reducing red tape, implementing workplace-based internship with ring-fenced funding programs, and compliance to the B-BBEE Act and Codes of Good Practice.

South Africa's economic growth has been sluggish for the last 2 decades, with potential growth levels remaining low. This has led to premature de-industrialisation; the manufacturing sector, which contributed 21% to GDP in 1994, has decreased to 14% by 2023. As a result, South Africa finds itself trapped in a middle-income scenario, where investments are path-dependent, barriers to entry and exit are significant, and market concentration and power remain high.

Adding to this economic vulnerability is the lack of diversity within the economy. The nation continues to struggle with the triple challenges of unemployment, poverty, and inequality. Furthermore, the slowing global growth, particularly in traditional export markets like the European Union, has exacerbated these issues.

Therefore, the 2025/26 APP aligns with the growth plan for South Africa and those of the MTDP. Therefore, the Tribunal is mandated to promote access to justice through speedily resolution of company disputes which address red-tape reduction promoting the ease of doing business. In terms of section 34 of the Constitution, everyone has a right to have their matters heard through a court or a tribunal, therefore the Tribunal operations are streamlined to reduce costs, turnaround times and the overall effectiveness of service delivery.

- **Diversification - Support government procurement of locally manufactured goods and services:**

The Tribunal is committed to ensuring that at least 90% of its procurement is through designated groups, BBBEE compliant between levels 1 and 4.

- **Diversification - Job Training Programme:**

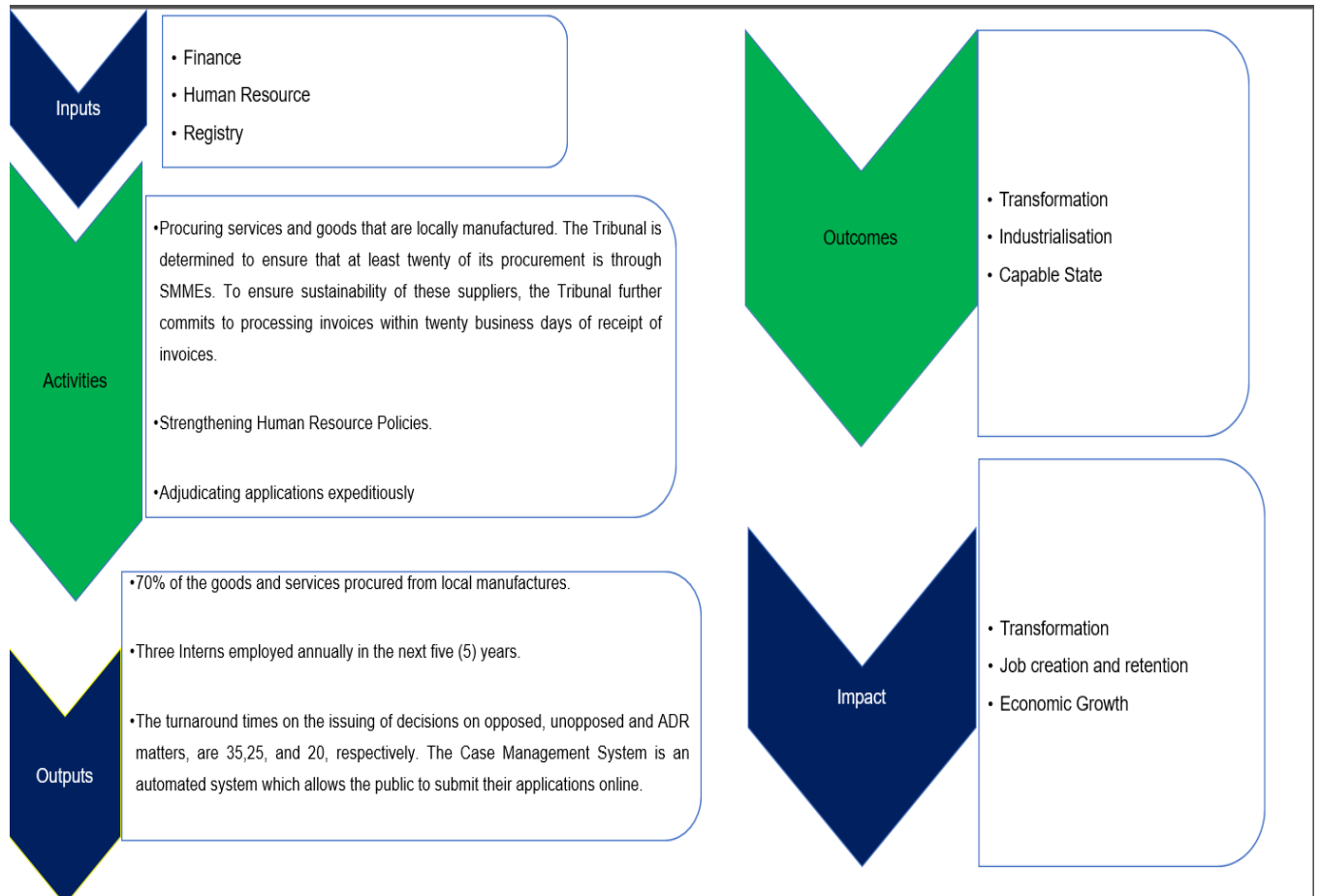
The Tribunal commits to hiring three interns annually as a means of contributing to the expansion of job training opportunities for the Youth.

- **Capable State - Streamline Regulations:**

As a core function, the Tribunal assist companies to resolve Company disputes speedily, as mandated by the Companies Act at no cost to the companies. As such, it creates a conducive environment for small and medium sized businesses to thrive. The turnaround times on the issuing of decisions on opposed, unopposed and ADR matters, are 30, 20, and 20 days, respectively. The Case Management System is an automated system which allows the public to submit their applications online. Further,

the Tribunal is able to hold hearings with parties on a matter both physically and virtually as required by the parties.

## 1. Theory of Change



## **PART B: OUR STRATEGIC FOCUS**



**FIGURE 1: THE TRIBUNAL'S VISION, MISSION AND VALUES**

## **2. VISION:**

To be a world class adjudicatory and dispute resolution organisation that contributes to the promotion of fair and ethical business practices.

## **8. MISSION:**

- a) To adjudicate applications made in terms of the Companies Act and make orders in respect of such applications.
- b) To assist in the resolution of company disputes through conciliation, mediation and arbitration.
- c) To perform any other function assigned to it by or in terms of the Companies Act or any law mentioned in schedule 4.

## **9. VALUES**

- a. **Accountability:** Delivering on our plans and commitments and taking responsibility for our conduct.
- b. **Impartiality:** Conducting ourselves in a fair and just manner, without fear, favour or prejudice.
- c. **Transparency:** Being reasonably open about our policies, procedures and conduct.
- d. **Professionalism:** Being courteous, punctual, and responsible in adhering to policies, values and the code of conduct of the Tribunal when dealing with the public and stakeholders.
- e. **Mutual respect:** Treating all people with dignity and honour in accordance with the values of the Tribunal.
- f. **Ethical:** Acting with integrity and being guided by the Tribunal's Code of Conduct and policies.

