



COMPANIES TRIBUNAL

ANNUAL PERFORMANCE PLAN

2024/25

October 2024

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Minister's Foreword

Government's priority focus area continues to be the recovery of growth, investment and employment, guided by the Economic Recovery and Reconstruction Plan adopted in 2020, and the tasks outlined by President Ramaphosa in the 2024 State of the Nation Address. This APP represents the outcome of the work done by the Companies Tribunal. The APP is not about many new objectives but rather a new way of implementation, with the focus on integration, to enhance the development impact of the work.

This APP will advance the strategic shift initiated in 2024/2025 toward strengthened implementation and the impact of **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. Companies Tribunal aims to achieve these outputs through reduction of time to resolve disputes thus reducing red tapes, 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 encompass the identified **dtic's** priorities, which include among others, the work of sector masterplans, initiatives to boost levels of investment and localisation in the economy, expanding trade within the continent, enabling better local economic development, supporting the growth of new industries (in the green economy and through beneficiation) and building a capable state, in particular addressing red tape as prioritised by the President in the 2024 State of the Nation Address.

I table the APP for 2024/25 in accordance with the request by the Speaker. I wish to thank the Chairperson and management 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 2024/25 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 Department of Trade, Industry and Competition's (**the dtic's**) strategic objective of creating a fair 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, reduction of timeframes to finalise cases, and achieving higher percentages of procurement from disadvantaged communities, appointment of interns to contribute towards job creation and outreaches, collaborations and seminars held to support SMMEs, etc. The mandate of the Tribunal remains two-fold: adjudication and resolution of disputes through Alternative Dispute Resolution (ADR). 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, where the Tribunal has the sole responsibility for mediation and arbitration of company disputes and where the Tribunal now has an added mandate relating to B-BBEE matters, it is anticipated that the case load will increase.

A handwritten signature in dark ink, appearing to be 'D. Davis', written over a horizontal line.

Judge Dennis Davis

Chairperson: Companies Tribunal

30 October 2024

Chief Operations Officer's Statement

The Tribunal is established by the Act to facilitate alternative dispute resolution (ADR) and review the decisions of the Companies and Intellectual Property Commission (CIPC). The Tribunal offers a simple, expeditious and cost-free mechanism of resolving companies' disputes to shareholders that are aggrieved. This impacts positively on the economy of the country as it saves costs and time associated with lost productivity and legal fees, contributing towards the creation of a capable state where the government invests and creates a platform for all sizes of business to thrive.

The types of applications that the Tribunal handles include name and directorship disputes, review of compliance notices issued by CIPC, application to hold annual general meetings (AGMs), an extension of time to hold an AGM as well as applications for exemption from establishing social and ethics committees. The Tribunal's case load is expected to increase over the MTDP period as a result of amendments to the Companies Act.

The Tribunal plans to increase its marketing activities over the MTDP period. Stakeholders such as business chambers and the Legal Practice Council will be engaged with a view of forming strategic partnerships to disseminate information about the Tribunal throughout the country. There is a growing need to increase the expertise of the Tribunal by adding retired judges and senior legal professionals. It is in this view that the Tribunal plans to embark on the exercise of reviewing the burden of cases relating to its mandate launched at the highcourts to inform its marketing activities such that all possible clients of the Tribunal gain access to the costless and expedited services of the Tribunal.

In the last ten years of the Tribunal's existence, the number of cases received have been below 500, and whereas funding remains a challenge; the CIPC has been accumulating surplus funds of above R100 million. This calls for a decision by Parliament to review the Act as the legislative authority of South Africa to increase the mandate of the Tribunal and consider its funding model. Since the Tribunal is a statutory entity, there is a need by the legislature to review the Act and increase the Tribunal's mandate and its funding model. Increasing the mandate of the Tribunal and considering its funding model through payables from customer deposits on annual returns received by the CIPC will assist the congested justice system to focus and administer other civil and criminal matters, while boosting the South African economy. "Small and Medium-sized Enterprises (SMEs) are the backbone of South Africa's economy, playing an important role in job creation, economic growth, and innovation."¹The Companies tribunal concurs with this statement is willing to have its mandate expanded to consider all commercial disputes that can be resolved expeditiously.

Since its inception, the Tribunal has been consistent in fully achieving 100% of 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 ambidextrously.



Mrs Stellah Matamela Sikhitha
Chief Operations Officer

¹ <https://www.iol.co.za/business-report/entrepreneurs/the-essential-role-of-small-businesses-in-south-africas-economy-c438b2fd-65e9-44b0-a182-e4829da33d95> accessed 22 October 204 at 22h18.

Official Sign-Off

It is hereby certified that this Annual Performance Plan:

- Was developed by the management of the Companies Tribunal together with the Chairpersons of the Governance Committees.
- Considered all the relevant policies, legislation and other mandates for which the Companies Tribunal is responsible.
- Accurately reflects the Impact, Outcomes and Outputs which the Companies Tribunal will endeavour to achieve over the period 2024/25.

