



# **COMPANIES TRIBUNAL**

## **ANNUAL PERFORMANCE PLAN**

**2022/2023 – 2024/2025**

**January 2022**

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## MINISTER'S FOREWORD

The Annual Performance Plan (APP) identifies the outputs, output indicators and targets that an entity aims to achieve in the new financial year. The Executive Authority is responsible for providing direction on the development and implementation of policies and strategic priorities of entities in line with their respective mandates, and to ensure the APP is aligned to government's priorities.

The environment in which the APPs of the Department of Trade, Industry and Competition (**the dtic**) and our entities have been formulated remains challenging, given the impact of the COVID-19 pandemic, the July 2021 unrest and more recently the Russia/Ukraine war. At the same time, determined efforts by the Administration has seen signs of economic recovery and greater investor confidence in economic prospects. In this light, Government's priority focus 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 2022 State of the Nation Address.

This APP is expected to take forward the strategic shift initiated in 2021/2022 toward strengthened implementation and impact of **dtic's** work, through greater integration of efforts within the department and our entities, guided by shared, crosscutting outcomes and joint performance indicators. In this regard, the work of **the dtic** and the entities will be evaluated in relation to three over-arching Outcomes (which incorporate the previous "Joint-KPIs") namely **Industrialisation; Transformation;** and **Capable State** (Implementation/ Effective Delivery). In this way these Outcomes more deliberately and directly inform respective outputs and KPIs of the department and entities.

In turn, 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 2022 State of the Nation Address.

Every entity in the **dtic** has been requested to align their APPs to the three outputs, it being recognised that a particular entity's core business links more clearly and strongly to one or the other of the overarching Outcomes, than to others. This APP represents the outcome of the work done by the Companies Tribunal. Following the tabling of the APP by the **dtic** itself, each entity of the Department will be expected to consider such additional refinement and additions to be made and following completion of the review, such an addendum to this APP may be submitted in due course after the tabling.

This APP is therefore not about many new objectives but rather on a new way of implementation, with the focus on integration, to enhance the development impact of the work. I accordingly table the APP for 2022/23 in accordance with the request by the Speaker.

I wish to thank the management for the work done and wish them well in executing the APP and aligning their work to government's overall programmes and priorities.

Ebrahim Patel

Minister of Trade, Industry and Competition

31/03/2022



## Accounting Authority's Statement

It is a pleasure to present the **2022/23 - 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 new vision of being “the preferred adjudicatory and alternative dispute resolution forum” that contributes to the promotion of fair and ethical corporate practices.

The Tribunal's APP is informed by the values and founding provisions of the Constitution, and the Companies Act, No. 71 of 2008 (the Act). It is further informed by 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. The APP is further informed by the six priorities of the Sixth Administration particularly the six focus areas in the trade, industry and competition portfolio, within which the Tribunal resides.

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.

In an environment characterised by a difficult economic climate, and the devastating impact of COVID-19, the use of ADR as a preferred mode of resolving company disputes is expected to rise over the next 5 years. ADR saves costs usually associated with litigation. Both Adjudication and ADR are interventions which align within the “Reconstruct and Transform Phase” of the Presidential Economic Reconstruction Plan (2020). These interventions help in building a sustainable, resilient and inclusive economy.

The Tribunal is grateful for the increase made in the baseline over the MTEF. The increase is however still inadequate. 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.

As it is the case the world over, compounding the challenges above, is COVID-19 whose devastating impact has sent rippling effects through the whole of the Tribunal. Prior to the lock down the business of the Tribunal, which consists of adjudication and dispute resolution, relied to a significant extent on personal contact, this has slightly changed and the Tribunal now utilizes both personal contact and online platforms to effectively render its services.

Despite the continuing threat of COVID-19 and the difficult times, I believe that the Tribunal will deliver on its mandate.

A handwritten signature in black ink, appearing to read 'A. Chicktay', written in a cursive style.

**Dr Mohamed Alli Chicktay**  
**Chairperson: Companies Tribunal**



## **Accounting Officer's Statement**

The Companies Tribunal (the Tribunal) was established to increase access by companies, to the justice system, through efficient adjudication and resolution of disputes through Alternative Dispute Resolution mechanisms (ADR). The beneficiaries of the Tribunal include the start-up companies, small to medium companies and companies in financial distress who cannot afford the fees associated with protracted litigation. The Tribunal offers a simple, expeditious and cost-free mechanism of resolving companies' disputes. This impacts positively on the economy of the country as it saves costs associated with lost productivity and legal fees. Information on the Tribunal's decisions is easily available on the Tribunal's website.

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 MTEF period as a result of amendments to the Companies Act. The amendments are expected to increase the scope of the powers of the Tribunal, albeit in a limited way as only minimal amendments were accommodated.

The Tribunal plans to increase its marketing campaign using mainly social media to raise awareness about the Tribunal's services. 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. The Tribunal's organisational structure is only partly filled as the Tribunal is under-funded. The new automated case management system launched on 1<sup>st</sup> August 2019 has come in handy during the COVID-19 period. The system contributes to the modernisation and reform within state-owned enterprises<sup>1</sup>. The system will further make South Africa an attractive investment destination and contribute to a better Africa and better World.

Despite the challenges, I am confident that the Tribunal will deliver on its mandate and thus contribute to the realisation of a fair and ethical corporate environment.

A handwritten signature in black ink, appearing to read 'Maletlatsa Monica Ledingwane', enclosed in a thin black rectangular border.

**'Maletlatsa Monica Ledingwane**  
**Chief Operations Officer**

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<sup>1</sup> The South African Economic Reconstruction and Recovery Plan, 2020, page 4.

It is hereby certified that this Annual Performance Plan:

- Was developed by the management of the Companies Tribunal under the guidance of Dr Mohamed Alli Chicktay
- 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 2002/23 to 2024/25.



**Solly Mahlabane**  
**Acting Chief Financial Officer**



**'Maletlatsa Monica Ledingwane**  
**Chief Operations Officer**

**Approved by:**



**Accounting Authority**  
**Dr Alli Chicktay**

## **Part A: Our Mandate**

### **1. Relevant legislative and policy mandates**

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

In terms of the Companies Act, the Companies Tribunal's mandate 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 Companies 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.

### **2. Institutional Policies and Strategies**

To ensure proper Governance, the Tribunal has policies in various units (functional areas). The policies referred to above are listed on a Policy Schedule that the Tribunal maintains for control and review purposes. In addition to the policies mentioned above, the Tribunal has various other plans and registers.

### **3. Relevant Court Rulings**

The Tribunal will, when necessary, analyse the recent key decisions of the Higher Courts and evaluate the potential impact on its mandate and functions.