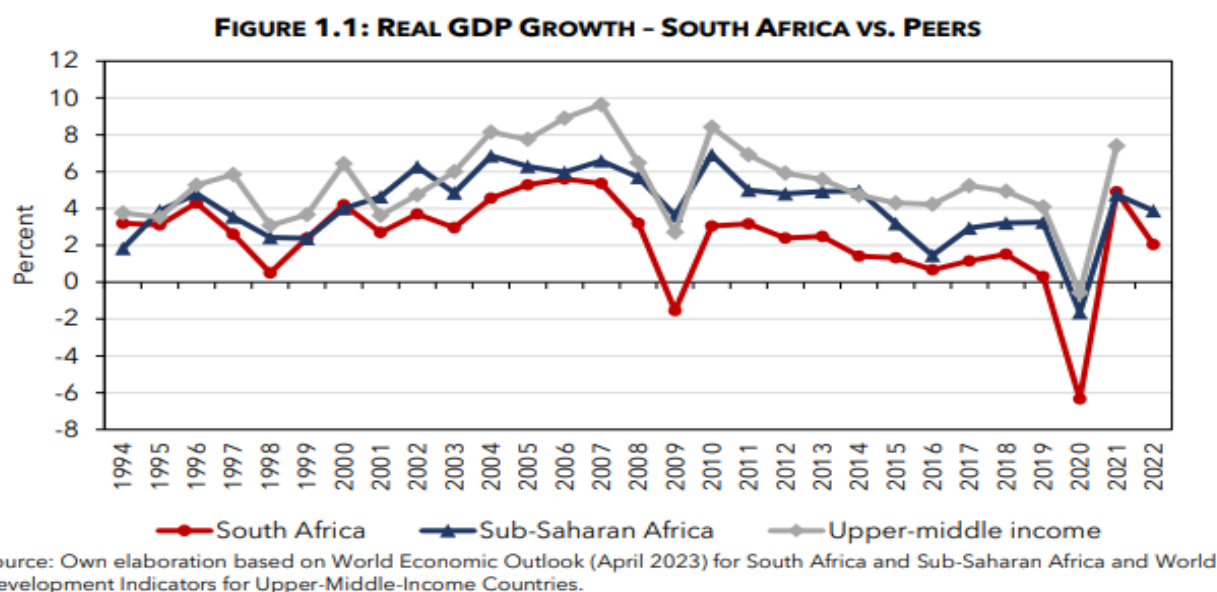


## 10. SITUATIONAL ANALYSIS

### 10.1. UNPRECEDENTED SOCIAL AND ECONOMIC CHALLENGES FACING SOUTH AFRICA

#### 10.1.1 GROWTH

The economy has struggled to grow at a rate sufficient to generate the necessary number of jobs, which has led to persistently high levels of unemployment. This sluggish economic growth has also exacerbated poverty, inequality, and underdevelopment, creating a vicious cycle that is difficult to break. The country's economic challenges are compounded by external factors such as global market fluctuations and internal issues like policy uncertainty. To achieve meaningful progress in increasing employment and addressing these deep-rooted problems, the country needs to achieve a minimum of 5.4% growth rate. This growth level is essential for job creation and advancing the nation's broader development priorities, including improving living standards, reducing inequality, and fostering inclusive economic participation.



### 10.2 ECONOMIC OVERVIEW

#### 10.2.1 Exclusion

A large portion of the South African population remains marginalized, with limited access to economic opportunities. This exclusion is not just a matter of employment but extends to fundamental aspects of life such as education, healthcare, and basic services. Despite progress in certain areas, access to quality education remains uneven, particularly between urban and rural areas and between different socio-economic groups. Healthcare services are similarly uneven, with rural and impoverished communities often receiving substandard care. These disparities perpetuate cycles of poverty and inequality, making it difficult for those affected to improve their circumstances. Addressing these inequalities is crucial for building a more inclusive society where everyone has the opportunity to succeed.

### 10.2.2 Innovation

Innovation is widely recognised as a key driver of economic growth and societal progress. It enables the development of new products, services, and processes that can enhance productivity, create jobs, and improve the quality of life. In South Africa, as in many European countries, the industrial sector tends to be more innovative than the services sector. According to recent data, 54.8% of enterprises in South Africa's industrial sector engage in innovative activities, compared to 49.3% in the services sector. This gap highlights the potential for growth in the services sector if innovation can be encouraged and supported. A focus on innovation across all sectors is essential for the country to compete globally and to build a resilient, dynamic economy capable of adapting to changing global conditions.

### 10.2.3 Capable State

The effectiveness and capability of the state have been significantly undermined by corruption and the lingering effects of state capture. These issues have eroded public trust and weakened the state's ability to implement policies and deliver services effectively. A capable state is critical for driving economic growth, implementing reforms, and addressing the structural constraints that limit the country's potential. Strengthening the state's capacity involves building robust institutions, ensuring accountability, and fostering a culture of transparency and good governance. It also requires rethinking the economic strategy to align with current challenges and opportunities, ensuring that implementation is both efficient and effective. By addressing these issues, the state can better support economic development, reduce inequality, and improve its citizens' overall quality of life.

## 10.3 EXTERNAL ENVIRONNENT ANALYSIS : PESTEL ANALYSIS

**TABLE 1: PESTEL ANALYSIS**

|                  |  |
|------------------|--|
| <b>Political</b> | <ul style="list-style-type: none"><li>✓ Legislative Amendments</li><li>✓ Use of E-Government</li><li>✓ Changing political priorities (change of administration)</li><li>✓ Political instability</li><li>✓ Policy uncertainties</li></ul> |
| <b>Economic</b>  | <ul style="list-style-type: none"><li>✓ Unemployment/Poverty/Inequality</li><li>✓ Energy security(electricity)</li><li>✓ Grant cut/reduction (10%)</li><li>✓ Fiscal Constraints</li><li>✓ Taxes</li><li>✓ Disinvestment</li></ul>        |

|                      |  |
|----------------------|--|
|                      | <ul style="list-style-type: none"> <li>✓ Fuel price</li> <li>✓ Foreign Exchange rates</li> <li>✓ Inflation</li> <li>✓ Economic growth</li> <li>✓ Geo-Political tensions (Trade agreements)</li> <li>✓ South Africa's policy (BRICS)</li> <li>✓ Economic Transformation</li> <li>✓ Creative Disruption</li> <li>✓ Product to market costs</li> </ul>  |
| <b>Social</b>        | <ul style="list-style-type: none"> <li>✓ High rate of unemployment</li> <li>✓ Awareness of the Tribunal</li> <li>✓ Language diversity</li> <li>✓ Social media</li> <li>✓ Fraud / corruption</li> <li>✓ Low literacy rate</li> <li>✓ Misconception about the Tribunal's jurisdiction by members of the public</li> <li>✓ Population growth</li> </ul> |
| <b>Technological</b> | <ul style="list-style-type: none"> <li>✓ Access to data</li> <li>✓ Future technologies (4IR, etc.)</li> <li>✓ Impact of social media</li> <li>✓ Cyber-attacks / ransom ware</li> </ul>   |
| <b>Legal</b>         | <ul style="list-style-type: none"> <li>✓ Data privacy framework (POPI Act, etc.) King 4 report</li> <li>✓ Universal Compliance (Data privacy framework, POPI Act, etc.) and King 4 report</li> <li>✓ Legislative amendments</li> <li>✓ Limited jurisdiction to meet public expectations – (duplicated)</li> <li>✓ Case Reviews Costs</li> </ul>      |
| <b>Environmental</b> | <ul style="list-style-type: none"> <li>✓ Green economy</li> </ul>  |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>✓ Pandemics</li> <li>✓ Utilities (load shedding, water outage)</li> <li>✓ Lack of appropriate hearing rooms</li> <li>✓ Natural Disasters</li> <li>✓ Lack of appropriate hearing rooms</li> </ul> |
|--|---|

The Tribunal operates in a dynamic external environment influenced by economic conditions, industry trends, regulatory frameworks, employment challenges and environmental considerations. Navigating these factors is essential for the Tribunal to fulfil its mandate and contribute to developing South Africa's economy. The Chairperson of the Tribunal oversees its operations and reports to Parliament through the office of the EA, the Minister of **the dtic** following the PFMA. The Tribunal's activities are aligned with its mandate, which is, in turn, aligned with **the dtic** and national priorities. The Tribunal's services are demand driven and as such impacts of developments in the spaces of companies highly influence the operations of the Tribunal. These developments include the outbreak of pandemics where companies are unable to convene for AGM's and legislative amendments amongst others.