Mr Simukele Khoza
Head: Marketing and Communication

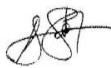


Signature: 30 October 2024

Ms Irene Mathatho
Chief Financial Officer


Signature: 30 October 2024

Mr Kaykay Sebokoane
Head: Information Communication and Technology



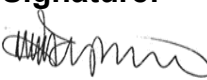
Signature: 30 October 2024

Mr Sammy Ramaphoko
Head: Human Resource and Facilities




Signature: 30 October 2024

Mr Selby Magwasha
Head: Registry



Signature: 30 October 2024

Mr Mesuli Mpeta
Legal Compliance and Secretarial Specialist



Signature: 30 October 2024

Mrs Stellah Matamela Sikhitha
Chief Operations Officer



Signature: 30 October 2024

Approved by:

 _____ 30 October 2024

Judge Dennis Davis
Accounting Authority

Part A: Our Mandate

1. Constitutional mandate: The Constitution of the Republic of South Africa

Through its adjudicative mandate and its consideration of matters of prohibited conduct and fair business practice, the Companies Tribunal (the Tribunal) plays a significant role in upholding and preserving the principles enshrined in the Bill of Rights. Specifically, the Tribunal has a direct impact on the following areas within the Constitution of the country, under the Bill of Rights chapter:

- a)** Sub-section 9: Equality – Through remaining accessible to diverse groupings of consumers and businesses, the Tribunal plays its role in ensuring that parties have the right to equal protection and benefit of the law. Additionally, the Tribunal strives through its value system to respect human diversity and ensure that no form of discrimination, if any, is tolerated.
- b)** Sub-section 10: Human dignity – Through the adjudication process, the Tribunal ensures that prohibited conduct, as well as the relevant action thereto do not impair human dignity.
- c)** Sub-section 14: Privacy – Whilst adhering to its founding legislation, and as part of the adjudicative role, the Tribunal ensures that the privacy of persons is protected.
- d)** Sub-section 33: Just administrative action – The Tribunal ensures it hears both sides to a dispute and that it issues reasons for its decisions.

2. Legislative and policy mandates

The Tribunal is established in terms of the Companies Act, No. 71 of 2008, (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.

In delivering on this mandate the Tribunal is expected to exercise and perform its functions in line with the spirit, purpose and objects of the Constitution, International Law and Companies Act, and in a manner which is simple, ethical, efficient, equitable, transparent, accountable, impartial and without fear, favour or prejudice.

3. Linkage to the dtic's strategic priorities

The amended 2024/25 APP aligns the priorities of the Tribunal with those of the MTDP and the eleven strategic priorities of **the dtic**. The alignment with the MTDP is narrated in detail under each programme. Regarding the eleven strategic priorities of **the dtic**, the alignment is as below:

➤ **Support government procurement of locally manufactured goods and services:**

The Tribunal is committed to ensuring that at least 70% of its procurement is through designated groups, BBBEE compliant between levels 1 and 4. Further, the Tribunal is determined to ensure that at least twenty of its procurement is through SMMEs. To ensure sustainability of these suppliers, the Tribunal further commits to processing invoices within twenty business days of receipt of invoices.

Following the President assenting to the Public Procurement Act in July 2024, the Tribunal has delegated a senior official to the regulation drafting committee as a commitment to ensuring this process is implemented as required.

➤ **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 and SMMEs.

➤ **Streamline Regulations:**

As a core function, 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 35,25, and 20, respectively. The Case Management System is an automated system which allows the public to submit their applications online. Further, the Tribunal is able 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.

4. Relevant Court Rulings

There are no court rulings to date that impact on our mandate.

Part B: Our Strategic Focus

5. Situational Analysis

5.1.1 External Environment Analysis

Political Economic Social Technology Legal Environment (PESTLE)

POLITICAL	ECONOMIC
<ul style="list-style-type: none"> • Priority on driving out corruption. • Legislative Amendments • Use of E-Government • Long decision lead times • Changing political priorities (change of administration) • Political instability • Pandemics • Fraud and Corruption 	<ul style="list-style-type: none"> • Impact of load shedding • Impact of water restrictions • Economic instability (local and international) • Slow economic growth • Budget cut • Austerity measures
SOCIAL	TECHNOLOGICAL
<ul style="list-style-type: none"> • High rate of unemployment • Awareness of the Tribunal • Language diversity • Social media • Fraud / corruption • Low literacy rate • Misconception about the Tribunal's jurisdiction by members of the public • Population growth 	<ul style="list-style-type: none"> • Access to data • Future technologies (4IR, etc.) • Impact of social media • Access to mobile technology / ICT • Artificial intelligence • Cyber-attacks / ransom ware
LEGAL	ENVIRONMENTAL
<ul style="list-style-type: none"> • Data privacy framework (POPI Act, etc.) King 4 report • Legislative amendments • Limited jurisdiction to meet public expectations • Case Reviews 	<ul style="list-style-type: none"> • Green economy • Pandemics • Utilities (load shedding, water outage) • Lack of appropriate office accommodation

