



Numsa Special National Congress

December 2013

Discussion Document 6

The Section 77 Socio Economic Protest Campaign

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1. Numsa 9th Congress

1.1 Socio-economic conditions

- The Congress heard about the conditions of the working class and the poor:
 - 44% of workers in South Africa live on less than R10 a day.
 - Most of the unemployed rely on support from the employed.....who survive on less than R10 a day.
 - Almost 25% of South African households have inadequate access to food; this figure was 20% in 2009.
 - The bottom 50% of the South African population lives on 8% of national income, and the top 50% lives on 92% of national income
 - The average earnings of a white worker are R19,000 per month, while the average black worker earns R2,400 per month
 - Unemployment is up from 21.8% in 2008 to 25% in the first quarter of 2012

1.2 The government's current economic strategy

- The Congress concluded that these statistics of post 1994 South Africa clearly confirm the most obvious fact: the NDR is not on course and the Liberation Movement in general and the ANC in particular are in grave danger.
- The Congress heard that the current, neo-liberal economic framework of the government is:
 - Pro-corporate
 - Capital-intensive
 - Import-reliant
 - Extractive-oriented
 - Vulnerable to volatile world markets.
- The Congress heard that the agenda that is being championed is the agenda of the Washington consensus by the Bretton Woods's institutions of the IMF and the World Bank. Arrogantly, in the interests of finance capital, they told us that government doesn't have business in business.
- It is this agenda which takes away all production and services from the State and forces the State to ask private capital to tender to do the work instead. There are no more public works departments. Instead, we must have Murray and Roberts fixing the roads and building the public housing. They say this is more efficient. What they mean is that it is another opportunity to make profit and to pay workers less.

1.3 Numsa's alternative

- The Congress called for the full implementation of the Freedom Charter
- The Secretariat Report, adopted by Congress, called for the government to:
 - Lower interest rates
 - Drop inflation targeting
 - Intervene to deal with over-valued currency
 - Bring back capital controls
 - Increase tariffs to protect industries
 - Set up a State Bank to give credit to manufacturers and cooperatives
 - Introduce price controls and subsidies on basic needs
- On beneficiation it said that:
 - The state must seize controlling stakes in the strategic segments of the strategic value-chains
 - Implement dual pricing – one price for SA and another for the rest of the world
 - Use the power we have because of dominance of SA mineral reserves

- Numsa's 9th Congress resolved that the union must intensify the living wage campaign against rising electricity tariffs and other socio-economic matters through section 77 notices.

2. Numsa National Bargaining Conference

The National Bargaining Conference made a clear analysis and set down an agenda for the Section 77 Campaign.

2.1. The Freedom Charter and the Triple Crisis

- There is a national crisis, caused by the failure to implement the Freedom Charter, and in particular ownership and control of our national wealth.
- Largely as a result of this failure, we have failed as a country to prioritise the building of a manufacturing sector, which is the only way to create the jobs we need.
- This is a national crisis requiring a state of economic and social emergency; we believe that the State must intervene decisively to transform the foundations of the economy by implementing the Freedom Charter.
- The triple crisis cannot be solved only by reforms, however many and good they may be. It can only be solved by fundamentally restructuring this economy, deformed by Colonialism of a Special Type. This is why we talk of white monopoly capital and imperialism and the need to destroy both.
- We therefore put forward a programme of socio-economic change as part of the overall package that includes our collective bargaining demands. We understand that our members have high expectations for transformation in their workplaces and in their lives; these expectations must be met by winning our socio-economic demands, as well as through collective bargaining with employers.

2.2. Nationalisation

- It is impossible to achieve the necessary restructuring of SA capitalism, or to restore the dignity of the majority, without taking into the hands of the people the mines and the banks which dominate the economy.
- As democratic forces, we took state power in 1994 in order to take ownership and control of the national wealth of the country in the interests of all the people of SA, black and white, as demanded by the Freedom Charter.
- This requires nationalisation, under workers' control, of all major means of production: banks, mines, telecommunications, land, food and food chains, steel, petrochemicals etc.

