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SUBJECT: SUBMISSION ON THE NEDLAC AMENDMENT ACT OF 2025

On the 7th November 2025, the Minister of Employment and Labour issued a Government Notice in Government releasing the NEDLAC Amendment Act of 2025 and inviting the public to make written submissions by the 28 November 2025.

Please find attached the CWAO's written submission on the NEDLAC Amendment Act of 2025.

Regards

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Political Statement on the new NEDLAC Amendment Act, 2025

On 7 November 2025 the Minister of Employment and Labour issued a new NEDLAC bill to replace the NEDLAC Act of 1994, with a call for public comment by 28 November. Strangely, the new NEDLAC bill explicitly re-affirms the continued existence of NEDLAC. The last time anyone called for the scrapping of NEDLAC was the Campaign to Scrap the Labour Law Amendment Bills earlier this year. It would be grand if this new NEDLAC Act was a direct response to the Campaign's call for NEDLAC's disbandment. It is probably not.

This then begs the question why, at this juncture, NEDLAC wants to re-affirm its existence and relevance. Unfortunately, there is no accompanying explanatory memorandum to give some insight into why a new Act is necessary. However, the proposed amendments to the existing Act and the present context in which they are being developed give us a good enough sense of the rationale behind this new NEDLAC Act.

The proposed amendments

Besides the re-affirmation of the continued existence of NEDLAC, the new bill elaborates on two critical issues, namely, the functions of NEDLAC and the criteria for the admission of parties to NEDLAC. There are other minor amendments like the changing of the name of the NEDLAC Summit to that of the NEDLAC Lekgotla but we will focus on the two key areas.

In addition to the promotion of economic growth and social equity, the existing Act says NEDLAC must promote "*participation in economic decision-making*". The bill deletes this promotion of "*participation in economic decision-making*". Maybe the labour movement, especially COSATU, considers this goal no longer necessary because it has been achieved or COSATU has reconciled itself to the fact that capital is the master of the economy and there is no need to interfere with its decision-making. It is probably the latter because capital's mastery and control of the economy have not been shaken over the past 30 years, in no small part due to Cosatu's own role in facilitating capital's dominance.

This question of "*participation in economic decision-making*" has an important history in the labour movement. A historical detour is thus necessary here. At the time of its formation in 1994/5, NEDLAC was seen as part of the democratic institutional conquests of the anti-apartheid struggle. NEDLAC has its roots in its predecessor, the National Economic Forum (NEF). The NEF in turn was a product of the struggle against the introduction of a Value Added Tax (VAT) by the Apartheid regime. The mass movement launched a mass campaign against it, including a general strike on the 4th and 5th November 1991. The mass campaign was also against the unilateral restructuring of the economy by the Apartheid regime and capital. Part

of the demands of the Anti-VAT campaign was the call for the establishment of a National Economic Forum. For COSATU at the time, the restructuring of the economy could not be done unilaterally but had instead to be the subject of negotiations between labour, capital and the state. And the NEF was born. The NEDLAC Act of 1994 was the legislative enactment of the NEF.

During the time of the NEF and the formation of NEDLAC there were huge debates in COSATU about what was meant by "*participation in economic decision-making"* and the form such participation should take. Should it be to manage the contradictions of capitalism, known as co-determination, or should it be workers control that would open the path to the construction of a socialist society? In the end, the co-determinist perspective won out. COSATU has been attempting this co-determinist strategy since NEDLAC's formation in 1994.

Unsurprisingly, the current jettison of this goal of promoting "*participation in economic decision making"* is not accompanied by any balance of sheet of the co-determination strategy by COSATU. This unceremonious jettison of a key pillar of its economic strategy is completely in conformity with the present role of COSATU – it is simply a tool of capital.

The new NEDLAC bill states that, before issuing any labour market policy, the Minister of Employment and Labour must ensure that NEDLAC first considers it. In the existing Act, NEDLAC has the power to consider any labour market *legislation* before it is introduced in parliament. With the proposed new NEDLAC Act, this jurisdiction is extended to *any labour market policy* of the Minister. This means that the Minister cannot formulate and issue labour market policy unless it has first been considered by NEDLAC.

The proposed new NEDLAC Act states that any Minister or committee of parliament dealing with socio-economic legislation or policy must take into account any NEDLAC report – presumably also its recommendations – in its deliberations on such legislation or policy.

The amendment envisages a much more active and interventionist role for NEDLAC in legislation and policy formulations. It strengthens the obligation on the part of Ministers and committees of parliament to take NEDLAC's submission into account when developing legislation and policy.