5.1.2 Internal Environment Analysis Strengths Weaknesses Opportunities and Threats (SWOT)

a) Strengths and Weaknesses:

Strengths	Weaknesses
<ul style="list-style-type: none"> • Diverse pool of experienced Tribunal Members • Flexible working environment • Institutional knowledge • Short turnaround time • Strong collaboration amongst management • Holding hearings virtually • Strong problem-solving skills • Robust IT infrastructure • Good systems and procedures • Independence and impartiality 	<ul style="list-style-type: none"> • There are instances where the Tribunal does not get value for money spent on goods and services • Limited Mandate • Poor governance • Budgetary constraints • Human Capacity in certain divisions • Flat structure • Inadequate facilities • Job specification divisionally • Outsourced internal audit

b) Opportunities and Threats:

OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> • Growing uptake of ADR services • Expanding our geographic footprint • Access to virtual technology • Increasing referrals from external stakeholders (including CIPC, TRP, law firms etc.) • Technology – automating systems and processes to improve efficiency • Support from key stakeholders for the Tribunal's extension of scope 	<ul style="list-style-type: none"> • Budget constraints • Limited jurisdiction • Decline in case load • Cyber-attacks / ransom ware • Cost orders • Limited access to the Tribunal (by the public) • Limited public awareness of the Tribunal • Perception of political role players that the Tribunal is not impartial

<ul style="list-style-type: none"> • Benchmarking on best practice models from similar entities • Aggressive marketing of the Tribunal • Contribution to research, jurisprudence and the development of company law • Collaboration with higher education institutions to increase research output on the work of the Tribunal. • Government Collaboration for support and resource sharing • Amendments of the Companies Act to increase mandate • Availability of retired judges and senior legal practitioners to adjudicate 	<ul style="list-style-type: none"> • External dependencies (e.g., Internal Audit function and IT infrastructure outsourced) • Fraud / corruption • Language diversity • Low literacy rate • Competition from other alternative dispute resolution bodies • Misconception about Tribunal jurisdiction • New Administration • Inability to close unattended files • Part-time members who may have conflicting priorities to the Tribunal's cases
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Part C: Measuring Our Performance

6. Institutional Programme Performance Information

6.1 Programme 1: Adjudication

6.1.1. 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. 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.

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

- ❖ **MTDP Strategic Priority 1 and the dtic strategic drive: 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, entrepreneurs and cooperatives, 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.

6.1.1.1 Outcomes, Outputs, Output Indicators and Targets

Outcomes	Outputs	Output Indicators	Annual Targets						
			Audited Performance			Estimated Performance	MTEF Period		
			2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
Improved access to justice	Order / decisions issued	Percentage of decisions and orders issued on <u>opposed</u> applications within 35 working days from the last set-down or final submission by parties, whichever is applicable	100%	100%	88%	95%	95%	95%	95%
	Order/ decision issued	Percentage of decisions and orders issued on <u>unopposed</u> applications within 25 working days from the last date of submission by	96%	97%	100%	95%	95%	95%	95%

Outcomes	Outputs	Output Indicators	Annual Targets						
			Audited Performance			Estimated Performance	MTEF Period		
			2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
		parties whichever is applicable							
	Resolved disputes	Percentage of cases finalised in terms of Alternative Dispute Resolution (ADR) within 20 working days after the date of set-down or final submission by parties whichever is applicable	100%	100%	100%	95%	95%	95%	95%

6.1.1.2 Indicators, Annual and Quarterly Targets

Output Indicators	Annual Target 2024/25	Q1	Q2	Q3	Q4
Percentage of decisions and orders issued on <u>opposed</u> applications within 35 working days from the last set-down or final submission by parties, whichever is applicable	95%	95%	95%	95%	95%
Percentage of decisions and orders issued on <u>unopposed</u> applications within 25 working days from the last date of submission by parties whichever is applicable	95%	95%	95%	95%	95%
Percentage of cases finalised in terms of Alternative Dispute Resolution (ADR) within 20 working days after the date of set-down or final submission by parties whichever is applicable	95%	95%	95%	95%	95%

5.2 Programme 2: Administration

5.2.1 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.

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

- ❖ **MTDP Strategic Priority 1 and the dtic strategic drive: 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.