## Part B: Our Strategic Focus

### 4. Situational Analysis

#### 4.1.1 External Environment Analysis

##### Political Economic Social Technology Legal Environment (PESTLE)

<b>POLITICAL</b>	<b>ECONOMIC</b>
<ul style="list-style-type: none"> <li>• Perception of political alignment on decision-making or being non-partisan</li> <li>• Change of administration</li> </ul>	<ul style="list-style-type: none"> <li>• Business fronting</li> </ul>
<b>SOCIAL</b>	<b>TECHNOLOGICAL</b>
<ul style="list-style-type: none"> <li>• Limited access to the Tribunal (by the public)</li> <li>• Low literacy rate</li> <li>• Language diversity</li> <li>• Limited public awareness of the Tribunal and its functions</li> <li>• Misconception about Tribunal jurisdiction</li> </ul>	<ul style="list-style-type: none"> <li>• Limited access to technology by the public</li> </ul>
<b>LEGAL</b>	<b>ENVIRONMENTAL</b>
<ul style="list-style-type: none"> <li>• Limited jurisdiction to meet public expectations</li> </ul>	<ul style="list-style-type: none"> <li>• Geographical location</li> </ul>

#### 4.1.2 Internal Environment Analysis

##### Strengths Weaknesses, Opportunities and Threats (SWOT)

<b>STRENGTHS</b>	<b>WEAKNESSES</b>
<ul style="list-style-type: none"> <li>• Strong institutional values and ethics</li> <li>• Established through legislation</li> <li>• Competence of staff and Tribunal Members</li> <li>• Systems, procedures and policies in place</li> <li>• Independence and impartiality</li> <li>• Good corporate governance</li> <li>• IT infrastructure in place</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of professional and well-equipped hearing rooms</li> <li>• External dependencies (e.g. Internal Audit function and IT infrastructure outsourced)</li> <li>• Limited budget to carry out mandate, fill vacancies and market the institution</li> <li>• Limited jurisdiction</li> <li>• Limited foot-print (No provincial offices)</li> <li>• Inconsistencies in the Tribunal members' decisions</li> </ul>
<b>OPPORTUNITIES</b>	<b>THREATS</b>



<ul style="list-style-type: none"> <li>Increasing access through technology usage of the online case management system, video conferencing for hearings</li> <li>Benchmarking on best practice models from similar entities</li> <li>Contribution to research, jurisprudence and the development of company law</li> <li>Technology – systems and processes to improve efficiency</li> <li>Increasing referrals from the CIPC, TRP, B-BBEE Commission and other Tribunals and the judiciary</li> <li>Assignment of functions in terms of Schedule 4 of the Act</li> </ul>	<ul style="list-style-type: none"> <li>High staff turnover</li> <li>Decline in case load</li> <li>Competition from other alternative dispute resolution bodies</li> <li>The voluntary nature of ADR</li> <li>COVID-19 pandemic</li> <li>Inadequate research abilities</li> </ul>
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#### 4.1.3 External Environment Analysis

##### Political Economic Social Technology Legal Environment (PESTLE) – interventions

POLITICAL	POSSIBLE SOLUTIONS
Perception of political alignment and non-partisan on decision-making	<ul style="list-style-type: none"> <li>Training and open discussions</li> <li>Compliance to institutional values</li> <li>Public engagements</li> </ul>
Change of administration	Change Management
ECONOMIC	
Business fronting	Referral to B-BBEE Commission
SOCIAL	
Limited access to the Tribunal (by the public)	Holding hearings in areas convenient to parties
Low literacy rate	Help line and help desk
Language diversity	Embracing of various languages in line with CT Language Policy
Limited public awareness of the Tribunal	Education and stakeholder management
Misconception about Tribunal jurisdiction	Education and stakeholder management
TECHNOLOGY	
Limited access to technology by the public	Use of various devices to access the Tribunal's services
LEGAL	
Limited jurisdiction to meet public expectations	Legislative amendment of Companies Act Increase mandate through other legislation
ENVIRONMENTAL	
Geographical location	CT marketing initiatives to public in various areas  Hearings held where convenient to parties

#### 4.1.4 Internal Environment Analysis

##### Strengths, Weaknesses, Opportunities and Threats (SWOT) - interventions

WEAKNESSES	POSSIBLE SOLUTIONS
No professional, equipped hearing rooms	Installation of aircon/windows in current 'hearing' room
External dependencies (e.g. Internal Audit function and IT infrastructure outsourced)	Better management of the SLA/MOU's
Limited budget to carry out mandate, marketing and fill vacancies	Continued engagements with <b>the dtic</b> /Treasury
Limited foot-print (no provincial offices)	Make use of partnerships
Limited jurisdiction of Companies Tribunal	Proposed amendments
The voluntary nature of ADR	Proposal to make ADR mandatory (Companies Act amendments)
Inconsistencies in the Tribunal members' decisions	Training/workshops/Quality reviews
THREATS	
High staff turnover	Retention strategy
Decline in case load	Proposed amendments Education and stakeholder management
Competition from other dispute resolution bodies	Sharing of best practice Increased marketing
The voluntary nature of ADR	Proposal to make ADR mandatory
COVID-19 pandemic	Increased use of digital platforms

## Part C: Measuring Our Performance

### 5. Institutional Programme Performance Information

#### 5.1 Programme: Adjudication

##### 5.1.1 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 well as to facilitate the resolution of company disputes in terms of Alternative Dispute Resolution.

Members of the Tribunal are appointed by the Minister of Trade, Industry and Competition to adjudicate applications and resolved disputes based on the applications filed by the parties to the dispute. Where necessary, in person hearings are held, depending on the nature of the dispute. Otherwise cases are decided on paper without parties' physical appearance.

The Tribunal contributes to **the dtic's** Joint Indicator 3, "**Strengthening and Building a Capable State**". The outcome of this indicator is 'Functional, efficient and integrated services within the DTIC to improve economic development and ease of doing business.'

The Tribunal will link to the above indicator through achievement of the outcome "*Functional, efficient and integrated services within the CT to improve economic development and ease of doing business*".

The Tribunal launched and implemented its electronic Case Management System which aims to assist internal management of applications as well as provide an electronic platform for users to lodge their applications online. This reduces the turnaround for lodging applications manually and will contribute to ease of doing business. Due to the system still being new, the uptake is expected to be slow at first but increase steadily over time. The Tribunal also assists in resolving company disputes timeously which contributes to economic development and ease of doing business.

### 5.1.1.1 Outcomes, Outputs, Performance Indicators and Targets

Outcome	Output	Output Indicator	Audited actual performance			Estimated performance	MTEF Period		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
1.  Improved access <sup>2</sup> to the justice system	1.1  Adjudicated applications	Percentage of decisions and orders <sup>3</sup> issued on <u>opposed</u> applications within <b>40</b> working days after the final date of the hearing <sup>4</sup> or final submission by parties, whichever is applicable	100%	100%	100%	93%	95%	95%	95%
	1.2  Adjudicated applications	Percentage of decisions and orders issued on <u>unopposed</u> applications within <b>30</b> days after the date of allocation <sup>5</sup> or final submission by parties whichever is applicable	96%	98%	97%	93%	95%	95%	95%
	1.3  Resolved disputes	Percentage of cases finalised <sup>6</sup> in terms of Alternative Dispute Resolution (ADR) within <b>25</b> working days after the date of final hearing or final submission by parties whichever is applicable	100%	100%	100%	95%	95%	95%	95%

<sup>2</sup> **Improved access** means simple, speedy and cost- effective decisions delivered within the stipulated turnaround time

<sup>3</sup> **Decisions and orders** issued are as prescribed by the Companies Act, 2008. Issued means formal communication of the decision and order to the client

<sup>4</sup> **Final date of hearing** refers to the last day of a hearing of a matter of a Tribunal sitting

<sup>5</sup> **Date of allocation** refers to the date of sending an e-mail allocating a case to a Tribunal Member

<sup>6</sup> **Finalised** refers to decision making and issuing of failed certificates, withdrawals and cancellations

### 5.1.1.2 Indicators, Annual and Quarterly Targets

Output Indicator	2022/23 Annual Target	Quarterly Milestones			
		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
Percentage of decisions and orders issued on <u>opposed</u> applications within <b>40</b> working days after the final date of the hearing 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 <b>30</b> working days after the date of allocation or final submission by parties whichever is applicable	95%	95%	95%	95%	95%
Percentage of cases finalized in terms of Alternative Dispute Resolution (ADR) within <b>25</b> working days after the date of final hearing 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, Research Knowledge Management, Stakeholder Management and Legal Services.