The outcomes of the 2024 General Elections saw the formation of the Government of National Unity (GNU). South Africa experienced a transition from the majority ruling government to an inclusive GNU. A Statement of Intent bounds the GNU and lays the foundational principles and minimum programme of priorities. The MTDP will thus serve as the five (5)-year medium-term plan for the 7<sup>th</sup> Administration of the Government. It also serves as the implementation framework for the National Development Plan (NDP): Vision 2030. The medium-term planning process for the development of the MTDP thus far has included a review of the approach and methodology, moving from the Medium-Term Strategic Framework (MTSF) 2019-2024 to the MTDP 2024-2029. The MTDP will continue to align to the goals and objectives of the NDP and Programme of Priorities of the GNU. The MTDP 2024-2029 will however have a greater emphasis on development outcomes and will primarily be framed as an economic plan to address existing socio-economic challenges.

## 10.4 INTERNAL ENVIRONMENTAL ANALYSIS: SWOT ANALYSIS

A summary of the SWOT analysis is provided in the table below.

**TABLE 2: SWOT ANALYSIS**

| POSITIVES |  | NEGATIVE   |
|-----------|--|--|
|           | <b>STRENGTHS</b> <ul style="list-style-type: none"> <li>✓ <i>Flexible working environment</i></li> <li>✓ <i>Institutional knowledge</i></li> <li>✓ <i>Short turnaround time</i></li> </ul> | <b>WEAKNESSES</b> <ul style="list-style-type: none"> <li>• Limited Mandate</li> <li>• Poor governance</li> <li>• Budgetary constraints</li> <li>• Human Capacity in</li> </ul> |

| POSITIVES |   | NEGATIVE  |
|-----------|---|---|
| INTERNAL  | <ul style="list-style-type: none"> <li>✓ Strong collaboration amongst management</li> <li>✓ Holding hearings virtually</li> <li>✓ Good systems and procedures</li> <li>✓ Independence and impartiality</li> <li>✓ Competent and capable staff</li> </ul>  | <p>certain divisions</p> <ul style="list-style-type: none"> <li>• Limited succession plan</li> <li>• Limited prospects of growth</li> <li>• Inadequate facilities</li> <li>• Outsourced internal audit</li> <li>• High staff turnover</li> </ul>                |
| EXTERNAL  | <p><b>OPPORTUNITIES</b></p> <ul style="list-style-type: none"> <li>✓ Growing uptake of ADR services</li> <li>✓ Expanding our geographic footprint</li> <li>✓ Access to virtual technology</li> <li>✓ Increasing referrals from external stakeholders (including CIPC, TRP, BBBEE, law firms etc.)</li> <li>✓ Technology – automating systems and processes to improve efficiency</li> <li>✓ Benchmarking on best practice models from similar entities</li> <li>✓ Aggressive marketing of the Tribunal</li> <li>✓ Change of political administration</li> <li>✓ Contribution to research, jurisprudence and the development of company law</li> <li>✓ Collaboration with higher education institutions to increase research output on the work of the Tribunal.</li> <li>✓ Government and other stakeholders Collaboration for support and resource sharing</li> <li>✓ Availability of retired judges and senior legal practitioners to adjudicate</li> </ul> | <p><b>THREATS</b></p> <ul style="list-style-type: none"> <li>• Budget constraints</li> <li>• Limited jurisdiction</li> <li>•</li> <li>• Cyber-attacks / ransom ware</li> <li>• Cost orders</li> <li>• Limited access to the Tribunal (by the public)</li> </ul> |

## **PART C: MEASURING THE TRIBUNAL'S PERFORMANCE**

## PART C: MEASURING OUR PERFORMANCE

### 11. INSTITUTIONAL PROGRAMME PERFORMANCE INFORMATION

#### 11.1 Programme 1: Adjudication

##### 11.1.1 Purpose of the programme

The purpose of the programme is to adjudicate and make orders in relation to applications made in terms of the Companies Act No. 71 of 2008 as amended, as well as to facilitate the resolution of company disputes in terms of Alternative Dispute Resolution. To ensure a fair, efficient, and effective resolution of disputes between companies, shareholders, and other stakeholders, utilizing various dispute resolution mechanisms. By implementing the Adjudication and Alternative Dispute Resolution program, the Tribunal contributes to the promotion of fair and ethical corporate practices (Quality of decisions, turnaround time for issuing of decisions).

Members of the Tribunal are appointed by the Minister of Trade, Industry and Competition to adjudicate applications and resolve disputes based on the applications filed by the parties to the dispute. Where necessary, hearings are held in person or virtually. Cases are decided on paper without the parties' physical appearance. Internally, Registry is tasked with the administrative element of this function complementing the part the Tribunal Members.

Under this programme, the Tribunal will contribute to the following MTDP priority:

#### ❖ MTDP Strategic Priority 1: Inclusive growth and job creation:

**Outcome:** Enabling environment for investment and improved competitiveness through structural reforms:

- Cut red tape and streamline support for small enterprises and entrepreneurs especially in townships and villages, to thrive.
- Mainstream red tape reduction across every department and public entity to reduce the undue regulatory burdens that hold back businesses from creating jobs.

## 11.2 OUTCOMES, OUTPUTS, OUTPUT INDICATORS AND TARGETS

### PROGRAMME 1: ADJUDICATION & ALTERNATIVE DISPUTE RESOLUTION

| Outcome  | Outputs  | Output indicators   | Audited performance |         |         | Estimated performance | MTEF targets |         |         |
|--|--|---|---------------------|---------|---------|-----------------------|--------------|---------|---------|
|  |  |   | 2021/22             | 2022/23 | 2023/24 | 2024/25               | 2025/26      | 2026/27 | 2027/28 |
| <b>1. Streamlined operations to reduce costs, turnaround times and the overall effectiveness of service delivery</b> | Reduction in turnaround times for adjudicated applications | 1.1. Percentage of decisions and orders issued on opposed applications within 30 days from the day of the hearing or filing of papers | 100%                | 100%    | 100%    | 95%                   | 95%          | 95%     | 95%     |
|  | Reduction in turnaround times for adjudicated applications | 1.2. Percentage of decisions and orders issued on unopposed applications within 20 days from allocation or filing of papers           | 97%                 | 97%     | 90%     | 95%                   | 95%          | 95%     | 95%     |
|  | Reduction in turnaround times for ADR cases                | 1.3. Percentage of cases finalized in terms of ADR within 20 days from the last day of sitting or allocation or filing of papers      | 100%                | 100%    | 100%    | 95%                   | 95%          | 95%     | 95%     |



### 11.3 OUTPUT INDICATORS: ANNUAL AND QUARTERLY TARGETS

#### PROGRAMME 1: ADJUDICATION & ALTERNATIVE DISPUTE RESOLUTION

| Output indicators   | Annual targets | Q1  | Q2  | Q3  | Q4  |
|---|----------------|-----|-----|-----|-----|
| Percentage of decision and orders issued on opposed applications within 30 days from the date of hearing or filing of papers      | 96%            | 95% | 95% | 95% | 95% |
| Percentage of decision and orders issued on unopposed applications within 20 days from the date of allocation or filing of papers | 96%            | 95% | 96% | 95% | 95% |
| Percentage of cases finalised in terms of ADR within 20 days from the day of the sitting or allocation or filing of papers        | 96%            | 95% | 95% | 95% | 95% |



## 11.4 PROGRAMME 2: ADMINISTRATION

### 11.4.1 Purpose of the programme

The purpose of the programme is to ensure operational efficiency and effectiveness as well as effective stakeholder engagement. The Programme further aims to efficiently support and manage the operations by ensuring that there is proper Financial Management, Human Resource Management, Information Technology Management, Stakeholder Management and Legal Services.