Through implementation of operational efficiency targets of producing the required research, and obtaining a clean audit, the Tribunal would be contributing towards the MTDP outcome of a capable and professional public service. This would include economic transformation where a majority of the Tribunal's procurement is awarded to B-BBEE targeted service providers, thus contributing to the promotion of a growing and inclusive economy. Research will contribute towards legislative amendment on the mandate of the Tribunal in order to cater for companies with more than two director and those that are in financial distress.

6.2.1.1 Outcome, Outputs, Performance Indicators, and targets

Outcome	Outputs	Output Indicators	Annual Targets						
			Audited/Actual Performance			Estimated Performance	MTEF Period		
			2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
Operational efficiency and effectiveness	1. Capacity building	1.1 Percentage of critical positions filled on approved organisation structure	-	-	-	86%	86%	86%	86%
		1.2 Number of Interns employed	-	-	-	2	3	3	3
Economic transformation	2.Procurement from designated groups	2.1 Number of purchase orders issued to SMMEs	-	-	-	-	20	20	20
		2.2 Percentage of preferential procurement from designated groups	-	60%	65%	65%	70%	85%	90%

		2.3 Payment of suppliers within 20 business days	-	-	-	-	70%	80%	90%
Effective stakeholder engagement	3. Advocacy service	3.1 Number of outreaches, marketing/ brand campaigns with Ministry; municipalities; communities, institutions of higher learning and governmental collaborative engagements	-	-	-	18	20	21	22
		3.2 Number of Media engagements: (media statements and radio activities) conducted	8	4	12	12	12	13	14

		3.3 Number of mid-year and end of year seminars held	1	1	2	2	2	2	2
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6.2.1.2 Output Indicators, Annual and Quarterly Targets

Output Indicators	Annual Target 2024/25	Q1	Q2	Q3	Q4
1.1 Percentage of critical positions filled on approved organisation structure	86%	86%	86%	86%	86%
1.2 Number of interns employed	3	1	2	-	-
32.1 Number of purchase orders issued to SMMEs	20	-	-	10	10
32.2 Percentage preferential procurement from designated groups	70%	70%	70%	70%	70%
32.3 Payment of suppliers within 20 business days	70%	n/a	n/a	70%	70%
3.1 Number of outreaches, marketing/branding campaigns with Ministry;	20	4	6	6	4

Output Indicators	Annual Target 2024/25	Q1	Q2	Q3	Q4
municipalities, communities, institutions of higher learning and governmental collaborative engagements					
3.2. Number of Media engagements: (media statements and radio activities) conducted	12	2	3	4	3
3.3 Number of mid-year and end of year seminars held	2	-	-	1	1

7. Explanation of planned performance over the medium-term period

7.1 Contribution of outputs towards achieving the outcomes and impact in the Strategic Plan aligned to the Mandate

7.1.1 Outcome 1: Improved access to justice

a) The number of applications adjudicated within the turnaround times (Adjudication)

The Tribunal adjudicates applications at no charge to the parties. The targeted beneficiaries of this output include start-ups, small to medium-sized companies and companies in financial distress that cannot afford the fees associated with protracted litigation. This means that even the applicants that would normally be excluded from litigation by the high prohibitive costs of a normal court litigation are able to lodge cases at the Tribunal. The affordability of the Tribunal's services has a positive impact on economic inclusion and transformation. While the target is small companies and those in distress, big companies also benefit from speedy resolution of cases to ensure that disputes do not inhibit business activities for a prolonged period.

Furthermore, the Tribunal's targeted turnaround times are between 25 days (unopposed) and 35 days (opposed). Very few applications exceed the periods. In ordinary courts, cases may take months on the roll and years before coming before the court. Hence the Tribunal services offer an affordable and quicker option than normal litigation that may cripple a business both financially and operationally. Through the Tribunal's intervention and services, companies can speedily resolve disputes and remain sustainable and competitive. This ensures achievement of the impacts stated in the Strategic Plan of economic inclusion, transformation and making South Africa an attractive investment destination.

b) The number of disputes-applications resolved within the turnaround times through Alternative Dispute Resolution (ADR)

The same benefits of cost and time efficiency offered by the output of adjudicated applications apply to the output of resolved disputes. In addition, the turn-around time for resolution of disputes is 20 days which makes it even shorter than that of adjudicated applications. Further benefits of dispute resolution through alternative dispute resolution (ADR) are that it is informal and confidential, more flexible, and responsive to the individual

needs of the parties involved. Parties have a chance to tell their story as they know it. The parties' involvement in the process creates greater commitment to the result so that compliance is more likely. Through ADR, it is more likely to preserve goodwill or at least not escalate the conflict. This is especially important in situations where there is a continuing relationship with companies in business. Thus, ADR contributes to economic inclusivity and to making South Africa an attractive environment for both local and international investment. In offering an expeditious and cost-free mechanism of resolving company disputes, the Tribunal saves costs associated with lost productivity and legal fees and as such increases access to justice and impacts positively on South African economy.