The Tribunal will be contributing to **the dtic's** Joint Indicators as follows:

- a) **Joint Indicator 4**, defined as **District Development and Spatial Equity including all work within the District Model, District Development Model and Spatial equity including incorporating all work within the District Model**. The outcome of this indicator is 'Contribute to intergovernmental action in implementation of the District Development Model towards district economic development'.

The Tribunals will link to the above indicator through achievement of the output '*Stakeholder engagements*'. The Tribunal set a target of participating in 10 outreaches and/or exhibitions within district municipalities<sup>7</sup>.

- b) **Joint Indicator 5: Promote transformation through structural changes in the economy to enable greater inclusion and growth; and empowerment of designated risks, using the range of public tools such as procurement, incentives, technical support and enabling opportunities**. The outcome of this indicator is 'Promoting a growing and inclusive economy'.

The Tribunal will link to the above indicator through achievement of the output '*Procurement to promote transformation and empowerment of designated groups*'. The Tribunal included the target of ensuring that 60% of procurement is awarded to service providers with between Level 1 and Level 4 B-BBEE accreditation thus contributing to promotion of a growing and inclusive economy.

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<sup>7</sup> Though this output links up with JKPI 4 it has always been part of the Tribunals APP. It is not a new output.

### 5.2.1.2 Outcome, Outputs, Performance Indicators and targets

Outcome	Outputs	Output Indicators	Audited Actual Performance			Estimated Performance	Medium Term Targets		
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
2. Functional, efficient and integrated services within the CT to improve economic development and ease of doing business <sup>8</sup>	2.1 Functional, efficient and user friendly electronic Case Management System to assist in ease of doing business	Percentage of user uptake of the electronic Case Management System	N/A <sup>9</sup>			50%	50%	60%	60%
	2.2 Capacity building (recruitment)	Vacancy rate	N/A <sup>10</sup>			15%	15%	15%	15%
	2.3 Stakeholder engagements	Number of seminars held	Hosted a seminar on Alternative Dispute Resolution (ADR)	Hosted a seminar on the impact of the Tribunal's mandate	Hosted a seminar on legislative gaps or shortcomings in implementing the Tribunal's mandate	Host a seminar on functions that can be assigned to CT under Schedule 4 of the Act	Host a seminar on: Expanding the role of the Companies Tribunal - A case for comprehensive amendment of Companies Act	Host a seminar on: The importance of ADR in company disputes	Host a seminar on: The feasibility of establishing an Association of Tribunal's with SADC countries

<sup>8</sup> Joint dtic generic indicator (#7A)

<sup>9</sup> New indicator as of 2021/22 (audited actual performance 2018/19, 2019/20 and 2020/21 therefore not applicable)

<sup>10</sup> Target changed from "Percentage of staff retained" (target for 2018/19, 2019/20 and 2020/21) to "Vacancy rate" as from 2021/22

	<b>2.4 Stakeholder engagements (continued)</b>	Number of <b>media engagements</b> (media statements and radio activities)	Released three (3) media statements	Released two (2) media statements	Target exceeded. Four articles were published on social media and the website.	<b>Release two (2) two media statements</b>	Release eight (8) media statements	Release eight (8) media statements	Release eight (8) media statements
			Live reads were aired on the following stations: Munghana Lonene FM, Ikwewezi FM, East Coast Radio and Radio 702	Live reads were aired on the following stations: Power FM, Metro FM, Radio 702, Lesedi FM.	Target exceeded. Four radio activities took place (Live reads were aired on SAFM, Power FM and the Chairperson interviewed by both stations)	<b>Participate in two (2) radio activities</b>	Participate in four (4) radio activities	Participate in four (4) radio activities	Participate in four (4) radio activities
		Number of participations in outreaches and/or exhibitions <sup>11</sup>	Participated in 10 (ten) outreaches and/or exhibitions <sup>12</sup>	Participated in 9 (nine) outreaches and/or exhibitions <sup>13</sup>	Participated in 8 (eight) outreaches and/or exhibitions <sup>14</sup>	<b>Participate in 8 outreaches and/or exhibitions</b>	Participate in 10 (ten) outreaches and/or exhibitions	Participate in 10 (ten) outreaches and/or exhibitions	Participate in ten (10) outreaches and/or exhibitions

<sup>11</sup> \*Outreaches and/or exhibitions targeting businesses, associations, the public, legal fraternity and academia in various districts

<sup>12</sup> The Audited Actual Performance (2018/19, 2019/20 and 2020/21 as well as the Estimated Performance for 2021/22 appears on Table 1 and the Medium Targets' areas on Table 2 (end of this section)

<sup>13</sup> Ibid

<sup>14</sup> Ibid



	<b>2.5</b> Research	Production of research reports or rules	Code of Conduct and Ethics for Mediators	Assessing the value of social and ethics committees as stipulated in Section 72(5)	Legislative gaps in implementing the Tribunal's mandate: A case for further amendments	<b>Changes to the Companies Act: How to prepare the Tribunal to address the new environment</b>	Expanding the role of the Companies Tribunal - A case for comprehensive amendment of the Companies Act	The importance of ADR in company disputes	The feasibility of establishing an Association of Tribunal's with SADC countries
<b>Promoting a growing and inclusive economy<sup>15</sup></b>	<b>2.6</b> Procurement to promote transformation and empowerment of designated groups	Procurement report indicating the <u>percentage</u> of procurement contracts awarded	N/A New indicator as from 2021/22		<b>60% of procurement contracts awarded to service providers with Level 4 and above B-BBEE accreditation</b>	65% of procurement awarded to service providers with between Level 1 and Level 4 B-BBEE accreditation	70% of procurement contracts awarded to service providers with between Level 1 and Level 4 B-BBEE accreditation	75% of procurement contracts awarded to service providers with between Level 1 and Level 4 B-BBEE accreditation	

<sup>15</sup> Joint dtic indicator (#5)

