

THE BOTTOM LINE

Newsletter

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BUSA & SARS Sign MoC

Business Unity South Africa (BUSA) and the South African Revenue Service (SARS) have signed a memorandum of co-operation (MoC) whose aim is, among others, to encourage tax and customs compliance. BUSA President Siphon M Pityana and SARS acting commissioner Mark Kingon put their signatures on the dotted line on Tuesday 30 October 2018 in Pretoria.

In terms of the MoC, the BUSA Board and SARS ought to endeavour to meet at least once a year. In addition, the agreement will enable BUSA and SARS to establish working groups dedicated to tackling specific issues should the need arise.

A signed copy of the MoC has been circulated to Members. The document contains an explanation of the MoC, its rationale and the context in which it was entered into and signed. The agreement aligns well with BUSA's Strategic Objective of realising a progressive tax system that supports inclusive growth. Furthermore, BUSA has been vocal about the need to strengthen the tax authority's capacity against the backdrop of declining tax buoyancy and morality because of a loss of confidence in SARS.

In other tax-related matters and developments, SARS has notified stakeholders that the tax authority will be reconstituting its defunct Large Business Unit. The Unit will be reincarnated in the form of an interim structure in December 2018, while a revived and fully-fledged Unit will be operational in April 2019, according to SARS.

The Unit will primarily focus on large businesses and high net-worth individuals. SARS has undertaken to consult stakeholders and the private sector on how best to go about reconstituting the Large Business Unit, which will have its own head.



THE BUSA TEAM

Labour: Compensation Fund & Labour Laws



Compensation Fund

BUSA has made a written submission on the proposed regulations that will give effect to the Compensation Fund's proposed New Rates Assessment Model. BUSA has registered its concern with the fact that during the Nedlac task team deliberations on the **Compensation for Occupational Injuries and Diseases Amendment (COIDA) Bill**, business had repeatedly asked for the proposed new Assessment Model be tabled at Nedlac before opening the process to public comment. However, the proposed new Assessment Model has not been tabled at the National Economic Development & Labour Council (Nedlac).

In the written submission, the organisation also noted with concern that the Socio-economic Impact Assessment Study (SEIAS) conducted for the proposed new Assessment Model has not been tabled at Nedlac.

The proposed new Assessment Model grouped sectors according to six classes, with sectors sharing the same class paying the same rates. BUSA has questioned how this was arrived at and what methodology was used to arrive at this model. The key issue is that some sectors may be miscategorised. In addition, although the organisation appreciates the Department of Labour's prerogative and rationale in revamping and updating the model, BUSA cautions that the department may not have factored the financial implications of its proposal on employers, its effect on small business, employers' ability to take on more employees given how fee rates are calculated, and whether the Compensation Fund has the capacity to administer the new proposed Assessment Model and ensure compliance with the COIDA Act.

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Labour Laws

President Cyril Ramaphosa has assented to the Labour Laws Bills, which include the National Minimum Wage (NWM) Bill, paving the way for a new framework for labour relations.

The NMW will come into effect on 1 January 2019. BUSA is proud to have been part of this historic agreement, which encompasses the Labour Stability laws that set the framework for picketing rules and regulations through the default picketing rules, the secret strike ballots, the provision for extended dispute resolution prior to strike action and advisory arbitration.

BUSA thanks Members for their continued support in the process, with special mention to those who represented business during the Nedlac negotiations and subsequent agreement.

Compensation Fund & Future of Work in Retail workshops



IN CASE YOU MISSED IT: On Monday November 5, BUSA hosted a Member workshop on the Employment Equity Amendment Bill and the draft Employment Equity Regulations.



IN CASE YOU MISSED IT: On Wednesday November 28, BUSA hosted the presentation of the research results of the study on the Future of Work in the retail sector. The study was a collaboration between the Retail Association and the University of Stellenbosch's Institute for Futures Research.



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STRATEGIC
MEETINGS



Econpol & subcommittees:

Econpol

- The last Econpol committee of 2018 was scheduled for Tuesday 4 December 2018. The major policy development in the period under review is that BUSA made an oral presentation to Parliament on the Electronic Communications Amendment Bill. The full presentation is available on the Member-only section of the BUSA website.