2.3. The Role of the State

- The NBC resolved that the State must play a prominent role in the economy.
- We must build a State Construction Company to construct infrastructure, housing, hospitals, schools, roads etc., a State pharmaceuticals company to manufacture cheap generic medicines, a State-owned steel company, through the nationalisation of Arcelor-Mittal and a State Bank.
- In addition, the NBC called for the State to purchase only locally produced goods and services where these are available; where they are not available, the State must build the capacity to make them available

2.4. Beneficiation

- Profits from mineral extraction must be used to finance downstream processing and manufacturing.
- We must implement dual pricing of minerals – a cheap price for South African processing and a higher one for the rest of the world.

- We must impose an export tax on all mineral exports. We must use the power that we get from the dominance of our mineral reserves to help both processing and manufacturing industry to grow.
- We must prioritise the building of infrastructure to assist processing and manufacturing, not to facilitate extraction and export.

2.5. Section 77

- We are campaigning, through Section 77, for government to change its economic policy in the direction of our principles, which are the principles of the Freedom Charter.
- A Section 77 Notice has been submitted to Nedlac to take forward the programme of action. Cosatu has agreed to mobilise for the s77 demands through plant general meetings.
- Numsa will use collective bargaining to mobilise for s77, as well as to listen to our members through our 'ear to the ground' campaign

3. Cosatu

3.1. Congress Demands

- At the Cosatu congress in 2012, it was agreed that the core of the second phase of the transition of our NDR must be a fundamental economic shift, to transform the structure of our economy and address the triple crisis of poverty, unemployment and inequality. The congress resolved to embark on a programme of action to drive this radical economic shift in line with the Freedom charter. Key demands contained in the adopted declaration included:
 - Decisive state intervention in strategic sectors of the economy, including through strategic nationalisation and state ownership, and the use of a variety of macro-economic and other levers at the states disposal, which can be deployed to regulate and channel investment, production, consumption and trade to deliberately drive industrialisation, sustainable development, decent employment creation, and regional development, and to break historical patterns of colonial exploitation and dependence.
 - Radically overhaul our macro-economic policy in line with the radical economic shift which we all agree needs to happen.
 - Re-align the Treasury, which constitutes the biggest obstacle to the government's economic programme
 - Nationalise the Reserve Bank and give it a new mandate
 - Realign the New Growth Path so that it is in line with the proposed new macro-economic framework.
 - Give a new mandate to all state owned enterprises and state development finance institutions.
 - Reverse the current investment strike and export of South African capital.
 - Introduce urgently comprehensive social security.

3.2. Section 77

- The COSATU Congress resolved to lodge a Section 77 notice and mandated the Cosatu CEC to elaborate this around demands for a radical economic policy shift including:
 - On the role of Treasury, monetary policy and the Reserve Bank;
 - State intervention in strategic sectors including through nationalisation;
 - Measures to ensure beneficiation, such as taxes of mineral exports;
 - Channelling of retirement funds into productive investment;
 - Comprehensive land reform, and measure to ensure food security; and
 - The more effective deployment of all state levers to advance industrialisation and the creation of decent work on a large scale.

4. What is Section 77 and how does it work?

4.1. Section 77 procedure

- Section 77 of the Labour Relations Act, gives workers the right to take part in protest action to promote or defend their socio-economic interests. The Act gives Nedlac the task of bringing the parties to a Section 77 notice together to attempt to resolve the reasons for the contemplated protest action.
- Nedlac has a Section 77 Standing Committee to consider notices that are submitted to it by workers through their unions or federation.
- If the section 77 notice complies with the Act, it is tabled this to the Committee and all relevant parties are notified.
- The Committee can continue to discuss the notice indefinitely, until one of the parties asks for a panellist to facilitate discussions. Once a panellist becomes involved then the discussions should be concluded within a maximum of 60 days, and a report produced 5 days later.
- At this point the union can serve a notice on NEDLAC of its intention to take action. The responding party can dispute the validity of the notice, delaying the action.