**Table 1:**

**Outreaches – Audited Actual Performance and Estimated Performance**

<b>Audited Actual Performance</b>			<b>Estimated Performance</b>
<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>
<ol style="list-style-type: none"> <li>1. Capricorn District, LP Bojanala Platinum District, NW</li> <li>2. Eden District, WC Ehlanzeni District in Nkomazi Municipality, MP</li> <li>3. O.R. Tambo District, EC uMgungun-dlovu District, KZN uGu District, KZN</li> <li>4. Pixley Ka Seme District, NC</li> <li>5. Central Karoo, NC</li> <li>6. Mgcawu District in Kakamas and Augrabies</li> <li>7. Fort Hare (Guest Lectures)</li> </ol>	<ol style="list-style-type: none"> <li>1. Meetings were held with Norton Rose Fulbright and Bowmans in the City of Johannesburg</li> <li>2. Participated in <b>the dtic</b> outreach in Waterberg District (Modimolle- Vaalwater)</li> <li>3. Participated in the Department of Small Business Development (DSBD) Mangaung Metropolitan (Bloemfontein) (FS)</li> <li>4. A meeting was held with the Zululand Chamber of Commerce and Industry to engage on the services of the Tribunal</li> <li>5. Teleconference was held with Thabo Mofutsanyana District's LED Office</li> <li>6. Meeting was held with SEDA in Buffalo City (EC)</li> <li>7. Meeting was held with NADEL- Amathole District (EC)</li> <li>8. Participated in <b>the dtic</b> event in King Cetshwayo (KZN, Eshowe)</li> </ol> <p>Durban, Polokwane, Cape Town, Rosebank.</p> <p>Further engagements held as follows:</p>	<ol style="list-style-type: none"> <li>1. Tshwane, GP</li> <li>2. Mopani, LP</li> <li>3. Amajuba, KZN</li> <li>4. Gert Sibande, MP</li> <li>5. Namakwa, NC</li> <li>6. Ngaka Modiri Molema, NW</li> <li>7. Cape Winelands, WC</li> <li>8. Chris Hani, EC</li> </ol>	<ol style="list-style-type: none"> <li>1. CT Chairperson's interview on Channel 403 (ENCA),</li> <li>2. CT Chairperson's live telephonic interview on Channel 404 (SABC) on The Agenda),</li> <li>3. CT Chairperson's live telephonic interview on Channel 404 (SABC) on Full View,</li> <li>4. Introduction of CT services to Mashabela IP Attorneys (Tshwane),</li> <li>5. Introduction of CT services to Gildenhuis Malatji Attorneys (Tshwane),</li> <li>6. Introduction of CT services to Smit Stanton Attorneys (Mahikeng),</li> <li>7. Engagement held with MI Senyolo Attorneys Mopani District Municipality LP: introducing Tribunal's services,</li> <li>8. Virtual meeting with Amajuba District Municipality, KZN introducing Tribunal services,</li> <li>9. Virtual engagement with Amajuba District Economic Cluster Meeting,</li> <li>10. Virtual engagement with Drankenstein Municipality (Cape Wineland District, WC),</li> <li>11. Virtual engagement with WJB Attorneys, (Gert Sibande District, MP),</li> <li>12. Virtual engagement with Southey Attorneys Incorporated, (Amajuba District, KZN),</li> <li>13. Telephonic engagement: Botha Attorneys (Piet Retief, Gert Sibande District, MP),</li> </ol>

	<ul style="list-style-type: none"> <li>▪ Cape Chamber of Commerce and Industry</li> <li>▪ University of Cape Town's Commercial Law Department</li> <li>▪ Free State Bar Council</li> <li>▪ Zululand Chamber of Commerce and Industry</li> <li>▪ Witbank Chamber of Commerce and Industry.</li> </ul>		<ul style="list-style-type: none"> <li>14. Virtual engagement with Mohlala Attorneys (Ermelo, Gert Sibande District, MP),</li> <li>15. Virtual engagement with Namaqualand Chamber of Commerce and Industry, NC,</li> <li>16. Virtual engagement with Chris Hani District Municipality, EC, and</li> <li>17. Held a meeting with the B-BBEE Commission.</li> </ul>
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**Table 2:  
Outreaches and/or exhibitions: Medium Term Targets**

<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>
<ul style="list-style-type: none"> <li>1. Ehlanzeni - MP</li> <li>2. Vhembe - LP</li> <li>3. Tshwane - GP</li> <li>4. eThekweni - KZN</li> <li>5. Cape Town - WC</li> <li>6. Mangaung - FS</li> <li>7. Capricorn - LP</li> <li>8. Francis Baard – NC</li> <li>9. Nelson Mandela District Municipality - WC</li> <li>10. Mahikeng – NW</li> </ul>	<ul style="list-style-type: none"> <li>1. Sarah Baartman District Municipality – EC</li> <li>2. Fezile Dabi District Municipality – FS</li> <li>3. West Rand District Municipality – GP</li> <li>4. iLembe District Municipality – KZN</li> <li>5. Capricorn District Municipality – LP</li> <li>6. Dr Kenneth Kaunda District Municipality – NW</li> <li>7. John Taolo Gaetsewe District Municipality – NC</li> <li>8. West Coast District Municipality – WC</li> <li>9. Ehlanzeni Municipality - MP</li> <li>10. City of Johannesburg - GP</li> </ul>	<ul style="list-style-type: none"> <li>1. Garden Route District Municipality – WC</li> <li>2. Nelson Mandela District Municipality – EC</li> <li>3. ZF Mgcawu District Municipality – NC</li> <li>4. Ekurhuleni Metro – GP</li> <li>5. Sedibeng District Municipality - GP</li> <li>6. Sekhukhune District - LP</li> <li>7. Bojalo Platinum District – NW</li> <li>8. uMngundlovu District – KZN</li> <li>9. uMkhanyakude District – KZN</li> <li>10. Nkangala District - MP</li> </ul>

### 5.2.1.3 Indicators, Annual and Quarterly Targets

Performance Indicator/ Measure	2022/23 Annual Target	Quarterly Milestones			
		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
Percentage of user uptake of the electronic Case Management System (CMS)	50%	50%	50%	50%	50%
Vacancy Rate	15%	15%	15%	15%	15%
Number of seminars hosted	<b>One</b> seminar (on the impact of the amendments to the Act on the work of CT)	Draft a concept/seminar proposal with project plan, budget and obtain COO's approval	Consult stakeholders: Internal: Mancom, Chairperson, Members; External: Partnering institutions, venue etc	Identify speakers, facilitators etc and design, send and publish the seminar invitation	Confirm attendance, finalise logistics and host the seminar
Number of media activities achieved	<b>Eight</b> media statements	Release <b>two</b> media statements	Release <b>two</b> media statements	Release <b>two</b> media statements	Release <b>two</b> media statements
	<b>Four</b> radio activities	Participate in <b>one</b> radio activity	Participate in <b>one</b> radio activity	Participate in <b>one</b> radio activity	Participate in <b>one</b> radio activity
Number of participations in outreaches and/or exhibitions <sup>16</sup>	<b>Ten</b> outreaches and/or exhibitions	Participate in <b>three</b> outreaches and/or exhibitions	Participate in <b>two</b> outreaches and/or exhibitions	Participate in <b>three</b> outreaches and/or exhibitions	Participate in <b>two</b> outreaches and/or exhibitions
Research report produced	<b>One</b> research report <sup>17</sup>	(a) Submit a written research proposal including: <ul style="list-style-type: none"> <li>• Selection and design of data collection tools (eg, interviews/questionnaires)</li> <li>• Stakeholders identification</li> </ul>	(a) Collect research information/material (interviews/questionnaires etc) (b) Do literature review, and (c) Produce the <b>first</b> research draft	(a) Consolidate inputs received, (b) Produce further draft/s for review by COO (c) Further collection (if necessary) to fill gaps	(a) Circulate in Manco & incorporate inputs (b) Obtain approval of the <b>final draft</b> and (c) publish on the website

<sup>16</sup> Outreaches and/or exhibitions targeting businesses, associations, the public, legal fraternity and academia in various districts.

<sup>17</sup> Proof of achievement of all outputs/quarterly milestones/steps taken within each quarter to be presented and approved by the COO. Approval of the Research Report also by COO.