The Tribunal will successfully deliver on its objectives through a cohesive, well-structured organization where people, processes, and systems perform optimally. As a publicly accountable entity, the focus will continue to strive to achieve clean administration and resource optimization. The focus is on developing human and organisational capacity toward building a world-class institution. This requires a series of strategic human resource interventions to attract, develop, and retain talent. This also aims to promote sound financial and supply chain management and operational efficiency, embed good governance to prevent organizational value by mitigating governance failures, anticipate and respond to the changing contextual and legislative reforms, and better anticipate and manage risks associated with outcomes.

Under this programme, the Tribunal will contribute to the following MTDP priorities:

- ❖ **MTDP Strategic Priority 1: Inclusive growth and job creation:**
- ❖ **Outcome:** Increased employment opportunities
  - Continue to implement and optimise public employment programmes (including the Presidential Employment Stimulus, the National Youth Service, Expanded Public Works) and prioritise work experience for young people.
- ❖ **MTDP Strategic Priority 2: Reduce poverty and tackle the high cost of living**
- ❖ **Outcome:** Social cohesion and nation building
  - Promote the involvement of stakeholders in the life of our country, representing civil society, traditional leaders, the faith-based sector, labour, business, cultural workers, sports people and other formations representing the diverse interests and voices of our citizens
- ❖ **MTDP Strategic Priority 3: Build a capable, ethical and developmental state**
- ❖ **Outcome:** Improve governance and performance of public entities
- ❖ **Outcome:** A capable and professional public service

- Strengthen the public procurement system, in line with the Public Procurement Act, for efficiencies and effectiveness and to stimulate demand.

## 11.5 OUTCOMES, OUTPUTS, OUTPUT INDICATORS AND TARGETS

### PROGRAMME 2: ADMINISTRATION

| Outcome   | Outputs  | Output indicators  | Audited performance |         |         | Estimated performance | MTEF targets |         |         |
|---|--|--|---------------------|---------|---------|-----------------------|--------------|---------|---------|
|   |  |  | 2021/22             | 2022/23 | 2023/24 | 2024/25               | 2025/26      | 2026/27 | 2027/28 |
| <b>2. Coordinated internship system with ring-fenced funding program for internship</b> | Increase the number of workplace-based opportunities to gain work experience   | 2.1 Percentage increase in workplace-based internship                      | -                   | -       | -       |                       | 2%           | 2,5%    | 3%      |
| <b>3. Compliance to the B-BBEE Act and Codes of Good Practice</b>                       | Implement the B-BBEE Act and Codes of Good Practice to open up opportunities in the value and supply chains of the South African economy | 3.1 Percentage of procurement from designated groups in terms of BBBEE ACT | 60%                 | 65%     | 94%     | 70%                   | 85%          | 90%     | 90%     |
| <b>4. Effective Stakeholder Engagement</b>  | Advocacy services  | 4.1 Number of new followers on social media platforms                      | -                   | -       | -       | N/A                   | 2000         | 2000    | 2000    |
|   |  | 4.2 Number of engagements and collaborations with                          |                     |         |         | 2                     | 4            | 4       | 4       |

| Outcome | Outputs | Output indicators   | Audited performance |         |         | Estimated performance | MTEF targets |         |         |
|---------|---------|---|---------------------|---------|---------|-----------------------|--------------|---------|---------|
|         |         |   | 2021/22             | 2022/23 | 2023/24 | 2024/25               | 2025/26      | 2026/27 | 2027/28 |
|         |         | stakeholders on the services of the Tribunal                            |                     |         |         |                       |              |         |         |
|         |         | 4.3 Number of outreaches to small enterprises in townships and villages | -                   | -       | -       | -                     | 20           | 20      | 20      |

## 11.6 OUTPUT INDICATORS: ANNUAL AND QUARTERLY TARGETS

### PROGRAMME 2: ADMINISTRATION

| Output indicators  | Annual targets | Q1   | Q2  | Q3   | Q4  |
|--|----------------|------|-----|------|-----|
| Percentage increase in workplace-based internship  | 2%             | 0,5% | 1%  | 1,5% | 2%  |
| Percentage of procurement from designated groups in terms of BBBEE ACT                     | 85%            | 85%  | 85% | 85%  | 85% |
| Number of new followers on social media platforms  | 2000           | 500  | 500 | 500  | 500 |
| Number of engagements and collaborations with stakeholders on the services of the Tribunal | 4              | 1    | 1   | 1    | 1   |
| Number of outreaches to small enterprises in townships and villages                        | 20             | 4    | 6   | 6    | 4   |

## 12. EXPLANATION OF PLANNED PERFORMANCE OVER THE MEDIUM-TERM PERIOD

|                   |   |
|-------------------|---|
| <b>Outcome 1:</b> | <b>Streamlined operations to reduce costs, turnaround times and the overall effectiveness of service delivery</b> |
|-------------------|---|

**Outcome's contribution to the achievement of: Streamlined operations to reduce costs, turnaround times and the overall effectiveness of service delivery**

|  |  |
|--|--|
| Mandate.   | It will assist in the organisation in achieving the mandate because, when the Tribunal is able to achieve this outcome, it will then be able to adjudicate matters brought to it in a fair and equitable manner. It will also be able to solve disputes through conciliation, mediation and mediation. The 2 points mentioned above are the mandate of the Tribunal. |
| MTDP and APEX Priorities.  | It will enhance the sustainability of South Africa's business environment and support competitiveness.   |
| Women, children, youth and persons with disabilities.              | Facilitate the conduct of business between organisations in a non-discriminatory manner where marginalised groups are not left behind.   |
| Other policies.  | It will improve the regulatory legal framework.  |
| Explanation of enablers to achieve the five-year targets.          | legislative framework, human resources, funding, applications and hearing rooms.   |
| How will this Outcome contribute to the achievement of the Impact? | It will enable an inclusion of marginalised people in the mainstream economy through transformation.   |



|                   |  |
|-------------------|--|
| <b>Outcome 2:</b> | <b>Coordinated internship system with ring-fenced funding program for internship</b> |
|-------------------|--|