7.1.2. Outcomes and Explanation of the planned performance in relation to outputs

a) Registry – Administration of cases and records

The Registry function plays an integral role in the administration of cases and records management as follows:

- The administration of cases entails the development and implementation of policies and procedure for administration of cases through Case Management System including the co-ordination of hearings and communication of decisions to parties.
- Records Management entails the preservation of institutional records and disposal of records in line with the approved file plan.

b) Adjudicated Applications

The Tribunal's performance on this output will be measured by the percentage of decisions and orders issued within 25 or 35 days depending on whether a case is decided on paper only or when parties give evidence before the Tribunal. The longest targeted turn-around time for adjudication is 35 days. The planned annual performance in 2024/25 is 95%. This is intended to remain constant over the MTEF period due to system challenges and funding shortages experienced which in turn limit marketing.

c) Resolved disputes

The Tribunal's performance on this output will be measured by the percentage of cases finalised within 20 days in terms of Alternative Dispute Resolution (ADR). Thus, the Tribunals' planned turn-around time for resolution of disputes is a shorter period than even that of adjudicated applications. The planned annual performance in 2024/25 is 95%. This is intended to remain constant over the MTEF period for reasons previously mentioned.

d) Optimal capacitating of the Tribunal (Recruitment, Training and development, Employee Wellness)

In the 2024/25 financial year, the Tribunal intends to focus on capacity building. Thus, capacity building is one of the Tribunal's outputs over the MTEF period. Capacity building strategies involve efforts to fill all critical and funded positions by recruiting skilled personnel to support the Tribunal in achieving its mandate.

The Tribunal's performance on this output will be measured through the percentage of the filled positions against the vacant and funded positions. The starting base in the 2023/24 financial year was 86%. For 2024/2025 financial year, the target will remain 86% as this is influenced by the number of funded positions. This will translate to the vacancy rate of 14%. This target will change should there be budget to fill other critical positions.

e) Communications and Marketing – Increasing the parties accessing the Tribunal services

The mandate of the Tribunal is to offer adjudication and alternative dispute resolution to companies. Therefore, media engagements will be undertaken to create awareness of the Tribunal's services. Furthermore, the Tribunal will participate in marketing and branding campaigns to exhibit its services to various stakeholders. In addition, outreach activities will be undertaken with the Ministry in municipalities, communities, and schools, etc. The creation of public knowledge and interest around the mandate of the institution is paramount, hence the need to partner with various stakeholders to take Tribunal services to the people.

From the financial year 2019/20 to 2022/23, the number of applications received by the Tribunal has been on a steady increase. For this reason, the Tribunal intends to mount a public awareness campaign as part of sustained efforts to educate the public and boost awareness about the Tribunal's mandate. The campaign will be a comprehensive effort that will, within the limited budget, include multiple components such as seminar/s with business formations, television and radio messaging, social media, grassroots outreach, media relations and government affairs.

The Tribunal's indicators on this output for 2024/25 financial year include hosting two (2) seminars, releasing twelve (12) media statements, (20) Outreaches with Ministry,

government collaborative engagements, marketing, and branding campaigns. This output carries the greatest number of activities (indicators). This is so because, as stated above, since 2019/20, the number of cases received by the Tribunal has been on steady increase. In creating awareness of the Tribunal services, Communications and Marketing will ramp up its efforts to create public awareness and knowledge of Tribunals services.

f) Information Communication and Technology (ICT) – Establish and avail the optimal ICT infrastructure to enable an efficient and effective operations of the Companies Tribunal

The IT function plays an integral role in ensuring the smooth operation of an organization and contributes greatly on the following areas:

- **Service Uptime:** IT is responsible for making sure that the organization's systems and applications are constantly accessible to users. This involves maintaining and monitoring system performance, identifying and resolving problems that can result in downtime, and putting in place redundancy measures to lessen the effects of system failures.
- **ICT Security:** IT is responsible for preventing unauthorized access, theft, and damage to the organization's systems, data, and networks. This involves implementing security policies and processes into practice, monitoring suspicious activities on the network, and responding to security vulnerabilities and incidents.
- **IT Continuity Plans** are essential for ensuring that an organization can continue to function both during and after a disruptive event. IT plays a significant part in formulating and putting these plans into place. This includes determining the vital applications and systems, creating backup and recovery processes, and testing to ensure integrity and recoverability.
- **Policy and Governance:** IT oversees developing and implementing policies that regulate how the organization uses technology. As part of this, standards for data protection, appropriate use of organizational resources, and security best practices must be established. To guarantee that technology is employed efficiently to support business objectives, collaboration and approvals of relevant structures are established.

g) Legal – Governance, compliance and legal support

The Legal Services Division is responsible for managing all the Tribunal's litigation before the High Court, Supreme Court of Appeal (SCA) and the Constitutional Court. The Division

provides Legal advice and support to Management and Tribunal Members, it is further responsible for the provision and management of corporate governance, risk management and compliance in the Tribunal, providing legal advice and secretarial services to governance committees such as the Audit & Risk Committee and Remuneration Committee.

h) Office of the CFO- Sound financial planning, management, and reporting

The finance function is responsible for financial management and supply chain management.