Performance Indicator/ Measure	2022/23 Annual Target	Quarterly Milestones			
		1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
<b>Percentage of service providers appointed with Level 4 and above B-BBEE accreditation</b>	65% percentage of procurement awarded to service providers with Level 4 and above B-BBEE accreditation	65%	65%	65%	65%

### 5.3 dtic Joint Indicators

The “J-KPIs” have been regrouped into three over-arching joint/integrated outputs that address also **the dtic** contribution to outcomes (inclusive growth, jobs, combating poverty, dealing with inequality) as follows, covering **22** distinct themes:

- **Industrialisation:** building dynamic firms through a combination of efforts in partnership with the private sector, focusing on opportunities to grow in the domestic market (through localisation, sector partnerships, beneficiation, promoting the green economy and fostering higher levels of investment) and building a wider Export Market with supply-side reforms to build competitiveness.
- **Transformation:** Building economic inclusion through transformation programmes in two broad areas: first addressing structural challenges to growth, mainly through competition policies; and strengthening the inclusive/transformation in the quality of growth, including broadening ownership and more inclusive corporate governance models
- **Delivery/Capable State:** Building a new culture of partnership in the economy, characterized by greater responsiveness and nimbleness by the Department and entities, which includes reviewing internal processes and legislation/regulations.

### 5.3.1 Companies Tribunal contribution to dtic JKPI's

The table below identifies the contribution that the various output indicators will have towards the regrouped JKPI's:

Outputs <sup>18</sup>	Output Indicators <sup>19</sup>	CT CONTRIBUTION TO JOINT KEY PERFORMANCE INDICATORS		
		JKPI 1 Industrialization	JKP1 2 Transformation	JKP 3 Delivery/Capable state
<b>1. Adjudicated Decisions</b>	Percentage of decisions and orders issued on opposed applications within 40 working days after the final date of the hearing or final submission by parties, whichever is applicable	<b>Promoting green economy:</b> <ul style="list-style-type: none"> <li>▪ Online adjudication</li> <li>▪ Reduced travelling</li> </ul>	<b>Strengthening inclusiveness, transformation:</b> <ul style="list-style-type: none"> <li>▪ No fees (services free). This accommodates companies with small incomes</li> </ul>	<b>Improved internal processes:</b> <ul style="list-style-type: none"> <li>▪ Simplified hearing processes</li> <li>▪ Reducing turnaround times over the five-year period</li> </ul>
	Percentage of decisions and orders issued on unopposed applications within 30 working days after the date of allocation or final submission by parties whichever is applicable			
	<b>Resolved Disputes</b>			
<b>2. Functional, efficient and user friendly electronic Case Management System to assist in ease of doing business</b>	Percentage of user uptake of the electronic Case Management System (CMS)	<b>Promoting green economy:</b>  Online applications as opposed to paper applications	N/A	<b>Improved internal processes &amp; Capable State</b> <ul style="list-style-type: none"> <li>▪ Easy, step by step process (explained)Application processing is quicker</li> </ul>

<sup>18</sup> These are the outputs of the Companies Tribunal

<sup>19</sup> These are the output indicators of the Companies Tribunal

<b>Capacity building (recruitment)</b>	Vacancy rate	-	<b>Inclusive transformation:</b> <ul style="list-style-type: none"> <li>▪ Employment equity: <ul style="list-style-type: none"> <li>- 92 % black</li> <li>- 33% women</li> <li>- 25% youth</li> <li>- 10% interns</li> </ul> </li> </ul>	<b>Capable state:</b> Employment of qualified employees to ensure delivery
<b>Stakeholder engagements</b>	Number of <b>seminars</b> held	<b>Sector partnerships:</b> Participate in the <b>dtic</b> partnerships with universities	<b>Inclusive transformation:</b> Procuring services from Previously Disadvantaged Individuals	-
	Number of <b>media engagements</b> (media statements and radio activities)	-		-
	Number of participations in outreaches and/or exhibitions <sup>20</sup>	-		-
<b>Research</b>	Production of research reports or rules	-	-	-
<b>Procurement to promote transformation and empowerment of designated groups</b>	Procurement report indicating the <u>percentage</u> of procurement contracts awarded	-	<b>Inclusive transformation:</b> Procurement of services from Previously Disadvantaged Individuals	<b>Capable state:</b> Payments made within 30 days

<sup>20</sup> \*Outreaches and/or exhibitions targeting businesses, associations, the public, legal fraternity and academia in various districts

## **6. Explanation of planned performance over the medium-term period**

### **6.1 Contribution of outputs towards achieving the outcomes and impact in the Strategic Plan aligned to the Mandate**

#### **6.1.1 Outcome 1: Access to simple, speedy and cost-effective justice system**

##### **a) The number of applications adjudicated within the turn round times (Adjudication)**

The Tribunal adjudicates on applications at no charge to the parties. The targeted beneficiaries of this output include the start-ups, small to medium companies and companies in financial distress who 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. Furthermore, the Tribunal's targeted turnaround times are between 30 days (unopposed) and 40 days (opposed). Very few applications exceed the periods. In the 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 from normal litigation that may cripple a business both financially and operationally. With the Tribunal, companies can initiate litigation 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 turn round times through Alternative Dispute Resolution (ADR)**

The same benefits of cost and time efficiency offered by the output of adjudicated applications are applicable to the output of resolved disputes. In addition, the turn-around time for resolution of disputes is 25 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 as 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.



## **6.1.2. Outcome 2: Operational Efficiency**

### **(a) Capacity Building**

During 2022/23 financial year, the Tribunal intends to recruit at least 85% of all funded and vacant positions to stay within the targeted 15 % vacancy rate. To achieve operational efficiency, in the **2022/23** financial year, the Tribunal intends to focus on capacity building as one of the outputs. The value of an employee increases the longer they stay with an organization. With time, employees' knowledge and experience continue to grow making them important for networking inside and outside the sector. Employees build relationships with other employees and clients. These relationships are vital to the success of an organization. Their skills and organizational memory make it easy to run effective operations.

### **(b) Stakeholder Engagements**

The mandate of the Tribunal is to offer adjudication and alternative dispute resolution to companies. It follows that unless companies are aware of the Tribunal 's services, are interested and actually use the services, the Tribunal will not achieve its mandate. Creation of public knowledge and interest around the mandate of the institution is therefore critical. From the financial year 2016/17 to 2021/22, the number of applications received by the Tribunal has been on a steady decline. It is believed that the low stakeholder knowledge is a contributor. 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 discussions, television and radio messaging, social media, grassroots outreach, media relations and government affairs. This output is therefore aimed at enhancing the Tribunals operational efficiency in achieving its mandate.

### **(c) Research Report or Developed Rules or Guidelines**

To achieve operational efficiency, the Research Unit of the Tribunal contributes to the body of knowledge, it closes knowledge gaps, and creates new knowledge. Research contributes to jurisprudence and precedent. The contribution to South African's jurisprudence also makes South Africa an attractive investment destination. Reports provide quick reference for decision making purposes which in turn leads to consistency and efficiency in decision making. To further improve efficiencies, rules or guidelines are developed and or reviewed. Rules or guidelines help to make the application process easier and quicker for the applicants especially those not assisted by legal practitioners. This output is therefore another contributor to the Tribunal's operational efficiency.