**Outcome's contribution to the achievement of: Coordinated internship system with ring-fenced funding program for internship**

|  |   |
|--|---|
| Mandate.   | This will help Companies Tribunal to fulfil its mandate effectively in line with <b>the dtic's</b> commitment of ensuring at least 2.1 million people granted work experience exposure for employability.   |
| MTDP and APEX Priorities.  | Inclusive growth and job creation will assist in the contribution towards the 3.6% economic growth plan to reduce the high rates of unemployment. Through providing work experience exposure to interns, the Tribunal aims to prepare the individuals to be employable and to contribute to the country's economic growth and reduce poverty. |
| Women, children, youth and persons with disabilities.              | Facilitate the conduct of business between organisations in a non-discriminatory manner where marginalised groups are not left behind.  |
| Other policies.  | It will improve the regulatory legal framework.   |
| Explanation of enablers to achieve the five-year targets.          | Legislative framework, human resources, funding, applications and hearing rooms.  |
| How will this Outcome contribute to the achievement of the Impact? | It will enable efficiency of its operations thereby having a positive impact on economic transformation.  |

|                   |   |
|-------------------|---|
| <b>Outcome 3:</b> | <b>5. Compliance to the B-BBEE Act and Codes of Good Practice</b> |
|-------------------|---|

**Outcome's contribution to the achievement of: Compliance to the B-BBEE Act and Codes of Good Practice**

|  |  |
|--|--|
| Mandate.   | This will help Companies Tribunal to fulfil its mandate enshrined in the constitution and the Companies Act, effectively.  |
| MTDP and APEX Priorities.  | Economic Transformation will assist in the contribution towards the achievement of the 2 <sup>nd</sup> MTDP priority of Reducing Poverty and tackle the high cost of living. When the procurement is focused on BBB-EE prescripts, then it assists in reducing poverty among marginalised population groups in South Africa. |
| Women, children, youth and persons with disabilities.              | Facilitate the conduct of business between organisations in a non-discriminatory manner where marginalised groups are not left behind.   |
| Other policies.  | It will improve the regulatory legal framework.  |
| Explanation of enablers to achieve the five-year targets.          | legislative framework, human resources, funding, applications and hearing rooms.   |
| How will this Outcome contribute to the achievement of the Impact? | It will help the organisation to have a positive impact on economic transformation through the development of BBB-EE compliant businesses hence making an impact around inclusion of marginalised communities into the mainstream economy.   |

**Outcome 4:****Outcome's contribution to the achievement of: Effective Stakeholder Engagement**

|  |   |
|--|---|
| Mandate.   | This will help Companies Tribunal to fulfil its mandate enshrined in the Constitution and the Companies Act, effectively.   |
| MTDP and APEX Priorities.  | Faster economic growth; stakeholder needs are ensured. Ensure that all companies have equal access to our services. Economic inclusion. Transform the economy. Introduce Regional support initiatives. Contributes to African Union vision of "No country left behind". |
| Women, children, youth and persons with disabilities.              | Facilitate the conduct of business between organisations in a non-discriminatory manner where marginalised groups are not left behind.  |
| Other policies.  | It will improve the regulatory legal framework.   |
| Explanation of enablers to achieve the five-year targets.          | Legislative framework, human resources, funding, applications and hearing rooms.  |
| How will this Outcome contribute to the achievement of the Impact? | Helps sustainability and socio-economic development.  |

### 13. Explanation of enablers to achieve the five-year targets.

What is supposed to be the enablers to achieve these plans are also economic constraints to the achievement of the intended growth plan intended to improve the ease of doing business, reduce red tape, consider the end-user, promote investment, attract foreign direct investment in the country and improve South African ranking on the competitive business index, ease of doing business and red tape reduction; with the potential to contribute to economic growth and also contribute to investment. South Africa could market itself as a quick responsive country regarding its turnaround times for company law disputes free of charge.

#### **a) Mandate**

The institution needs an un-ambiguous, and wider mandate to function effectively. The Tribunals mandate is limited, voluntary and ambiguous in respect to ADR provisions. Proposed amendments to the Companies Act were submitted, amongst others, to make alternative dispute resolution compulsory. We await the outcome.

The Tribunal lacks enforcement powers and to widen the scope and the mandate of the Companies Tribunal requires amending the legislation including the introduction of administrative sanctions, charges and costs; and redirecting most of the mandate given to courts in the primary legislation to the Companies Tribunal. This will assist will the ease of doing business, removing red tape and improved company disputes leading to improved business competitiveness of the country.

#### **b) Members of the Tribunal**

Members are critical role players in the Tribunal. These are the experts who make decisions on the applications that the Tribunal receives. As per the Act these are appointed by the Minister. Without this enabler in place the Tribunal would not be able to perform its mandate.

The Tribunal has noted another emerging risk being an increase in the number of cases that are being reviewed. Some review quotes the member as a party to the review, some praying for costs against the Tribunal and the member.

Law-markers therefore need to amend the legislation to include exemption provisions of the members and staff from being taken to court for rendering the mandate of the organisation.

### **c) Applications/clients**

To function effectively the Tribunal needs to receive an adequate number of applications. The limitations in mandate could be the direct results of inadequate scope of the Companies Tribunal in the primary legislation.

### **d) Funding/Budgetary Constraints**

The Tribunal will need an increase in its baseline over the Medium-Term Expenditure Framework (MTEF). Funds Allocated for each financial year are insufficient to meet the operational requirements of the Tribunal and have over the years been augmented by an approved surplus which has been depleted.

Section 210 of the Companies Act makes the following provision that the Commission, the Companies Tribunal and the Panel, are each financed from money appropriated by Parliament, any fees payable in terms of the Act, income derived from the investments and deposits of surplus funds and money accruing from any source.

Sections 40 of the Competition Act and 210 of the Companies Act are similar; however, the difference is that where the Companies Act makes provision for the TRP and CIPC to levy fees, the Companies Tribunal is excluded.

The Competition Tribunal generates its funding from the National Treasury, fees earned from the Competition Commission, other income being recoupment of printing costs and case fees for filing a matter at the Tribunal and investment income for the interest earned.

Section 40 of the Competition Act provides that the Competition Commission is financed from money that is appropriated by Parliament for the Commission, fees payable to the Commission in terms of the Act, income derived by the Commission from its investment and deposit of surplus money in terms of subsection (6) and money received from any other source.

Because of the provision above, the Competition Commission keeps all the fees it levies for the service it renders in terms of its mandate and transfers penalty charged to the National Treasury.

The Minister of Trade, Industry and Competition could resolve the finance challenge that the Companies Tribunal has by adopting the same model as the one between the Competition Commission and Competition Tribunal, and regularise the funding model through the regulations, there is no need to amend the legislation as the legislation covers this arrangement. Failure to pass regulations to correct the Tribunal funding model is self-inflicted wound that could leave the Tribunal into the defunct entity.

Since 2012, the CIPC has been generating surplus fees of more than R100million and applying to the National Treasury at the end of the financial year to retain these fees according to their annual reports. These funds could be used to fund the Companies Tribunal.

In the financial services sector, the FSCA collects levies, administrative fees etc. and allocates it to all its entities. As a result, they are not depended on the National Treasury for funding and are self-funded.

Addressing the funding requirements does not require the legislation to be amended for the Companies Tribunal as the legislation already makes provision for sources of funding for the Tribunal, CIPC and the Panel.

The Competition Commission and Competition Tribunal have entered into entered an MOU to share 5% and 35% of the fee charged by the Competition Commission on intermediate and large mergers respectively. This is where most funding of the Competition Tribunal is generated. This arrangement was entered into in early days of the establishment of the two institutions without prior approval from the National Treasury; however, the transaction is reported in both entities Annual Report in their financials.

#### **e) Facilities**

Currently the Companies Tribunal does not have hearing rooms and the spaces used as hearing rooms are ill-suited for the purpose. Parking space is inadequate for both the members and clients of the Tribunal. Professionally equipped hearing rooms and adequate parking space are important enablers for the achievement of the mandate and five-year plans of the Tribunal.