- Financial management: This function ensures that there is sound internal controls around financial management. This includes but not limited to budgeting including MTEF (Medium Term Expenditure Framework) and ENE (Estimate of National Expenditure), Preparation of Monthly, Quarterly and Annual Financial Statements, management of income and expenditure, cash management, asset management and payroll services. Accurate and timeous financial reports will be produced throughout the financial year.
- Supply Chain Management (SCM) division: As per Treasury Regulations the SCM division should be established within the office of the CFO. The supply chain management will ensure that procurement processes are undertaken in line with the relevant regulations, PPPFA, PFMA and all National Treasury instruction notes and circulars.

8. Program Resource Considerations

8.1 Financial Plan

For the financial year 2024/25, the Tribunal based the budget estimate on the allocation letter received from **the dtic**. Although the allocation received reflects the baseline increase over the MTEF period, the Tribunal needs more funds to operate optimally. The Tribunal's organizational structure has been recently reviewed and there are positions which are not funded resulting in some units operating with one individual and that poses a risk to the organization's ability to fulfill its mandate. The Tribunal has plans to market the Tribunal fully so that its services are well known, however the marketing plan cannot be fully implemented due to lack of funds. The expected increase in the mandate of the Tribunal as a result of amendments to the Act is also expected to increase the case load therefore putting more pressure on the financial resources of the Tribunal.

The Tribunal believes that generating its own revenue through charging filing fees would offer part solution to the Tribunal challenges on liquidity. This process will however take some time to materialise due to extensive consultations and planning required. However, even the fees expected to be generated from filling fees would not be enough to fund day to day operational and administrative expenditure of the Tribunal. This process also would also involve the amendment of the Companies Act.

The Tribunal 's major expenditure is on compensation of employees and Tribunal members' fees, with little surplus to fill additional post as approved on the organisational structure. Due to inadequate funding, the amount estimated for member's fees is inadequate as cases are expected to increase hence the funding for fees needs to be increased proportionally.

(i) Projections of revenue and expenditure

STATEMENT OF FINANCIAL PERFORMANCE	Audited outcome			Revised estimate	Medium-term estimate		
R thousand	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27
Revenue							
Non-tax revenue	368	151	524	635	664	691	722
Transfers received	20 752	20 313	24 529	28 202	29 497	30 706	32 088
Donations received/Revenue in-kind	1 854	2 039	2 243	2 468	2 714	2 986	3 284
Income from surplus funds	-	-	-	3 990	-	-	-
Total revenue	22 975	22 503	27 296	35 295	32 875	34 383	36 094
Expenses							
Current expenses							
Compensation of employees	12 979	13 553	14 921	18 638	19 298	20 068	20 971
Goods and services	7 906	10 777	9 863	16 388	13 262	13 986	14 779
Depreciation	193	213	195	269	315	329	344
Total expenses	21 078	24 543	24 979	35 295	32 875	34 383	36 094
Surplus/(Deficit)	1 897	(2 040)	2 317	-	-	-	-

(ii) Budget Allocation per Programme

Programme Name: Administration							
Economic classification	Audited outcome			Revised estimate	Medium-term estimate		
	2020/21 R'000	2021/22 R'000	2022/23 R'000	2023/24 R'000	2024/25 R'000	2025/26 R'000	2026/27 R'000
Current payment							
Compensation of employees	12 979	13 553	14 921	18 638	19 298	20 068	20 971
Goods & services, etc.	3132	6 947	5 863	12 210	8 789	9 262	9 856
Payments of capital assets							
Building and other fixed structure	-	-	-	-	-	-	-
Machinery & equipment	584	100	83	150	300	350	350

Programme Name: Adjudication							
Economic classification	Audited outcome			Revised Estimates	Medium-Term Expenditure Estimate		
	2020/21 R'000	2021/22 R'000	2022/23 R'000	2023/24 R'000	2024/25 R'000	2025/26 R'000	2026/27 R'000
Current payment							
Member's fees	3 838	3 374	3 517	3 674	3 839	4 023	4 204
Goods and services	54 5	56 9	59 5	62 3	64 9	68 0	71 3
Payments of capital assets	-	-	-	-	-	-	-
Building and other fixed structure	-	-	-	-	-	-	-
Machinery & equipment	-	-	-	-	-	-	-

9. Key Risks

Outcomes	Key Risks	Risk Mitigation
Operational efficiency and effectiveness	1. Inadequate budget	1. Requests for retention of additional funding. 2. Forward planning (re-prioritising) 3. Propose legislative amendments on funding model
Improved access to justice	2. Adjudication & dispute resolution inefficiencies	1. Proposes legislative amendments for expansion of CT's mandate 2. Media profiling of Tribunal Members 3. Conduct survey on mandate /services of the Tribunal
Operational efficiency and effectiveness	3. Inadequate Capacity building	1. Development of a Resource Plan including costing & budget allocation for critical vacancies.
	4. Marketing & communication inefficiencies (Limited marketing and advertising of Tribunal's services)	1. Partnership with other stakeholders Social Media Platforms (Facebook and Instagram)

10. Materiality and Significance of Framework

10.1 Statutory requirements

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.