## 6.2 Explanation of the planned performance in relation to outputs

### (a) Adjudicated Applications:

The Tribunal's performance on this output will be measured by the percentage of decisions and orders issued within 30 or 40 days depending on whether a case is decided on paper only or parties give evidence before the Tribunal. The longest targeted turn-around time for adjudication is 40 days. The planned annual performance in **2022/23** 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.

### (b) Resolved disputes:

The Tribunal's performance on this output will be measured by the percentage of cases finalised within 25 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 **2022/23** is **95%**. This is intended to remain constant over the MTEF period for reasons previously mentioned.

### (c) Capacity Building

In the **2022/23** 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 evolve around the recruitment process to ensure that when a post becomes vacant, it is filled up within a short period of time.

The Tribunal's performance on this output will be measured by the vacancy rate as a percentage. The starting base in the **2021/22 financial year** was **15%**. This target stays the same over the MTEF period due the Tribunal's underfunding. The underfunding limits the number of retention incentives the Tribunal may offer. The limitations on staff incentives and the anxiety created by the knowledge of limited funding, are possible contributors to the Tribunal's high staff turn-over.

### (d) Stakeholder engagement

The Tribunal's indicators on this output for **2022/23** financial year include hosting **one (1) seminar**, releasing **eight (8) media statements**, participation in **four (4) radio activities** and participation in **ten (10) outreaches and/or exhibitions**. This output carries the most amount of activities (indicators). This is so because, as stated above, since 2016/2017, the number of cases received by the Tribunal has been in decline. Unless the public is aware of the Tribunals services, the Tribunal will not achieve its mandate. Creation of public knowledge and interest around the mandate of the institution is therefore critical.

**(e) Research Report or developed rules or guidelines**

Production or research reports or rule or guidelines is amongst the Tribunal's planned outputs. The Tribunal's performance will be measured by the number of research reports/rules/guidelines produced /reviewed and approved. The number of reports or rules or guidelines produced or reviewed targeted is planned to stay constant over the three years. This is because the unit Research is not focused purely on research but has other legal functions. It is foreseeable that with more funding and better staffing, the output number may change over the three years.

**7. Program Resource Considerations**

**7.1 Financial Plan**

For the year 2022/23 to 2023/24, the Tribunal based the budget estimate on the initial allocation letter received from **the dtic**. Although the interim allocation received reflects the baseline increase over the MTEF period, the Tribunal is still under-funded and remains a going concern. The Tribunal 's baseline still needs an increase to continue operating efficiently. With the current budget allocation, the Tribunal forecasts a deficit over the MTEF as follows: for 2022/23, it will be R2.1m, for 2023/24 it will be R1.9m and for 2024/25, R2.3 is forecast. The allocated funds for each financial year are insufficient to meet the operational requirements of the Tribunal and to fill all unfunded posts on the approved organisational structure. Human capacity constraints also remain an area of concern.

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	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
<b>Revenue</b>								
Non-tax revenue	819	744	369	164	300	350	400	
Transfers received	16,740	17,352	20,752	20,313	24,529	25,702	26,997	
Donations received/Revenue in-kind	1,532	1,685	1,853	2,039	2,243	2,467	2,714	
Income from surplus funds	-	-	-	-	-	-	-	
<b>Total revenue</b>	<b>19,091</b>	<b>19,781</b>	<b>22,975</b>	<b>22,516</b>	<b>27,072</b>	<b>28,519</b>	<b>30,111</b>	
<b>Expenses</b>								
<b>Current expenses</b>								
Compensation of employees	11,692	16,755	12,979	13,819	17,111	17,749	18,435	
Goods and services	8,430	9,394	7,906	8,505	9,672	10,469	11,361	
Depreciation	259	267	193	192	289	301	315	
<b>Total expenses</b>	<b>21,737</b>	<b>20,381</b>	<b>21 078</b>	<b>22,516</b>	<b>27,027</b>	<b>28,519</b>	<b>30,111</b>	
<b>Surplus/ (Deficit)</b>	<b>(3,263)</b>	<b>(1,290)</b>	<b>1 897</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	

(ii) Budget Allocation per Programme

Programme Name: Administration							
Economic classification	Audited outcome			Revised Estimates	Medium-Term Expenditure Estimate		
	2018/19 R '000	2019/20 R '000	2020/21 R '000	2021/22 R '000	2022/23 R '000	2023/24 R '000	2024/25 R '000
<b>Current payment</b>							
Compensation of employees	11,692	16,755	15,065	14,916	14,986	15,811	16,422
Goods & services, etc.	5,683	6,553	6,783	5,900	9,843	10,241	10,975
<b>Payments of capital assets</b>							
Building and other fixed structure	-	-	-	-	-	-	-
Machinery & equipment	521	584	100	83	150	150	150

Programme Name: Adjudication							
Economic classification	Audited outcome			Revised Estimates	Medium-Term Expenditure Estimate		
	2018/19 R '000	2019/20 R '000	2020/21 R '000	2021/22 R '000	2022/23 R '000	2023/24 R '000	2024/25 R '000
<b>Current payment</b>							
Member's fees	2,826	2,892	3,838	3,374	3,517	3,674	3,839
Goods and services	180	216	545	569	595	622	649
<b>Payments of capital assets</b>	-	-	-	-	-		
Building and other fixed structure Machinery & equipment							

## 8. Key Risks

Outcome	Output Indicator	The Risk	Root causes	Risk Mitigation
1. Improved access to the justice system	1.1. The number of applications <b>adjudicated</b> or finalized within the stipulated turn-around times.	Decline in applications	<ul style="list-style-type: none"> <li>Limited mandate</li> <li>Inconsistency in members decisions</li> <li>Perceptions of bias in decision making</li> <li>Delays in decision making /resolutions</li> <li>Limited marketing</li> </ul>	<ul style="list-style-type: none"> <li>Investigative study on the root causes</li> <li>Amendment of legislation</li> <li>Training and/or workshops</li> <li>Quality review</li> <li>Public engagements</li> <li>Declaration of conflict</li> <li>Guidelines and consistent consequence management</li> <li>Creative use of affordable marketing tools</li> <li>Partnering with other relevant stakeholders</li> </ul>
	1.2. The number of applications <b>resolved</b> or finalised through Alternative Dispute Resolution (ADR)	Voluntary nature of ADR	<ul style="list-style-type: none"> <li>The Act states that ADR is not compulsory</li> </ul>	<ul style="list-style-type: none"> <li>Amendments proposed to the Act (make ADR mandatory)</li> <li>Public education of benefits of ADR</li> </ul>
2. Operational Effectiveness	2.1 Number of stakeholder engagements held	Limited awareness of existence and services of CT	<ul style="list-style-type: none"> <li>Limited marketing due to limited resources (funding)</li> </ul>	<ul style="list-style-type: none"> <li>Improved use of technology to compensate limited funds</li> <li>Use of partnerships and collaborations</li> <li>Budget reviews</li> <li>Consistent best use of social media</li> </ul>
	2.2 Insufficient funding for operations	Insufficient funding	<ul style="list-style-type: none"> <li>Insufficient grant funding</li> <li>Restrictions placed on CT through the Act inability to generate funds</li> </ul>	<ul style="list-style-type: none"> <li>Management of funds available</li> <li>Monitor monthly budget variance report</li> <li>Recommend funding through amendment of the Act</li> <li>Continue engagements with CIPC and <b>the dtic</b></li> </ul>

## **9. Materiality and Significance of Framework**

### **9.1 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 very significant for operational and reporting purposes. Materiality and significance levels will be influenced by considerations such as legal and regulatory requirements.