Tax subcommittee

- The tax subcommittee held its last meeting of 2018 on Tuesday 13 November. The schedule for 2019's subcommittee meetings has been sent to Members, as well as meeting invites. BUSA has circulated the draft minutes of the meeting.

During the subcommittee meeting on 13 November 2018, Members were given an update on the work of the Nedlac **Carbon Tax Bill** task team. Matters to note regarding the Carbon Tax Bill task team are: National Treasury's focus on the effect of the carbon tax, and not the entire mitigation system; Promethium did the modelling work, which was not supported by the government, but will be incorporated in the task team's report; and job resilience plans will now be incorporated into the Just Transition to a Lower Carbon Economy component and a Presidential approach will be adopted going forward, as had been agreed at the Jobs Summit.

Members also received a copy of the final Nedlac report on the **Employment Tax Incentive (ETI)**. One of the pivotal Jobs Summit agreements was the expansion of the ETI beyond 2019 for a 10-year period. The current ETI is due to come to an end in February 2019. BUSA supports the continuation of the ETI and views the extended period as a positive step that will go a long way in creating employment opportunities for the youth, the worst-affected group by South Africa's high unemployment rate.

Other matters that arose and were discussed during the subcommittee closing meeting included a Private Member's Bill - dubbed the **Anti-Avoidance of Tax Bill** - a copy of which has been circulated to Members. The Bill has been sponsored by EFF MP Floyd Shivambu. There is a 30 days' period for comments. However, BUSA will not comment on the Bill.

- Taxation Laws Amendment Bill and Tax Administration Amendment Bill:** on Tuesday 20 November 2018, the National Assembly voted overwhelmingly in favour of the Bills, which have been forwarded to the National Council of Provinces (NCOP) for concurrence and thereafter will be sent to the President for final signoff. BUSA's submission on the Bills has been circulated to Members and is available on the Member-only section of the organisation's website. Of relevance, the organisation's submission focused mostly on the Bills' proposals on reviewing the Venture Capital Rules and the approach on Collective Investment Schemes.

Call(s) for input

- BUSA has invited Members to make contributions to Nedlac's 2019-2020 annual performance plan and draft amended strategic plan (2019-2020), the focus being on legislation and policies to be discussed at the institution. Members had until 14 November 2018 to make inputs.
- BUSA invited Members to make inputs on the Draft Appendix on Rules of Origin, with the deadline being set as 26 November 2018.

Ad hoc

- BUSA has shared the results of the latest South African National Survey of Research & Experimental Development.
- BUSA has circulated an invitation to participate in a SARS brand survey.
- BUSA had an engagement with Statistics South Africa on 21 November 2018 about Social Statistics, the Quarterly Labour Force Survey and statistics focused on poverty and inequality. BUSA has shared the relevant presentations with Members.