NEDLAC should be scrapped, not strengthened

Despite the existence of NEDLAC and Cosatu's co-determinist policy, the South African state has implemented an anti-working class, neo-liberal macro-economic strategy. The result is that today working class communities are devastated. Mass unemployment, poverty and hunger are the daily reality of black working class communities. The unemployment rate is 42,1%; 18,2 million people live below the upper bound poverty line, 5,6 million are faced with food inequality. Capital has managed to effect a huge social re-engineering of the working class where there now

is a diminishing core of permanent workers and an ever-rising ocean of casualized, precarious and insecure layers of workers located in low-paying jobs.

Under NEDLAC's watch, we have seen the increased concentration and centralization of wealth in the hands a small minority. In November 2021, the Competition Commission released a research report which tracked the level of concentration in the South African economy. Its research found that in the 145 sectors looked at, concentration levels have increased. In these sectors there are one or two dominating firms, controlling production, employment and prices.

Social Dialogue

Despite this situation, COSATU has persisted with its participation in NEDLAC and its fictious process of social dialogue. In all its pronouncements on NEDLAC COSATU has time and again re-affirmed its commitment to social dialogue as a way of bringing about social change. Let us unpack this notion of social dialogue.

Social dialogue refers to the way in which different social classes in society interact and maintain their relationships. It involves social, economic, and political aspects. Historically, social dialogue has changed depending on the level of struggles between the social classes.

Social dialogue started in Europe after World War II, in 1945. For over thirty years, relations were relatively stable between different social classes, especially the working class and the capitalist class. It was a golden age of stability and prosperity, where the economy of the major capitalist countries was growing, and everyone seemed to be doing well. This golden age of stability and prosperity was founded on a particular balance of power between the working class and capital. The working class in Europe emerged out the WW II politically strong while the capitalists remained strong economically. Neither could defeat each other, and this balance of power laid the basis for the social equilibrium that allowed the working class to secure social reforms in the years following the war.

Social dialogue was expressed in parliamentary democracy and basic freedoms, full employment and strong welfare states. These welfare states aimed to provide universal public services, with a social wage that benefited the working class in particular. In this way the potential conflict between the social classes was avoided.

In South Africa today we have a parliamentary democracy, basic freedoms and a plethora of institutions of social dialogue. But all these institutions of social dialogue have been hollowed out – they are purveyors of neo-liberalism. South African social dialogue is based on neo-liberalism that benefits only the capitalist class, instead of social welfarism from which the working class gains. What COSATU never understood was that GEAR – the neo-liberal macro-economic programme of the ANC government – was not only an economic programme but also the political programme of monopoly capital. The intention of neo-liberalism is to re-organise the balance of power between labour and capital. It was meant to weaken the political

and organization power of the trade union movement and to re-organise the role of the state away from welfarism.

The South African working class entered the post-apartheid period relatively strong and militant, with high expectations of social change. It was with this expectation of social change that the working class viewed NEDLAC, as part of its democratic conquest, and therefore accepted participation in it. However, it was precisely this power and expectation of the working class that had to be broken. And it was broken.

After 30 years of NEDLAC we have a strong capitalist class with a very weak and fragmented working class. COSATU, through its pursuance of social dialogue and uncritical participation in NEDLAC, facilitated the weakening of the working class and provided political and ideological legitimacy for the programme of monopoly capital.

NEDLAC: elitist, undemocratic and unaccountable

Recently, NEDLAC engaged in secret negotiations to introduce a series of labour law amendments that represents a major attack on workers' rights. These negotiations commenced in April 2022 and concluded in October 2024, during which a total of 28 meetings were held. Notably, the negotiations at NEDLAC excluded union members, shop stewards, and union officials. Instead, a small task team comprising representatives from NEDLAC constituencies, technocrats, and lawyers was established to facilitate the negotiation of these changes. Essentially, the trade union bureaucracies, technocrats, and lawyers determined what was best for the majority of workers.

Not only were the membership constituencies of the labour movement excluded from the process of NEDLAC negotiations, but also the rest of the working class. The labour movement itself represents only 23% of the workforce. Many workers are now organising outside these established federations and belong to various forms of worker organisations. Notably, many of these new worker organisations are organising the newer layers of workers, such as labour brokers, seasonal workers, and short-term contract workers. Yet, none of these formations or sections of the workforce were involved in the negotiations.