4.2. Section 77 Strategy and tactics

- If issues are tabled that are not clear or that involve too many Respondents the matter can get bogged down for months. For example, COSATU filed its S77 notice on socio-economic issues in December 2012 and it has hardly moved. This is because its scope is very broad and involves many ministers and departments, all of whom have to be got into one room at one time! There are also so many issues covered that all require a different approach that it is unlikely to move.
- It is obviously quicker if an issue contained in a Section 77 notice is already under discussion at Nedlac. If it is not being discussed at Nedlac then it has to be tabled, which can then result in the long delays that can run into years. For example the Section 77 notice submitted by Cosatu, Nactu and Fedusa in April 2010 on the issue of electricity tariffs is still under consideration.
- NUMSA has chosen its issues well in the hope of reducing the delay in being able to organise action.

5. What has happened since the Congresses?

5.1. Cosatu

- The Cosatu Special CEC in October 2012 agreed that COSATU will elaborate on the demands Congress formulated. A meeting of all affiliates policy personnel will be convened to take on board affiliates' sectoral issues and these will be integrated into the following core demands for our overarching campaign, as well as for the Section 77 notice:
 1. Decisive state intervention in strategic sectors of the economy, including through strategic nationalisation and state ownership, and the use of a variety of macro-economic and other levers at the states disposal, which can be deployed to regulate and channel investment, production, consumption and trade to deliberately drive industrialisation, sustainable development, decent employment creation, regional development, and to break historical patterns of colonial exploitation and dependence.
 2. The urgent need to radically overhaul our macro-economic policy in line with the radical economic shift, which we all agree needs to happen. To this end we will engage with our alliance partners in the run-up to the ANC Mangaung conference on the macro-economic policy review.
 3. The radical economic shift requires that the Treasury, which institutionally constitutes the biggest obstacle to the government's economic programme, be urgently realigned. A new mandate needs to be given to the Reserve Bank (SARB), which must be

nationalised. The National Planning Commission (NPC) must be given a renewed mandate, to realign the National Development Plan with the proposed radical economic shift. Aspects of the New Growth Path also need to be realigned with the proposed new macro-economic framework. All state owned enterprises and state development finance institutions need to be given a new mandate.

4. There must be legislative changes to curtail monopoly capital, and to strengthen and broaden the power of competition authorities.
 5. Urgent steps must be taken to reverse the current investment strike and export of South African capital. There is currently R1, 2 trillion lying idle in social surplus, which employers are refusing to invest. These measures need to include capital controls and measures aimed at prescribed investment, and penalising speculation.
 6. The urgent introduction of comprehensive social security.”
- Numsa gave input indicating that there were too many demands. At a meeting, attended only by Numsa, Nehawu, CWU and SAMA, Cosatu acknowledged that this was true and that we would be held up in endless processes in Nedlac.
 - Numsa proposed a strategy of submitting several section 77 notices in a phased approach and that the first section 77 should have demands that fall in the ambit of the Trade and Industry Chamber, where there are a number of issues on the brink of deadlock.
 - Numsa also made comments on the demands in the draft section 77 document and proposed additional demands for consideration.
 - At the CEC after this meeting the phased and focussed approach was rejected.
 - In December 2012, Cosatu submitted a Section 77 notice that lists the 14 government departments as respondents as well as the Chamber of Mines and Business Unity South Africa.
 - A meeting of the Cosatu socio-economic/engineering the Lula moment commission in October 2013 there was at last an acceptance that the application is going nowhere and that a phased approach is required.