Trade, transport & logistics subcommittee

- The final subcommittee meeting of the year sat on Tuesday 20 November 2018. BUSA has distributed the meeting schedule for 2019 and sent out invites to Members. Various matters were covered during the meeting, including the process for the **Transport Appeal Tribunal Amendment Bill**, the details of which will be contained in the minutes of the meeting. In addition, the Nedlac customs fraud and illicit imports task team's working document was shared with Members. Below is a summary of some of the key discussion points. Please refer to the document pack BUSA distributed to subcommittee Members for full reports.
- **Draft Nedlac report on the Draft Revised White Paper on National Transport Policy**
 - The report details when the White Paper was published and the Nedlac constituencies' responses to it. The report is a culmination of the work conducted on the White Paper by the transport task team, which looked at the draft policy, considered additional documentation in the form of presentations and other relevant material and information, and thereafter composed the draft Nedlac report capturing areas of agreement, disagreement, and recommendations for submission to all the relevant structures within Nedlac. The report will be forwarded to the Transport Minister and other members of the executive, as well as the relevant parliamentary committees. That is not the end of the road, however, as Nedlac constituents can still make their views heard about the White Paper, including through public consultations and other constructive platforms and mechanisms.
- **Draft Nedlac report on the Draft Roads Policy for South Africa**
 - The report flowed from the work conducted at Nedlac among its constituents. BUSA raised, among others, the maintenance backlog and an integrated funding model. In addition, business addressed the challenges in transporting cargo using rail, citing inefficiencies at Transnet Freight Rail, which had driven the trend of freight increasingly moving to road. Business has also stated that it does not support the proposal to introduce legislation that will force cargo off the roads to rail, citing the present reality of an inefficient system. Further details are contained in the 24-page report, which has been send to subcommittee Members.
- **Technical Sectoral Liaison Committee (Teselico) second quarter 2018 progress report**
 - The 54-page report covers work done by the committee, from discussions among the social partners on devising a common framework for South Africa's position on World Trade Organisation matters, the Southern African Customs Unions (SACU) trade agreement with the US and South Africa's trade relations with the European Union. The document reflects progress made, ongoing issues and discussions, and areas of concern. Members are advised to consult the document, which captures the full range of trade issues in Teselico.
- **African Continental Free Trade Area (AfCFTA)**
 - The Department of Trade & Industry's (Dti's) presentation on the AfCFTA has been circulated to Members, as well as the AfCFTA explainer presented at the stakeholder consultation workshop in Cape Town. The latter explains the AfCFTA's objectives, design and implementation. The African Union Assembly has directed that the AfCFTA agreement must be entered into force in January 2019.



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STRATEGIC
MEETINGS

Energy & Environment subcommittees



Energy

- The portfolio committee on energy has released its report on the Integrated Resource Plan (IRP), based on the public hearings process that the committee had conducted. BUSA made written submissions on the draft energy blueprint both to the Department of Energy (DoE) and Parliament's energy committee. At a glance, the parliamentary committee received 41 written submissions, with 38 requests for oral presentations. The cut and thrust of BUSA's submission and subsequent oral presentation was noted in the stakeholder inputs segment of the document, albeit without mentioning the organisation by name. In addition, the portfolio committee on energy noted stakeholders' concerns about the fact that the DoE had not embarked on a public consultation process on such an important and strategic process.

In its report, the parliamentary committee noted that the latest IRP is silent about the existential crisis facing Eskom, an issue raised by stakeholders who made oral presentations on the proposed energy policy.

BUSA has circulated the report to Members serving on the energy subcommittee, therefore Members are advised to consult the 16-page report to get a full sense of the sentiments expressed therein. Its observations on Eskom are of significance because they capture what BUSA, along with other organisations, has been saying for a while now, that it cannot be business as usual at the power utility.

It's important to note that the parliamentary committee has:

- Chosen to reinforce the National Development Plan
- Reiterated its support for the Paris Agreement
- Supports the inclusion of nuclear in the IRP
- Agreed on the position that the 200MW/year allocation for embedded generation is insufficient and must be relooked in the final plan
- Agreed on the need to conduct SEIAS when decommissioning plants
- Concurred that the demand estimates in the IRP are inflated
- Urged the DoE to expedite the finalisation of the IRP in the current financial year

During a previous meeting of the energy subcommittee, Members had noted concern about the fact that the Integrated Energy Plan and the Gas Utilisation Master Plan (GUMP) remain outstanding, brining into question the draft IRP's pronouncements on gas. In short, Members asked: where is the gas going to come from in the absence of a GUMP?

Eskom

- On Tuesday 27 November 2018, BUSA hosted a consultation with Eskom, when the power utility gave an update on its multi-year price determination (MYPD) 4 and regulatory clearing account (RCA) 5 application. BUSA has circulated a draft comment on the RCA 5 application, and Members had until 23 November 2018 to make inputs. Eskom management also updated BUSA about the timing of the power utility's new build programme.



Energy & Environment subcommittees

Environment

- **Carbon Tax Bill and Climate Change Bill:** the latter will be up for discussion at Nedlac in 2019, while the former was published on November 20. The Department of Environmental Affairs (DEA) has indicated that it will wait until the Carbon Tax Bill is published before making the use of the term “carbon tax” in the Climate Change Bill. BUSA has circulated two notes to Members - one tracking the changes in the Carbon Tax Bill between 2017 and 2018; and the other on the prevailing issues with the Bill, noting the inconsistencies and contradictions contained therein.