#### **f) Equipment and infrastructure**

Tools of trade such as furniture, computer equipment and stationery are important enablers in the achievement of the five-year plan. Currently IT infrastructure is partially outsourced and managed by the shareholder, **the dtic** and the Tribunal.

## 14. PROGRAMME RESOURCE CONSIDERATIONS

### 14.1 Projections of revenue and expenditure

| STATEMENT OF FINANCIAL PERFORMANCE | Audited outcome |               |               | Revised estimate | Medium-term estimate |               |               |
|------------------------------------|-----------------|---------------|---------------|------------------|----------------------|---------------|---------------|
| R thousand                         | 2021/22         | 2022/23       | 2023/24       | 2024/25          | 2025/26              | 2026/27       | 2027/28       |
| Revenue                            |                 |               |               |                  |                      |               |               |
| Non-tax revenue                    | 151             | 524           | 1 381         | 948              | 929                  | 950           | 962           |
| Transfers received                 | 20 313          | 24 529        | 28 202        | 29 497           | 31 812               | 33 257        | 34 761        |
| Donations received/Revenue in-kind | 2 039           | 2 243         | 2 468         | 2 714            | 2 985                | 3 284         | 3 612         |
| Income from surplus funds          | -               | -             | -             |                  |                      |               |               |
| <b>Total revenue</b>               | <b>22 503</b>   | <b>27 296</b> | <b>32 051</b> | <b>33 159</b>    | <b>35 726</b>        | <b>37 491</b> | <b>39 335</b> |
| Expenses                           |                 |               |               |                  |                      |               |               |
| Current expenses                   |                 |               |               |                  |                      |               |               |
| Compensation of employees          | 13 553          | 14 921        | 18 264        | 18 497           | 21 236               | 22 701        | 23 757        |
| Goods and services                 | 10 777          | 9 863         | 14 408        | 14 212           | 14 104               | 14 610        | 15 420        |
| Depreciation                       | 213             | 195           | 146           | 450              | 386                  | 180           | 158           |
| <b>Total expenses</b>              | <b>24 543</b>   | <b>24 979</b> | <b>32 818</b> | <b>33 159</b>    | <b>35 726</b>        | <b>37 491</b> | <b>39 335</b> |
| <b>Surplus/(Deficit)</b>           | <b>(2 040)</b>  | <b>2 317</b>  |               | -                | -                    | -             | -             |

| STATEMENT OF FINANCIAL PERFORMANCE | Audited outcome |         |         | Revised estimate | Medium-term estimate |         |         |         |
|------------------------------------|-----------------|---------|---------|------------------|----------------------|---------|---------|---------|
|                                    | R thousand      | 2021/22 | 2022/23 | 2023/24          | 2024/25              | 2025/26 | 2026/27 | 2027/28 |
|                                    |                 |         |         | (767)            |                      |         |         |         |



## 14.2 Budget Allocation per Programme

| Programme Name: Administration     |                  |                  |                  |                  |                      |                  |                  |
|------------------------------------|------------------|------------------|------------------|------------------|----------------------|------------------|------------------|
| Economic classification            | Audited outcome  |                  |                  | Revised estimate | Medium-term estimate |                  |                  |
|                                    | 2021/22<br>R'000 | 2022/23<br>R'000 | 2023/24<br>R'000 | 2024/25<br>R'000 | 2025/26<br>R'000     | 2026/27<br>R'000 | 2027/28<br>R'000 |
| Current payment                    |                  |                  |                  |                  |                      |                  |                  |
| Compensation of employees          | 13 553           | 14 921           | 18 264           | 18 497           | 21 236               | 22 701           | 23 757           |
| Goods & services, etc.             | 6 758            | 5 956            | 9 993            | 9 608            | 9 172                | 9 625            | 10 299           |
| Payments of capital assets         |                  |                  |                  |                  |                      |                  |                  |
| Building and other fixed structure | -                | -                | -                | -                | -                    | -                | -                |
| Machinery & equipment              | 172              | 53               | 122              | 450              | 386                  | 180              | 158              |

| Programme Name: Adjudication       |                  |                  |                  |                   |                                  |                  |                  |
|------------------------------------|------------------|------------------|------------------|-------------------|----------------------------------|------------------|------------------|
| Economic classification            | Audited outcome  |                  |                  | Revised Estimates | Medium-Term Expenditure Estimate |                  |                  |
|                                    | 2021/22<br>R'000 | 2022/23<br>R'000 | 2023/24<br>R'000 | 2024/25<br>R'000  | 2025/26<br>R'000                 | 2026/27<br>R'000 | 2027/28<br>R'000 |
| Current payment                    |                  |                  |                  |                   |                                  |                  |                  |
| Member's fees                      | 3 491            | 3 454            | 3 816            | 3 900             | 4 197                            | 4230             | 4 338            |
| Goods and services                 | 569              | 595              | 623              | 703               | 735                              | 755              | 783              |
| Payments of capital assets         | -                | -                | -                | -                 | -                                | -                | -                |
| Building and other fixed structure | -                | -                | -                | -                 | -                                | -                | -                |
| Machinery & equipment              | -                | -                | -                | -                 | -                                | -                | -                |

### 14.3 REVENUE

- 100% dependent on government grant
- Average growth rate of 5,9% over the MTEF period

### 14.4 EXPENDITURE

- Compensation remains highest due to the nature of the organisation, constituting 67% of the government grant in 2025/26.

- Member's fees constitute 13% of the government grant and is another crucial expenditure to ensure that members are paid for executing the mandate.
- 20% of the government grant remains for operational and administrative expenditure. There is a need to increase the baseline over the MTEF period to ensure that Tribunal delivers on its mandate efficiently and effectively.

## 15. UPDATED KEY RISKS AND MITIGATION FROM THE STRATEGIC PLAN

### KEY RISKS AND MITIGATIONS

Following is a summary of key risks which may affect the achievement of the identified outcomes, as well as measures to mitigate the identified risk.

| Risk Number | Outcome   | Risk name  | Output Affected  | Risk Description  | Mitigation  |
|-------------|---|--|--|---|---|
| 1           | <b>Operational efficiency and effectiveness</b> | Inadequate budget                                | Efficient resourcing (funding)                                   | Inadequate funding and resources to execute the mandate effectively and efficiently.  | Monthly monitoring of budget through budget variance report   |
| 2           | <b>Capable State</b>                            | Adjudication & dispute resolution inefficiencies | Adjudicated Applications<br><br><b>Resolved deputes</b>          | a) Quality of decisions compromised<br>b) late delivery of decisions<br>C). Voluntary nature of ADR   | a) Member peer decision review<br>b) Increase reminders to Members, and Chairperson consideration for extension on complex matters.<br>c) <b>Increased public awareness regarding the importance of ADR</b> |
| 3           | <b>Operational efficiency and effectiveness</b> | Human Resource Capacity                          | Resource inefficiencies & deficiencies (management & financial)  | a) Inability to fully fill positions<br>b) Inability to adequately develop and train staff<br>c) Inability to retain competent and skilled personnel with the right values. | Prioritization of resources   |
| 4           | <b>Operational efficiency and effectiveness</b> | IT operational ineffectiveness                   | Functional, efficient, and user-friendly ICT systems for ease of | Unavailability and inaccessibility of IT services or systems  | Implementation of the Disaster Management Plan  |

| Risk Number | Outcome  | Risk name  | Output Affected        | Risk Description                       | Mitigation  |
|-------------|--|--|------------------------|--|---|
|             |  |  | doing business         |  |   |
| 6           | <b>Effective Stakeholder engagement and outreach and brand awareness</b> | Inadequate Marketing & communication activities (Limited marketing and advertising of Tribunal's services) | Stakeholder engagement | Limitations to market the organization | Increased marketing and communication initiatives will be undertaken. |

## **16. MATERIALITY AND SIGNIFICANCE OF FRAMEWORK**

### **16.1 Materiality and Significance of Framework**

In terms of the Treasury Regulation 28.3.1, Accounting Authorities must “for purposes of material [section 55(2) of the Act] and significant [section 54(2) of the Act], develop and agree a framework of acceptable levels of materiality and significance with the relevant executive authority.” The Tribunal is required by law to operate within the PFMA and its accompanying Treasury Regulations as a Schedule 3A public entity, the two above-mentioned sections of the Act are therefore significant for operational and reporting purposes. Materiality and significance levels will be influenced by considerations such as legal and regulatory requirements.