### **9.2 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 the clean audit opinion for the past six financial years. However, there are inherent risks associated with implementation of new unproven process, change in leadership as a result of appointment and resignation and/or retirement of staff and may result in lack of teamwork. The risks must be however discounted by the unqualified audit report obtained by the Tribunal over the past six 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 guideline 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.

### **9.3 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)**

<b>Output 1: Applications Adjudicated within the turn-around time</b>	
<b>1. Indicator title</b>	Percentage of decisions and orders issued on <u>opposed</u> applications within <b>40</b> working days after the final date of the hearing or final submission by parties
<b>2. Short definition</b>	<p>Percentage of cases resolved within <b>40</b> working days after the final date of hearing or final submission by parties, whichever is applicable.</p> <p><i><b>Final hearing date</b> refers to the last date of hearing of a matter of a Tribunal sitting or the last date of submission of documentation requested by the Tribunal Member at the final hearing.</i></p> <p><i><b>Days</b> refer to working days excluding weekends, public holidays and days on which CT is officially closed.</i></p>
<b>3. Purpose/importance</b>	The entity shows its efficiency and effectiveness in managing cases and the turnaround times to revert to the applicants after the date of hearing.
<b>4. Source/collection of data</b>	Electronic case management system report or Excel spread sheet and reports which reflect date received, date of final hearing, date finalized and date of issuing order/decision
<b>5. Method of calculation</b>	The number of decisions and orders issued within 40 working days after the last hearing date divided by the total number of hearings concluded and multiply by hundred. The number of hearings concluded where the 40 working days of issuing a decision or order fall outside the reporting period will not be calculated. The number of decisions or orders issued after the 40 working days after the last day of the hearing will not be counted as percentage achieved but will be counted as total number of hearings concluded.
<b>6. Data limitations</b>	Incorrect capturing of data
<b>7. Type of indicator</b>	Quantity – output
<b>8. Calculation type</b>	Cumulative – it is calculated on a quarterly basis to obtain the annual target
<b>9. Reporting cycle</b>	Monthly
<b>10. New indicator</b>	No – continuous from the previous financial year
<b>11. Desired performance</b>	Target - 95%
<b>12. Indicator responsibility</b>	Manager: Registry

<b>Output 2: Applications Adjudicated within the turnaround time</b>	
<b>1. Indicator title</b>	Percentage of decisions and orders issued on <u>unopposed</u> applications issued within <b>30</b> working days after the date of allocation
<b>2. Short definition</b>	Percentage of cases resolved within 30 working days after the date of allocation  <i><b>Date of allocation</b> refers to the date of sending an e-mail allocating a case to a Tribunal member or the last date of submission of documentation requested by the Tribunal Member</i>  <i><b>Days</b> refer to working days and exclude weekends, public holidays and days on which CT is officially closed.</i>
<b>3. Purpose/importance</b>	The entity shows its efficiency and effectiveness in managing cases and the turnaround times to revert to the applicants after the date the case was allocated.
<b>4. Source/collection of data</b>	Electronic case management system report or Excel spread sheet and reports which reflect date received, date allocated, date finalised and date of issuing decision/ order
<b>5. Method of calculation</b>	The number of decisions and orders issued within 30 working days after the date of allocation divided by the total number of allocated cases and multiply by hundred. The number of allocated cases, where the 30 working days of issuing a decision or order fall outside the reporting period will not be calculated. The number of decisions or orders issued after the 30 working days after the last day of the allocation will not be counted as percentage achieved but will be counted as total number of cases allocated.
<b>6. Data limitations</b>	Incorrect capturing of data
<b>7. Type of indicator</b>	Quantity – Output
<b>8. Calculation type</b>	Cumulative – it is calculated on a quarterly basis to obtain the annual target
<b>9. Reporting cycle</b>	Monthly
<b>10. New indicator</b>	No – continuous from the previous financial year
<b>11. Desired performance</b>	Target - 95%
<b>12. Indicator responsibility</b>	Manager: Registry

<b>Output 3: Disputes Applications resolved (Alternative Dispute Resolution) within the turn-around time</b>	
<b>1. Indicator title</b>	Percentage of cases finalised <sup>21</sup> in terms of Alternative Dispute Resolution (ADR) within <b>25</b> working days after the date of final hearing or final submission by parties, whichever is applicable
<b>2. Short definition</b>	Percentage of cases finalized in terms of ADR within <b>25</b> working days after the date of final hearing or final submission by parties whichever is applicable <i><b>Hearing</b> refers to a sitting of mediation, conciliation or arbitration as agreed by the parties.</i> <i><b>Finalized</b> refers to instances where a certificate of failed ADR has been issued, arbitration award issued, order issued settlement agreement reached by parties or mediation report issued by the facilitator(s)<sup>22</sup> within 25 working days after the date of final hearing.</i> <i><b>Date of final hearing</b> refers to the last day set for mediation, conciliation or arbitration of a matter or the last date of submission of documentation requested by the facilitator at the final hearing from the party/ies</i> <i><b>Days</b> refer to working days excluding the holidays, weekends and days on which the CT is officially closed.</i>
<b>3. Purpose/ importance</b>	The entity shows its effectiveness in terms of handling the ADR cases and the finalization of cases to revert to the applicants after the hearing of the case.
<b>4. Source/collection of data</b>	Electronic case management system report or excel spreadsheet and report reflecting the date received, the date of hearing and the date of finalizing of the case.
<b>5. Method of calculation</b>	The number of cases finalized in terms of ADR within 25 working days after the date of final hearing divided by the total number of cases set down for hearing multiplied by hundred. The total number of cases set down for hearing outside of the reporting period will not be counted including cases that were set down for hearing during the reporting period but were postponed allowing the parties to deal with the matter outside of the Tribunal mediation, conciliation and arbitration processes. The number of cases set down for hearing where the 25 working days for finalizing the case fall outside the reporting period will not be calculated. The number of cases finalized after the 25 working days after the date of final hearing will not be counted as percentage achieved but will be counted as total number of hearings set down for hearing.
<b>6. Data limitations</b>	Incorrect capturing of data
<b>7. Type of indicator</b>	Quantity – Output
<b>8. Calculation type</b>	Cumulative- it is calculated on quarterly bases to obtain an annual target.
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No
<b>11. Desired performance</b>	To retain the 100% baseline
<b>12. Indicator responsibility</b>	Manager: Registry

<sup>21</sup> Finalised refers to instances where certificate of failed ADR has been issued, consent order issued of withdrawal of the matter by either party, settlement agreement reached by both parties or mediation report issued by the Tribunal Member(s)

<sup>22</sup> Facilitator and Tribunal Member means the same thing or person

<b>Output 4: Functional, efficient and user friendly electronic Case Management System to assist in ease of doing business</b>	
<b>1. Indicator title</b>	Percentage of user-uptake of the electronic Case Management System
<b>2. Short definition</b>	Percentage of increase in user uptake
<b>3. Purpose/ importance</b>	To assist in ease of doing business by providing an electronic platform for the public to submit their applications and upload related documentation
<b>4. Source/collection of data</b>	Excel spreadsheet (manually captured until such time that a reporting module for the CMS is implemented)
<b>5. Method of calculation</b>	The number of applications captured by the public on the electronic Case Management System divided by the total number of applications received multiplied by 100
<b>6. Data limitations</b>	Incorrect capturing of data or not understanding the system requirements
<b>7. Type of indicator</b>	Quantity – Output
<b>8. Calculation type</b>	Cumulative- it is calculated on quarterly basis to obtain an annual target
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	Yes (joint <b>dtic</b> indicator #7A)
<b>11. Desired performance</b>	To increase user uptake of the electronic Case Management System
<b>12. Indicator responsibility</b>	Manager: Registry