Parliament’s standing committee on finance and the portfolio committee on environmental affairs hosted a joint workshop on the Carbon Tax Bill with National Treasury, SARS and the DEA. BUSA has shared the presentation made at the workshop. The 50-page presentation outlines the process that the government has followed in crafting the Bill and where it is in the law-making machinery. In addition to this, BUSA had an engagement with National Treasury about the alignment between the Carbon Tax Bill and carbon budgets on the last day of November.

On 6 and 7 November 2018, the DEA hosted the Extended National Committee on Climate Change Dialogue in Gauteng. The department gave an update on the Status of the negotiations and position for COP 24, an update on the implementation of the National Climate Change Response Policy and an update on the Mitigation Potential Analysis.

On Friday 16 November 2018, BUSA has an engagement with the DEA’s deputy director-general for climate change, air quality and sustainable development. At that meeting, BUSA gave an update about the Greenhouse Gas Inventory 2015 and the third biennial update report, and spoke about, among others, the alignment of the carbon tax with other carbon-reduction instruments, the Low Emissions Development Strategy and the Greenhouse Gas Reporting Guidelines and Technical Guidelines, as well as the Climate Change Bill. For further context, please refer to the agenda and briefing note BUSA shared with Members about the meeting.

On 10 December 2018, BUSA was scheduled to have an engagement with the DEA on Greenhouse Gas Reporting Matters, from 10am to 2pm at the organisation’s offices in Sandton.

Call(s) for nomination(s)

- BUSA has issued a call for nomination on the soon-to-be established Nedlac task team on the Climate Change Bill. Members had until Friday 23 November 2018 to make nominations.

Call(s) for input

- BUSA has shared its preliminary draft submission on Eskom’s RCA 5 application. Members had until 23 November to make inputs. Please note that BUSA is also conducting a technical analysis of Eskom’s application. In addition, the organisation has mapped out the cost implications of the tariff trajectory over the period.
- BUSA has invited Members to comment on the Carbon Tax Offset Regulations. Members had until 30 November to comment and until 5 December 2018 to make inputs on the comment matrix.



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STRATEGIC
MEETINGS

Socpol & SubCET



Socpol

- The last Socpol and SubCET meetings for 2018 took place on 1 November at different times on the same day. BUSA has shared the meeting schedules of 2019 for both, as well as calendar invites. At the Socpol meeting, the committee's work plan for 2019 was adopted - Members are urged to familiarise themselves with the document, which BUSA has shared.

On 2 November 2018, the committee had an engagement at Nedlac about the proposed amalgamation of Sector Education & Training Authorities (SETAs), which BUSA opposes in the absence of proper justification for such a move. Please refer to BUSA's presentation on the National Skills Development Plan (NSDP) for context. BUSA made the presentation during public hearings on the NSDP.

The committee minutes, which have been distributed to Members, capture the full ambit of what had been discussed at the meeting. Please refer to the meetings for context. Other matters worth noting from the committee meeting, include the fact that the Nedlac task team constituted to devise a model for comprehensive social security has resolved to establish a research reference group that will meet often with International Labour Organisation researches. This is to ensure a research-informed approach as the task team goes about fulfilling its mandate. The earliest projections are for a proposed model to be tabled at Nedlac in April 2019.

The work of the Nedlac task team on the **National Health Insurance (NHI) White Paper** is gathering pace, albeit with a few glitches on the way. There is a disconnect between the contents of the White Paper and the NHI Bill and the **Medical Schemes Amendment Bill**. BUSA's NHI working group held several meetings in November to iron out some of the pertinent issues. The group has been working closely with President Cyril Ramaphosa adviser on social policy, Dr Olive Shisana, on the matter. The work is both complex and complicated, and BUSA thanks Members for taking the time to engage with what's on the table.

Please be advised that the **Basic Education Laws Amendment Bill** could be withdrawn from Nedlac because of the Department of Basic Education's unwillingness to provide dates for engagement on the Bill.