5.2. Numsa Section 77 Demands

- The Numsa Section 77 Task Team identified macroeconomic and industrial issues based on an assessment of areas that are already in dispute at NEDLAC. Some of the issues have been in deadlock at NEDLAC for a long period of time already and delays in their resolution have a direct impact on industrialisation, growth and job creation.
- The NEC adopted possible S77 demands to be taken to Nedlac by Numsa; these were based on the call for full implementation of the Freedom Charter, which includes:
 1. Ownership of the Means of Production
 - Re-nationalise Sasol and Arcelor Mittal (AMSA)
 - De-commercialise ESKOM and Telkom
 - Nationalise the mines.
 - No privatisation of rail or other SOEs
 2. Control of industry to include, among other things, beneficiation of chrome ore, manganese, platinum and all other strategic minerals, and impose an export tax on raw minerals.
 3. Ban on the exportation of scrap metals and rebuild our foundries
 4. Demand for the nationalisation of the Reserve Bank and Return of capital controls and ending inflation targeting
 5. Ban on labour broking and an end to labour deregulation (including wage subsidies) and the national minimum wage
 6. Ban import parity pricing
 7. Export tax on all strategic minerals (check with SACTWU what are their issues)
 8. Increase on tariffs to deal with dumping

9. Progressive taxation
10. Setting of a target for reduction of low wage employment

- The NEC adopted the following approach to the S77 demands:
 - a) We should target the 2nd of September 2013 for our action BUT we must be flexible on the date given the long drawn out discussions in Nedlac.
 - b) Demand 4 and 9 should be combined given that it relate to National Treasury.
 - c) The demands are too long and must be trimmed down so that we may proceed to action at the earliest available time.
 - d) Do not necessarily repeat the Cosatu demands.
 - e) Add redistribution of land
- The NEC agreed that the GS and the task team working on the Numsa S77 submission must reconvene to look at the NEC discussions above and conclude the number of demands and how to process it.

5.3. Update on Wage Subsidy

- New legislation has been introduced to parliament. It aims to give subsidies to employers who employ:
 - Workers between the ages of 19 and 29
 - Workers of any age in industries designated entirely at the discretion of the Minister of Finance.
 - Workers of any age employed in special economic zones designated by the Minister of Finance.
- This is the youth wage subsidy by another name, and even worse. It will:
 - Drive the wages of all other workers downwards
 - Destroy employment in some areas as employers relocate to take advantage of incentives in special economic zones
 - Displace older or unsubsidised workers,
 - Create a multi-tiered labour market for wages, benefits and overall employment condition
 - Fail to create jobs, as World Bank research has shown
- None of the subsidies are tied to skills development or training
- None of these proposals have been subject to previous consultation, publicly or through NEDLAC.

5.4. Update on SASOL

- In the mid 1990s SASOL supplied the domestic market with propylene at prices which were about 36% cheaper than the price of imported propylene.
- Sasol changed to import parity pricing, so that South African industry had to pay an additional 36% and also lose its comparative advantage
- Sasol is making extra profit because it is charging export prices; there are transport costs for real exports which don't exist for domestic supply.
- South Africa's plastics industry has under-performed, despite the fact that Sasol is producing propylene at a low cost; Sasol's pricing structure is preventing this industry from growing; there is potential for substantial employment in this industry

5.5. Numsa's Strategy

- Shortly after the NEC, the Numsa Section 77 Committee met to assess the demands and to map a way forward to determine the necessary research. The members of the committee suggested that the NOBs adopt a phased approach to the Section 77 notices to achieve a rolling programme of mass action with notices served to Nedlac more or less on a quarterly basis.
- This approach would make the process on consideration of the notices smoother at Nedlac as the number of respondents to each notice would be reduced. It also would allow Numsa to focus on demands that are relevant to members in a prioritised manner. The Committee noted;
- "Campaigning is just as much about educating our members as it is about winning (or not winning) the actual demand. If we reduced the section 77 issues into bite size chunks then our members are more likely to understand and own the issue that we are campaigning on. It is also important that we make demands that we can mobilise our members around".
- We propose to pursue Section 77 through Cosatu but also as Numsa:
 - **Through Cosatu:** the two burning issues today are the youth wage subsidy and the e-tolls. It seems that National Treasury is determined to go ahead with a subsidy, as we have seen in 5.3 above. The President has signed into law e-tolls. These must be key issues for our first Section 77 action. We must use the Numsa Special Congress to launch this campaign and build it towards the Cosatu Special Congress.
 - **As Numsa:** Numsa's Section 77 Committee has suggested that we must adopt a phased approach - six phases of the campaign with each notice served about three months apart.