### **16.2 Assessment and determination of materiality for the Tribunal**

The Companies Tribunal has strengthened its control environment. This is evidenced by the fact that the Tribunal has been obtaining a clean audit over the past financial years. However, there are inherent risks associated with the implementation of new unproven processes, changes in leadership as a result of appointment and resignation and/or retirement of staff and may result in lack of teamwork. The risks are, however, discounted by the unqualified audit report obtained by the Tribunal over the past financial years and the significance of the related audit findings. This therefore requires the entity to set the threshold at a reasonably conservative level of the Treasury guideline matrix.

The following guidelines will be applied to the basis selected:

The best indicator with regard to the Tribunal’s non-capital-intensive business activity is the higher of revenue or expenditure. For this reason, 0.60% of budgeted expenditure is chosen with regard to this framework, and this basis is consistent with prior years.

### **16.3 Annual review of materiality**

The materiality framework and significance levels will be reviewed each financial year in line with the preparation of the annual performance plan by management based on the levels of risks and the adequacy of the internal controls and accounting systems.

## **PART D: TECHNICAL INDICATOR DESCRIPTIONS (TIDS)**

## 16. PART D: TECHNICAL INDICATOR DESCRIPTIONS (TIDS)

### PROGRAMME 1: ADJUDICATION & ALTERNATIVE DISPUTE RESOLUTION

|  |   |
|--|---|
| Indicator title                                    | <b>1.1 Percentage of decisions and orders issued on opposed applications within 30 days from the day of the hearing or filing of papers</b>   |
| Definition   | This indicator tracks the percentage of decisions and orders issued on opposed applications within 30 days from the day of the hearing or filing of papers  |
| Source of data                                     | Registry records  |
| Method of calculation or assessment                | The number of decisions and orders issued within 30 days divided by Total number of decisions and orders issued multiplied by 100.  |
| Means of verification                              | Excel spreadsheet   |
| Assumptions  | <p>Accurate record of decisions and orders issued by the Tribunal</p> <p>Outliers are complex cases and/or matters that may go beyond the desired turnaround time as provided with the written authorisation of the Chairperson and are exempted from the above method of calculation of assessment.</p> <p>Abandoned cases are cases where the applicant has not provided necessary information that is required for a matter to be adjudicated and are exempted from the calculation the above method of calculation of assessment.</p> |
| Disaggregation of beneficiaries (where applicable) | N/A <sup>1</sup>  |
| Spatial transformation (where applicable)          | N/A <sup>2</sup>  |
| Calculation type                                   | Cumulative (year to date)   |
| Reporting cycle                                    | Quarterly   |
| Desired performance                                | Reduce turnaround times in issuing decisions and orders   |
| Indicator responsibility                           | Registrar   |

<sup>1</sup> Only legal entities apply to the Tribunal. The current Application Form, CT 142, does not provide for details on disaggregation of beneficiaries/applicants (race, gender, and the geographic location). The request to amend the Form was sent to **dtic** in September 2022

<sup>2</sup> Ibid.



|  |   |
|--|---|
| Indicator title                                    | <b>1.2 Percentage of decisions and orders issued on <u>unopposed</u> applications within 20 working days from the date of allocation or filing of papers</b>  |
| Definition   | This indicator tracks the percentage of decisions and orders issued on unopposed applications within 20 days from the date of allocation or filing of papers  |
| Source of data                                     | Registry records  |
| Method of calculation or assessment                | The number of decisions and orders issued within 20 days divided by total number of decisions and orders issued multiplied by 100   |
| Means of verification                              | Excel spreadsheet   |
| Assumptions  | <p>Accurate record of decisions and orders issued by the Tribunal</p> <p>Accurate record of decisions and orders issued by the Tribunal</p> <p>Outliers are complex cases and/or matters that may go beyond the desired turnaround time as provided with the written authorisation of the Chairperson and are exempted from the above method of calculation of assessment.</p> <p>Abandoned cases are cases where the applicant has not provided necessary information that is required for a matter to be adjudicated and are exempted from the calculation the above method of calculation of assessment.</p> |
| Disaggregation of beneficiaries (where applicable) | N/A <sup>3</sup>  |
| Spatial transformation (where applicable)          | N/A <sup>4</sup>  |
| Calculation type                                   | Cumulative (year to date)   |
| Reporting cycle                                    | Quarterly   |
| Desired performance                                | Reduce turnaround times in issuing decisions and orders   |
| Indicator responsibility                           | Registrar   |

<sup>3</sup> Only legal entities apply to the Tribunal. The current Application Form, CT 142, does not provide for details on disaggregation of beneficiaries/applicants (race, gender, and the geographic location). The request to amend the Form was sent to **dtic** in September 2022

<sup>4</sup> Ibid.

|  |   |
|--|---|
| Indicator title                                    | <b>1.3 Percentage of cases finalised<sup>5</sup> in terms of Alternative Dispute Resolution (ADR) within 20 working days after the date of set down or filing of papers</b>   |
| Definition   | This indicator tracks the percentage of ADR cases finalised within 20 days after date of set down or filing of papers.  |
| Source of data                                     | Registry records  |
| Method of calculation or assessment                | The total number of ADR cases finalised within 20 days from the date of hearing or filing of papers divided by the total number of ADR cases finalised multiplied by 100  |
| Means of verification                              | Excel spreadsheet   |
| Assumptions  | <p>Accurate record of ADR cases finalised</p> <p>Accurate record of decisions and orders issued by the Tribunal</p> <p>Outliers are complex cases and/or matters that may go beyond the desired turnaround time as provided with the written authorisation of the Chairperson and are exempted from the above method of calculation of assessment.</p> <p>Abandoned cases are cases where the applicant has not provided necessary information that is required for a matter to be adjudicated and are exempted from the calculation the above method of calculation of assessment.</p> |
| Disaggregation of beneficiaries (where applicable) | N/A <sup>6</sup>  |
| Spatial transformation (where applicable)          | N/A <sup>7</sup>  |
| Calculation type                                   | Cumulative (year to date)   |
| Reporting cycle                                    | Quarterly   |
| Desired performance                                | Reduce turnaround times in issuing decisions and orders   |
| Indicator responsibility                           | Registrar   |

<sup>5</sup> **Finalised** refers to decision making and issuing of failed certificates, withdrawals, and cancellations

<sup>6</sup> Only legal entities apply to the Tribunal. The current Application Form, CT 142, does not provide for details on disaggregation of beneficiaries/applicants (race, gender, and the geographic location). The request to amend the Form was sent to **dtic** in September 2022

<sup>7</sup> Ibid.