10.2 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 clean audits over the past financial years. However, there are inherent risks associated with the implementation of new unproven processes, change in leadership as a result of appointment and resignation and/or retirement of staff. 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.

10.3 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 (TID)

Programme 1: Adjudication

Outcome 1: Improved access to Justice system	
Indicator title	Percentage of decisions and orders ² issued on <u>opposed</u> applications within 35 working days from the last set-down or final submission by parties, whichever is applicable
Definition	This indicator tracks the percentage of decisions and orders issued on opposed applications within 35 days from the last set-down or final submission by parties, whichever is applicable
Source of data	Registry records
Method of calculation / assessment	The number of decisions and orders issued within 35 days divided by Total number of decisions and orders issued multiplied by 100
Assumptions	Accurate record of decisions and orders issued by the Tribunal
Disaggregation of beneficiaries (where applicable)	N/A ³
Spatial transformation (where applicable)	N/A ⁴
Desired performance	Reduce turnaround times in issuing decisions and orders
Indicator responsibility	Registrar

Outcome 2: Improved access to Justice system	
Indicator title	Percentage of decisions and orders issued on <u>unopposed</u> applications within 25 working days from

² **Decisions and orders** issued are as prescribed by the Companies Act, 2008. Issued means formal communication of the decision and order to the client

³ 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

⁴ Ibid.

	the last date of submission by parties whichever is applicable
Definition	This indicator tracks the percentage of decisions and orders issued on unopposed applications within 25 days from the last set-down or final submission by parties, whichever is applicable
Source of data	Registry records
Method of calculation / assessment	The number of decisions and orders issued within 25 days divided by total number of decisions and orders issued multiplied by 100
Assumptions	Accurate record of decisions and orders issued by the Tribunal
Disaggregation of beneficiaries (where applicable)	N/A ⁵
Spatial transformation (where applicable)	N/A ⁶
Desired performance	Reduce turnaround times in issuing decisions and orders
Indicator responsibility	Registrar

Outcome 3: Improved access to Justice system	
Indicator title	Percentage of cases finalised ⁷ in terms of Alternative Dispute Resolution (ADR) within 20 working days after the date set-down or final submission by parties whichever is applicable
Definition	This indicator tracks the percentage of ADR cases finalised within 20 days after date of set-down or final submission by parties, whichever is applicable
Source of data	Registry records

⁵ 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

⁶ Ibid.

⁷ **Finalised** refers to decision making and issuing of failed certificates, withdrawals, and cancellations

Method of calculation / assessment	The number of ADR cases finalised within 20 days divided by total number of ADR cases finalised multiplied by 100
Assumptions	Accurate record of ADR cases finalised
Disaggregation of beneficiaries (where applicable)	N/A ⁸
Spatial transformation (where applicable)	N/A ⁹
Desired performance	Reduce turnaround times in issuing decisions and orders
Indicator responsibility	Registrar

⁸ 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

⁹ Ibid.

Programme 2: Administration

Outcome 1.1: Operational efficiency and effectiveness	
Indicator title	Percentage of critical positions filled on approved organisation structure
Short definition	The percentage rate at which an employer attracts and loses employees.
Purpose/importance	Ensure that the Tribunal has the right talent with the right skills at the right time. Retain scarce, critical, professional and technical skills and ensure the approved organisational structure is filled by at least 86%
Source/collection of data	Excel spreadsheet with number of employees/ organograms
Method of calculation/Assessment	The number of filled positions divided by the total number of positions as per the approved structure multiplied by 100
Means of verification	Employee list per month
Assumptions	The assumption is that HR will fill 86% of positions as per the approved structure based on previous experience.
Disaggregation of Beneficiaries	Not applicable
Spatial Transformation	Not Applicable
Data limitations	None
Type of indicator	Quantitative
Calculation type Cumulative	(Year-End)
Reporting cycle	Annually
New indicator	No
Desired performance.	Retaining competent employees with the right skills at the right time
Indicator responsibility Executive Manager	Head: Human Resources and Facilities
Outcome 1.2: Operational efficiency and effectiveness	
Indicator title	Number of interns employed
Short definition	The number of interns employed within the financial year
Purpose/importance	Ensure that the Tribunal contributes to the dtic plan to meet the 5.4% GDP growth through offering work experience