5.6. Phase 1 (approx. Aug-October 2013)

Beneficiation of chrome and all other strategic minerals, a ban on the export of scrap metals and rebuilding of foundries, import parity pricing and an export tax on all strategic minerals.

- The Committee is currently working on preparing this notice for submission to Nedlac.
 - There is already relevant research that has been done that would support the notice.
 - Dialogue on these matters is also sufficiently progressed but the issue remains unresolved at Nedlac and with relevant government departments.
- A general export tax is needed on key strategic minerals and raw materials for processing and beneficiation purposes, in order to drive a broad based industrialisation agenda where our raw materials are processed internally as a job creation strategy. This must include chrome, of which we have the biggest global reserves and platinum of which we are the largest global producer.
- Export tax on scrap metal in particular is needed as insecurity of supply of scrap, together with rising electricity prices, is closing down foundries, resulting in deindustrialisation and job losses.
- The general export tax as an industrial policy instrument must be located in the lead department that is entrusted to drive South Africa's broad based industrialising agenda which is the Department of Trade and Industry.
- Import parity pricing is a practice adopted by firms of linking the selling price of their products with, or fixing them at, the same level as the import price of that product. Import parity pricing undermines beneficiation and also fabrication (i.e. the last phase of production in the value chain) of raw material. It raises the barriers to entry for the small and medium enterprises (SMME), and co-operatives, thus stifling the growth of the sector. Also the

suppliers of raw material provide export rebates to exporters of downstream metal products. However, these discounts do not apply to other downstream producers. Lack of such support, for example, has constrained the growth of an intermediate component industry.

- Import parity pricing, which companies use to charge the same price as it would cost to import the product, must be removed as it drives up the costs of locally produced goods. Numsa has several alternative proposals to import parity pricing
 - Prices should be adjusted down to a level suitable for the local market.
 - Primary and processing producers must increase their discounts and cash rebates
 - Primary and processing producers must increase their cash rebates officially;
- If import parity pricing is not removed, a windfall tax should be instituted, where companies are taxed 90% of their profits. The revenue generated should be used to aid the companies that are negatively affected by the import parity pricing.

5.7. Phase 2 (approx. Feb – April 2014)

An increase in import tariffs on certain goods to the bound rate

- A tariff is a type of tax on imports. The bound rate is the maximum rate of tariff allowed by World Trade Organization (WTO) to any member state for imports from another member state.
- Most countries apply a tariff far lower, known as the applied tariff. There are different tariffs for different products.
- The campaign would include members helping to identify which goods should have their tariffs raised to the bound rate.
- Once these have been identified, Numsa could then make an application to ITAC if required in preparation for the application.

5.8. Phase 3 (approx. May – July 2014)

Nationalisation of the Reserve Bank, exchange controls and an end to inflation targeting