Socpol held various workshops during the month under review. On 5 November 2018, Socpol hosted a workshop at the BUSA offices on the **Employment Equity Amendment Bill** and the Employment Equity Regulations. A day later, on 6 November, Socpol hosted Members for a workshop on the Draft Regulations for Hazardous Chemical Agents.

On Friday 23 November 2018, Socpol hosted an engagement with the **Essential Services Committee (ESC)** to discuss the criteria used for services determination, and the implications of the designated services and minimum service agreements in terms of how they relate and impact on the various institutions and workplaces that render essential services.

BUSA has apprised Members about progress made on Bills before Socpol and the **SME Legislative Tracking Tool**. The aim of the tool is to ensure that new laws do not impede on SMEs' ability to thrive and inadvertently introduce barriers to entry into the market.

It is worth noting that Socpol is working on, among others, the Preservation and Development of Agricultural Land Bill, Regulations of Agricultural Landholdings Bill, COIDA, NHI White Paper and NHI Bill.

The committee has been responsible for overseeing BUSA's participation on various international platforms and forums over the period under review, as well as upcoming ones.

Please refer to the Socpol document pack and minutes for further context.



Socpol & SubCET



SubCET

- Matters discussed at the last SubCET meeting of the year included: NSDP engagements, feedback on the ETI, Youth Employment Service (YES) Practice Note and the subcommittee's 2019 work plan.

The subcommittee engages with various statutory bodies and authorities when discharging its mandate, among these are: the National Skills Authority, the Quality Council for Trades & Occupations, the Human Resource Development Council and the National Artisan Development Advisory Board (NADAB). BUSA was scheduled to meet with the NADAB on 20 November 2018.

BUSA reminds Members to provide the names of business representatives on the various SETA boards. Please refer to the meeting document pack for further context and reference.

Ad hoc

- On Thursday 29 November 2018, the GCIS and the Department of Performance, Monitoring & Evaluation (DPME) held a stakeholder consultation on the draft **National Anti-Corruption Strategy (NACS)**. BUSA, the Banking Association South Africa, union representatives, civil society movements and government bureaucrats attended the meeting, which was held in Pretoria. The DPME team leading the process informed stakeholders that the NACS would not seek to introduce new legislation, as the general feeling was that South Africa had enough laws to deal with corruption. The issue, according to the team, was ensuring accountability and identifying a suitable champion and custodian of the NACS within government to ensure its efficacy.

Call(s) for nomination(s)

- BUSA has issued a call for nomination on to the Nedlac task team on the Railway Safety Bill and the Economic Regulation of Transport Bill. The deadline to make nominations was 13 November 2018.
- Voting to nominate a BUSA rep for the International Labour Conference internship course closed on 15 November 2018.
- BUSA has called for nominations to select a candidate who will attend the International Training Centre Workshop. The two-leg training comprises an online course component and a visit to Turin, Italy, in February 2019. The deadline was 19 November 2018.
- BUSA has invited Members to nominate candidates who will serve on the Council on Higher Education. The deadline was 23 November 2018.
- BUSA invited Members to be nominated for the Presidential Commission the 4th Industrial Revolution, the closing date of which was 10 December 2018.

Call(s) for input

- BUSA has asked Members to make inputs on the Employment Equity Amendment Bill and the draft Employment Equity Regulations. The deadline was 16 November 2018.
- BUSA has requested that Members comment on the proposed Compensation Fund Assessment Model. The deadline was 15 November 2018. BUSA has shared with Members the dates of the scheduled public hearings on COIDA.
- BUSA has called on Members to comment on measures to ensure the success of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerances. The deadline to comment was 4 December 2018.
- The draft CCMA Rules have been circulated to Members for input. Deadline was 1 November 2018.

■ THE MONTH AHEAD



EVENTS

- 2-14 December: COP 24
- 4 December: Econpol meeting
- 10 December: International Anti-Corruption Day
- 10 December: BUSA/DEA meeting on Greenhouse Gas Reporting Matters

■ The End!

■ CONTACTS

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