## PROGRAMME 2: ADMINISTRATION

| Indicator title                                    | 2.1 Percentage increase in workplace-based internship   |
|--|---|
| Definition   | <ul style="list-style-type: none"> <li>The percentage of total stipend paid compared to the total grant received</li> </ul>                     |
| Source of data                                     | <ul style="list-style-type: none"> <li>Budget variance report</li> </ul>  |
| Method of calculation or assessment                | <ul style="list-style-type: none"> <li>Total stipend paid divided by the total grant received for the financial year multiply by 100</li> </ul> |
| Means of verification                              | <ul style="list-style-type: none"> <li>Quarterly budget variance report</li> </ul>  |
| Assumptions  | <ul style="list-style-type: none"> <li>Correctness of the Report</li> </ul>   |
| Disaggregation of beneficiaries (where applicable) | <ul style="list-style-type: none"> <li>N/A</li> </ul>   |
| Spatial transformation (where applicable)          | <ul style="list-style-type: none"> <li>N/A</li> <li>.</li> </ul>  |
| Calculation type                                   | <ul style="list-style-type: none"> <li>Cumulative (year to date)</li> </ul>   |
| Reporting Cycle                                    | <ul style="list-style-type: none"> <li>Quarterly</li> </ul>   |
| Desired performance                                | <ul style="list-style-type: none"> <li>3% of the total grant received allocated to Internships</li> </ul>                                       |
| Indicator responsibility                           | <ul style="list-style-type: none"> <li>Head: HR and CFO</li> </ul>  |

|  |   |
|--|---|
| <b>Indicator title</b>                             | <b>3.1 Percentage of procurement from designated groups in terms of BBBEE ACT</b>   |
| Definition   | <ul style="list-style-type: none"> <li>The percentage of procurement spent on suppliers and service providers with B-BBEE level 1 to 4</li> </ul>   |
| Source of data                                     | <ul style="list-style-type: none"> <li>BBBEE Certificates and affidavits</li> </ul>   |
| Method of calculation or assessment                | <ul style="list-style-type: none"> <li>Total amount of spending on suppliers and service providers with B-BBEE level 1 to 4 divided by the total spending for a financial year multiply by 100</li> </ul> |
| Means of verification                              | <ul style="list-style-type: none"> <li>Payment analysis spreadsheet</li> </ul>  |
| Assumptions  | <ul style="list-style-type: none"> <li>Correctness of reports</li> </ul>  |
| Disaggregation of beneficiaries (where applicable) | <ul style="list-style-type: none"> <li>N/A</li> </ul>   |
| Spatial transformation (where applicable)          | <ul style="list-style-type: none"> <li>Not applicable</li> </ul>  |
| Calculation type                                   | <ul style="list-style-type: none"> <li>Cumulative (year to date)</li> </ul>   |
| Reporting cycle                                    | <ul style="list-style-type: none"> <li>Quarterly</li> </ul>   |
| Desired performance                                | <ul style="list-style-type: none"> <li>85% of procurement from designated groups in terms of BBBEE ACT</li> </ul>   |
| Indicator responsibility                           | <ul style="list-style-type: none"> <li>CFO</li> </ul>   |

|  |   |
|--|---|
| <b>Indicator title</b>                             | <b>4.1 Number of followers on social media platforms</b>  |
| Definition   | <ul style="list-style-type: none"> <li>• 500 new followers per quarter on all social media platforms</li> </ul> |
| Source of data                                     | <ul style="list-style-type: none"> <li>• Social media insights</li> </ul>                                       |
| Method of calculation or assessment                | <ul style="list-style-type: none"> <li>• Total number of new followers on social media</li> </ul>               |
| Means of verification                              | <ul style="list-style-type: none"> <li>• Reports from different social media platforms</li> </ul>               |
| Assumptions  | <ul style="list-style-type: none"> <li>• Correctness of the reports (insights)</li> </ul>                       |
| Disaggregation of beneficiaries (where applicable) | <ul style="list-style-type: none"> <li>• N/A</li> </ul>   |
| Spatial transformation (where applicable)          | <ul style="list-style-type: none"> <li>• N/A</li> </ul>   |
| Calculation type                                   | <ul style="list-style-type: none"> <li>• Cumulative (year to date)</li> </ul>                                   |
| Reporting cycle                                    | <ul style="list-style-type: none"> <li>• Quarterly</li> </ul>   |
| Desired performance                                | <ul style="list-style-type: none"> <li>• 2000 new social media followers per annum</li> </ul>                   |
| Indicator responsibility                           | <ul style="list-style-type: none"> <li>• Head: Communications and Marketing</li> </ul>                          |

|  |   |
|--|---|
| Indicator title                                    | <b>4.2 Number to engagements and collaborations with stakeholders on the services of the Tribunal</b>                     |
| Definition   | <ul style="list-style-type: none"> <li>Participate in four engagements and collaborations with stakeholders</li> </ul>    |
| Source of data                                     | <ul style="list-style-type: none"> <li>Reports from the engagements and collaborations with stakeholder</li> </ul>        |
| Method of calculation or assessment                | <ul style="list-style-type: none"> <li>Total number of reports engagements and collaborations with stakeholder</li> </ul> |
| Means of verification                              | <ul style="list-style-type: none"> <li>Stakeholder engagement reports</li> </ul>  |
| Assumptions  | <ul style="list-style-type: none"> <li>Correctness of reports</li> </ul>  |
| Disaggregation of beneficiaries (where applicable) | <ul style="list-style-type: none"> <li>N/A</li> </ul>   |
| Spatial transformation (where applicable)          | <ul style="list-style-type: none"> <li>N/A</li> </ul>   |
| Calculation type                                   | <ul style="list-style-type: none"> <li>Cumulative (year to date)</li> </ul>   |
| Reporting cycle                                    | <ul style="list-style-type: none"> <li>Quarterly</li> </ul>   |
| Desired performance                                | <ul style="list-style-type: none"> <li>Four engagements on the services of the Tribunal</li> </ul>                        |
| Indicator responsibility                           | <ul style="list-style-type: none"> <li>Head: Communications and Marketing</li> </ul>                                      |

|  |  |
|--|--|
| Indicator title                                    | <b>4.3 Number of outreaches to small enterprises in townships and villages</b>   |
| Definition   | <ul style="list-style-type: none"> <li>Participate in 5 outreaches per quarter to small enterprises in townships and villages</li> </ul> |
| Source of data                                     | <ul style="list-style-type: none"> <li>Meeting reports and/or meeting recordings or attendance registers</li> </ul>                      |
| Method of calculation or assessment                | <ul style="list-style-type: none"> <li>Total number of outreaches to small enterprises in townships and villages</li> </ul>              |
| Means of verification                              | <ul style="list-style-type: none"> <li>Total reports of outreaches to small enterprises in townships and villages</li> </ul>             |
| Assumptions  | <ul style="list-style-type: none"> <li>Correctness of reports</li> </ul>   |
| Disaggregation of beneficiaries (where applicable) | <ul style="list-style-type: none"> <li>N/A</li> </ul>  |
| Spatial transformation (where applicable)          | <ul style="list-style-type: none"> <li>N/A</li> </ul>  |
| Calculation type                                   | <ul style="list-style-type: none"> <li>Cumulative (year to date)</li> </ul>  |
| Reporting cycle                                    | <ul style="list-style-type: none"> <li>Quarterly</li> </ul>  |
| Desired performance                                | <ul style="list-style-type: none"> <li>Twenty outreaches to small enterprises in townships and villages annually</li> </ul>              |
| Indicator responsibility                           | <ul style="list-style-type: none"> <li>Head: Communications and Marketing</li> </ul>   |