- The purpose of this section 77 is to achieve changes in macroeconomic strategy with the aim of using economic levers to deliberately drive industrialisation, champion sustainable development, promote decent employment creation and regional development, and break historical patterns of colonial exploitation and dependence.
- In the notice, Numsa will demand the nationalisation of the Reserve Bank and use it to target employment creation not inflation:
 - The South African Reserve Bank is one of only nine central banks in the world to have private shareholders, so this is not an imperative even in the most capitalist of economies.
 - We reject that a small selection of wealthy elites have the privilege of holding shares in the Reserve Bank. We cannot accept the risk that these shareholders may influence policy decisions at SARB in favour of the elite.
 - A nationalised central bank removes the threat of private capital influencing its decisions. It would answer to the people of South Africa, not just a few private shareholders.
- Numsa will call on the Reserve Bank and Treasury to abandon the rigid inflation targeting monetary policy framework that has proved that it cannot support sustainable growth and employment and is keeping interest rates high and curbing productive growth and employment creation in the country.
- Numsa will also demand that capital controls are re-imposed to prevent currently unsustainable outflows that are mainly responsible for the huge current account deficit.

5.9. Phase 4 (approx. Aug – Oct 2014)

De-commercialisation of state owned enterprises and the re-nationalisation of SASOL and AcellorMital South Africa

- This section 77 notice will demand an end to any privatisation of Eskom, Telkom, Transnet, Sanral and railway lines as envisaged in the NDP in the name of public-private partnerships.
 - Sometimes we hear it called ‘concessioning’ or ‘unbundling’, but it is just privatisation by other names.
 - Public-private partnerships simply amount to the creation of public debt for private profit at the cost of a transformative developmental state.
- Numsa will also demand the renationalisation of SASOL and AcellorMital South Africa. We have seen how the country is held hostage by the profit motive, creating vulnerability in the economy and preventing security of supply of key materials needed for industrialisation.

5.10. Phase 5 (approx. Feb – April 2015)

Labour market issues and low wage employment including the minimum wage

- The section 77 notice will continue to call for a ban on labour brokers as they prevent thousands of workers from securing decent jobs.
- It will also demand that a national minimum wage is legislated.
- There are a number of other labour market issues that can be covered including attempts to increase labour flexibility through the manipulation of policies supposedly to address the issue of youth employment.

5.11. Phase 6 (approx. May – July 2015)

Nationalisation of the mines

- This section 77 notice will relate to Numsa’s vision of a democratically planned, socialist economy, with social ownership that includes nationalisation of the commanding heights of the economy as a key principle. This is Nationalisation for Socialisation to ensure that nationalisation benefits the working class and the poor and redistributes wealth and benefits to the majority of South African citizens who are previously disadvantaged. It must not only benefit a few individuals. By nationalising the mines we are able to use our mineral wealth to develop our economic power.

5.12. Land issues

- The inclusion of land issues was requested by the NEC but is not included in the phases. This is because the Committee felt there was insufficient coverage of these issues at Nedlac, limiting the possibilities of being granted a section 77.
- Nedlac is still waiting for the Land Reform Bill. While there were many issues identified in discussions on the Expropriation Bill and the Restitution Bill at Nedlac, none of these issues are appropriate to be covered with a Section 77 notice.
- However, we will need to consider more carefully a section 77 on land before a final recommendation is made on the matter and taken back to the NEC.

6. Between now and Numsa's Special Congress

- It is intended that by the time the Special Congress convenes, Numsa's first S77 notice will be in process.
- By focussing and phasing the approach, Numsa is choosing its battles and its battleground. It is hoped that by the Special Congress, Numsa will be in a position to choose the date on which to take action on the first demands.
- Updates on progress will be provided to all structures between now and the Special Congress
- In the meantime, Regions and Locals should raise awareness of the Section 77 Campaign amongst members so that the union is ready to make its Section 77 Campaign a success.

7. Questions

- What can Regions and Locals do now to build our first Section 77 campaign around wage subsidy and e-tolls?
- What can Numsa Regions and Locals do to raise awareness of our Section 77 Campaign amongst members so that the union is ready to make its Section 77 Campaign a success.
- How can Numsa Regions and Locals encourage other Cosatu affiliates to support our Section 77 action?
- What demands can we raise in our Section 77 notices that will cover other Cosatu affiliates and encourage them to support the Section 77 action?