Source/collection of data	HR Reports
Method of calculation/Assessment	Counting
Means of verification	HR Reports
Assumptions	Correctness of Reports
Disaggregation of Beneficiaries	Not applicable
Spatial Transformation	Not Applicable
Data limitations	None
Type of indicator	Quantitative
Calculation type Cumulative	(Year-End)
Reporting cycle	Annually
New indicator	No
Desired performance.	Contribution to economic growth and capacity building
Indicator responsibility Executive Manager	Head: Human Resources and Facilities

Output 4.1: Operational efficiency and effectiveness: Procurement	
Indicator title	Number of purchase orders issued to SMMEs
Definition	The number of purchase orders issued during the financial year to SMMEs
Source of data	Payment analysis spreadsheet
Method of calculation or assessment	Total number of purchase orders issued to SMMEs, i.e., those suppliers and service providers with an annual turnover of less than R50million
Means of verification	Reports
Assumptions	Correctness of reports
Disaggregation of beneficiaries	N/A
Spatial transformation	N/A
Reporting cycle	Quarterly
Desired performance	20 purchase orders issued to SMMEs
Indicator responsibility	CFO

Output 4.2: Procurement from designated groups	
Indicator title	Percentage preferential procurement from designated groups
Definition	The percentage of procurement spent on suppliers and service providers with B-BBEE level 1 to 4
Source of data	Payment analysis spreadsheet
Method of calculation or assessment	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
Means of verification	Reports
Assumptions	Correctness of reports
Disaggregation of beneficiaries	N/A
Spatial transformation	N/A
Reporting cycle	Quarterly
Desired performance	70%
Indicator responsibility	CFO

Output 4.3: Procurement of designated groups	
Indicator title	Payment of suppliers within 20 business days
Definition	The payment of suppliers within 20 business days of receiving the invoices
Source of data	Payment analysis spreadsheet
Method of calculation or assessment	The Percentage of suppliers and service providers paid within 20 business days per quarter.
Means of verification	Reports
Assumptions	Correctness of reports
Disaggregation of beneficiaries	N/A
Spatial transformation	N/A
Reporting cycle	Quarterly
Desired performance	70% of suppliers paid within 20 business days of receiving the invoices.
Indicator responsibility	CFO

Output 5.1: Stakeholder Engagements	
Indicator title	Number of outreaches, marketing/branding campaigns with Ministry, municipalities, communities, institutions of higher learning and governmental collaborative engagements
Short definition	Participate in twenty (20) outreaches and/or exhibitions
Purpose/importance	To create awareness and educate the public about services of CT and promote a positive corporate image
Source/collection of data	Meeting reports and/or meeting recordings with attendance registers
Method of calculation	Manual counting of meeting reports and/or meeting records with attendance registers
Data limitations	Lack of resources (Human and Capital)
Type of indicator	Quantitative – Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No, continuous from previous year
Desired performance	Public awareness, accessibility, and stakeholder management
Indicator responsibility	Head Communications and Marketing

Output 5.2: Stakeholder Engagements	
Indicator title	Number of media engagements (media statements and radio activities) conducted
Short definition	<p>Release twelve (12) media statements in newspapers to create awareness of the services provided by CT to the public and stakeholders by the end of the year</p> <p>Participate in twelve (12) radio activities to create awareness and educate the public about services of the Companies Tribunal</p> <p><i>Release means to publish in newspaper(s) or online media</i></p> <p><i>Activities mean interviews/advertisements or live reads</i></p>
Purpose/importance	To create awareness and educate the public about services of CT and promote a positive corporate image
Source/collection of data	<p>Media statements or advertorial</p> <p>Shared drive</p> <p>Radio clip or advertorial or letter from radio station confirming that the interview or advert took place.</p>
Method of calculation	Manual counting of media statements or advertorials and radio clip or letters from radio stations.
Data limitations	Lack of resources (Human and Capital)
Type of indicator	Quantitative – Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No, continuous from previous year
Desired performance	Public awareness, accessibility, and stakeholder management
Indicator responsibility	Head Communications and Marketing

Output 5.3: Leadership Excellence: Seminar	
Indicator title	Number of mid-year and end of year seminars held
Definition	The Number of seminars to be held for the Tribunal annually
Source of data	Host a seminar on research topic <i>Host means organize and present/ collaborate/ partner</i>
Method of calculation or assessment	Simple count
Means of verification	Recordings of the seminar
Assumptions	Clarity of the recording
Disaggregation of beneficiaries (where applicable)	N/A
Spatial transformation (where applicable)	N/A
Reporting cycle	Bi-annually
Desired performance	2 annually
Indicator responsibility	Head: Communications & Marketing