The negotiations and outcomes are but one example of the highly bureaucratized processes of NEDLAC. Over the years the processes of NEDLAC have become far removed from the mass membership of the labour movement. More often than not union members are not even aware of what is being deliberated upon in NEDLAC. In fact, they do not even know what NEDLAC stands for – let alone what issues are being dealt with. This is a far cry from the time when union membership considered NEDLAC one of its democratic conquests where they would be part of the process of law-making and the shaping of the labour market.

If this is NEDLAC's record why now re-assert its relevance?

The need for a manufactured consent

Both COSATU and capital are uncertain about the future political configuration of the country because of the electoral decline of the ANC. The link-up between the ANC and the DA in the form of the Government of National Unity (GNU) has posed a significant challenge to COSATU. It is also anticipated that the ANC will experience even further electoral decline in future. This creates uncertainty for COSATU as to the future make-up of the legislature and the executive. There is a real danger that it could be irrelevant to capital. The re-affirmation of NEDLAC and its role in law-making and government policy formulation would therefore ensure that COSATU maintains its relevance in the body politic and to capitalist rule. NEDLAC is important for COSATU's existence and relevance, largely because COSATU no longer rests on a militant, organized based within workplaces. Instead, the federation now rests entirely on its participation in various institutions of the ruling class.

Though capital has welcomed the link-up of the GNU it is very much aware that the GNU lacks legitimacy and widespread political support. The uncertainty about the ANC's electoral fortunes has presented capital with a crisis of representation. It is imperative to establish and maintain legitimacy for its rule. And NEDLAC plays a critical role in bringing about this legitimacy. To ensure that NEDLAC continues to manufacture legitimacy the proposed new NEDLAC Act is tightening the composition of the parties to NEDLAC. The membership levels of federations of unions and business organisations will now periodically be reviewed to affirm that they are still in good standing.

Representation from the community constituency is being overhauled. Currently in NEDLAC's constitution the community constituency must represent a significant community interest on a national basis. The new NEDLAC Act states that the community constituency must now be represented by a federation of non-governmental organisations. This federation of non-governmental organisations must be the most representative federation of non-governmental organisations in the country and must represent civil society interests relating to socio-economic issues.

Additionally, a federation of non-governmental organisations may only be admitted or removed by the Minister in the Presidency on the recommendation of the executive of NEDLAC. This is different from the existing arrangement where the Minister, in consultation with the executive of NEDLAC, identifies community organisations. With the new NEDLAC Act the Minister must admit or remove civil society on the recommendation of the NEDLAC executive.

This overhauling of community representation ensures that capital can determine who from civil society is part of the processes of NEDLAC and therefore generate a broader base of legitimacy for its interests.

It should be said that, whilst NEDLAC is critical for the continued existence and relevance of COSATU, it not the same for capital. At times capital attempted to circumvent NEDLAC. Having learned from the mass struggle against the first edition of the new Labour Relation Act (LRA) in 1995 and the difficulties the COSATU leadership had in convincing the membership of the compromises struck, capital in the next round of amendments in 2000 tried to circumvent NEDLAC. Parallel to NEDLAC, the Millenium Labour Council (MLC) was established in 2000 to break the NEDLAC deadlock over changes to the LRA over greater labour flexibility. The MLC was an elite and unaccountable structure.

While NEDLAC is still important for capital's legitimacy project, capital has been shaping and influencing state policy in other ways. One such way is Operation Vulindlela. The latter is a forum consisting of business, the national treasury and the Presidency. Over the past two years Operation Vulindlela fast-tracked the privatization of ESKOM and Transnet. It is now turning its focus towards the privatization of the functions of local government. In fact, there are many other crisis committees in which capital is setting the agenda for the state which is another form of state capture.

Capital displays a much more strategic flexibility in how it relates to institutions of social dialogue. Its attitude towards such institutions is contingent on whether there is space to further its interests. COSATU never displayed the same level of strategic flexibility but rather considered participation in such institutions as a given and everlasting. COSATU has not even engaged its membership as to how they perceive NEDLAC after 30 years. There is no balance sheet of its participation in NEDLAC.

In conclusion, NEDLAC is nothing but a mere prop of capitalist rule. COSATU's role in NEDLAC is to provide the political and ideological legitimacy for this rule. As part of the struggle for real freedom and democracy the working class has to agitate and struggle for the closure of NEDLAC. It is in this struggle that new processes and institutions of democratic control will emerge that advance the interests of the working class. The nature and form of these processes and institutions will be determined by the class struggle and the balance of power.

Submitted by the CASUAL WORKERS ADVICE OFFICE (CWAO)