<b>Output 5: Capacity Building</b>	
<b>1. Indicator title</b>	Percentage of vacancy rate
<b>2. Short definition</b>	The percentage of vacancy rate <i>Vacancy refers to post not filled but funded</i>
<b>3. Purpose/importance</b>	To ensure that post that are funded are filled timeously to ensure that there are no capacity constraints within the organisation
<b>4. Source/collection of data</b>	Organisational structure (updated and signed by the Manager: HR)
<b>5. Method of calculation</b>	Total number of vacant funded positions for the organization divide by the total number of total funded posts multiplied by 100
<b>6. Data limitations</b>	Human error
<b>7. Type of indicator</b>	Quantitative – Output
<b>8. Calculation type</b>	Cumulative
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No, continuous from the previous year
<b>11. Desired performance</b>	Continuous employment within the Companies Tribunal ensuring a low staff turnover rate
<b>12. Indicator responsibility</b>	Human Resources

<b>Output 6: Stakeholder Engagements</b>	
<b>1. Indicator title</b>	Annual <b>seminar</b> hosted
<b>2. Short definition</b>	Host a seminar on a research topic <i>Host means organize and present/ collaborate/ partner</i>
<b>3. Purpose/importance</b>	To create awareness and educate the public about services of CT and promote a positive corporate image
<b>4. Source/collection of data</b>	Transcript of the seminar and/or attendance register
<b>5. Method of calculation</b>	Total number of seminars held (evidenced by transcript of the seminar and/or attendance register)
<b>6. Data limitations</b>	Lack of resources (Human and Capital)
<b>7. Type of indicator</b>	Quantitative – Output
<b>8. Calculation type</b>	Cumulative
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No
<b>11. Desired performance</b>	Public awareness, accessibility and stakeholder management
<b>12. Indicator responsibility</b>	Manager: Communication and Marketing

<b>Output 7: Stakeholder Engagements</b>	
<b>1. Indicator title</b>	Number of <b>media engagements</b> (media statements and radio activities)
<b>2. Short definition</b>	Release <b>eight (8)</b> media statements in newspapers to create awareness of the services provided by the CT to the public and stakeholders by end of the year Participate in <b>four (4)</b> radio activities to create awareness and educate the public about services of the Companies Tribunal <i>Release means to publish in newspaper(s) or online media</i> <i>Activities means interviews/advertisement or live reads</i>
<b>3. Purpose/importance</b>	To create awareness and educate the public about services of CT and promote a positive corporate image
<b>4. Source/collection of data</b>	Media statements or advertorial Shared drive Radio clip or advertorial or letter from radio station confirming that the interview or advert took place.
<b>5. Method of calculation</b>	Total number of media statements released/radio activities multiplied by the quarterly or annual target
<b>6. Data limitations</b>	Lack of resources (Human and Capital)
<b>7. Type of indicator</b>	Quantitative – Output
<b>8. Calculation type</b>	Cumulative
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No, continuous from previous year
<b>11. Desired performance</b>	Public awareness, accessibility and stakeholder management
<b>12. Indicator responsibility</b>	Manager Communication and Marketing

<b>Output 8: Stakeholder Engagements</b>	
<b>13. Indicator title</b>	Number of <b>participations in outreaches and/or exhibitions</b>
<b>14. Short definition</b>	Participate in ten <b>(10)</b> outreaches and/or exhibitions
<b>15. Purpose/importance</b>	To create awareness and educate the public about services of CT and promote a positive corporate image
<b>16. Source/collection of data</b>	Meeting reports and/or meeting recordings with attendance registers
<b>17. Method of calculation</b>	Total number of outreaches and/or exhibitions multiplied by the quarterly or annual target
<b>18. Data limitations</b>	Lack of resources (Human and Capital)
<b>19. Type of indicator</b>	Quantitative – Output
<b>20. Calculation type</b>	Cumulative
<b>21. Reporting cycle</b>	Quarterly
<b>22. New indicator</b>	No, continuous from previous year

<b>23. Desired performance</b>	Public awareness, accessibility and stakeholder management
<b>24. Indicator responsibility</b>	Manager Communication and Marketing

<b>Output 9: Research Report (Build a body of knowledge around company law and alternative dispute resolution)</b>	
<b>1. Indicator title</b>	Producing one research report per annum with quarterly milestones and develop or reviewing the code of rules or protocol on adjudication processes per quarter.
<b>2. Short definition</b>	CT should conduct research on various sections, regulations and application of Companies Act, 2008 for the development and progressive sustenance of companies' law jurisprudence (body of knowledge). And to develop or review codes of rules or protocols on adjudication and alternative dispute resolutions.  <i><b>Rules or Protocol</b> means a set of regulation or principles governing the conduct or procedure relating to arbitration, adjudication and alternative dispute resolutions.</i> <i><b>Produced</b> means approved by the Chief Operations Officer for internal use and circulated internally on the shared folder</i>
<b>3. Purpose/importance</b>	To enhance CT approach on delivering on its mandate as a preferred adjudicator and provider of alternative dispute resolutions (ADR).
<b>4. Source/collection of data</b>	Filed research reports and rules of protocol on the institutional shared drive
<b>5. Method of calculation</b>	Total number of approved research reports or reviewed codes or rules or protocols
<b>6. Data limitations</b>	Human error
<b>7. Type of indicator</b>	Quantitative – Output
<b>8. Calculation type</b>	Cumulative
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No
<b>11. Desired performance</b>	To enhance CT's capacity to deliver on its mandate in terms of section 195 of the Companies Act, 2008 in respect of adjudications and alternative dispute resolutions.
<b>12. Indicator responsibility</b>	Legal Advisor

<b>Output 10: Procurement to promote transformation and empowerment of designated groups</b>	
<b>1. Indicator title</b>	Percentage of service providers appointed with between Level 1 and Level 4 B-BBEE accreditation
<b>2. Short definition</b>	Percentage of service providers appointed (between Level 1 and Level 4 B-BBEE accreditation)
<b>3. Purpose/importance</b>	To assist in the promotion of transformation and empowerment of designated groups
<b>4. Source/collection of data</b>	Monthly Procurement Report
<b>5. Method of calculation</b>	Total number of service providers appointed with Level 4 and above B-BBEE accreditation divided by the total number of service providers used multiplied by 100
<b>6. Data limitations</b>	Calculation or input error
<b>7. Type of indicator</b>	Quantitative – Output
<b>8. Calculation type</b>	Cumulative
<b>9. Reporting cycle</b>	Quarterly
<b>10. New indicator</b>	No, continuous from the previous year (joint <b>dtic</b> indicator #5)
<b>11. Desired performance</b>	To assist in promoting a growing an inclusive economy through appointment of service providers with Level 4 and above B-BBEE accreditation
<b>12. Indicator responsibility</b>	Finance and SCM