

# Special Declaration of the 12th COSATU National Congress on the National Minimum Wage and the crisis in the negotiations

26 November 2015

## NOTING THAT

1. Sixty years ago the Freedom Charter called for a National Minimum Wage (NMW) as one of its key demands. The Freedom Charter states

There shall be a:

- a. forty-hour working week,
- b. national minimum wage,
- c. paid annual leave and sick leave for all workers,
- d. and maternity leave on full pay for all working mothers.

2. Twenty one years after our democratic breakthrough, and sixty years after the adoption of the Freedom Charter, millions of South African workers remain super-exploited, stuck in the cheap labour system, and are part of the working poor. That is, although they work full time, they and their families continue to live in poverty, and still cannot afford basic necessities.

3. To address this situation the COSATU 11TH Congress in 2012 and the Collective Bargaining Conference in 2013 called for the implementation of a legislated National Minimum Wage, linked to a Minimum Living Level, as part of a comprehensive National Wage Policy, including the introduction of wall to wall Collective Bargaining, and comprehensive social protection, to address working poverty and wage inequality. The National Minimum Wage floor is not intended to replace the campaign for a Living Wage, or to substitute for collective bargaining, but rather to act as a springboard to support these. COSATU, supported by the international experience, further rejected the notion that a NMW would lead to high levels of job loss. In fact the NMW, by raising working peoples incomes, could complement other economic and industrial policies, by stimulating demand in the economy.

4. The ANC's 2014 Elections Manifesto undertakes to implement a National Minimum Wage, as part of a package of measures aimed at addressing wage inequality and working poverty. Comprehensive collective bargaining, state incentives, employment equity, and the national minimum wage are proposed as a package of mechanisms to transform the apartheid wage structure, and to promote decent wages, and decent work.

5. The President, in his State of the Nation Address of 17 June 2014, announced that Deputy President Cyril Ramaphosa would convene a dialogue on wage inequality and labour relations. This process would investigate a national minimum wage as one of the key mechanisms to reduce income inequality.

6. At the Nedlac Summit in September 2014, the Deputy President announced that an Indaba would be convened to: address the untenable labour relations environment that gives rise to wage inequality and prolonged violent strikes; deliberate on measures to combat wage inequality, and examine the role of a national minimum wage in dealing with poverty and inequality, including the modalities of implementing a national minimum wage; consider measures to address the causes of violent and protracted strikes; and measures to promote inclusive negotiations and bargaining processes.

7. On 4 November 2014 the Nedlac Indaba was convened, and adopted the Ekurhuleni Declaration which agreed to engage on a national minimum wage, as a means of addressing wage inequality. It set up a

Committee of Principals (COP) chaired by the Deputy President, comprising of leaders of the different constituencies. Terms of Reference for the negotiations were adopted in February 2015, and a Task Team on Wage Inequality was established to negotiate the National Minimum Wage, as well as a Task Team on Labour Relations.

#### NOTING FURTHER THAT

8. Negotiations have been taking place in the two Task Teams since February this year. While business resisted committing itself to a National Minimum Wage, after several months an agreement was reached on how a National Minimum Wage would be defined, as well as on some related matters. This constituted a degree of progress, albeit slow.

9. However, negotiations in Nedlac have made virtually no progress in the past four months, and have now entered a deadlock. This is because business has refused to engage on the level, or any issue related to the level of the National Minimum Wage. While labour, community and government agree that the first NMW must be the outcome of negotiations, business are insisting that the setting of the level must be outsourced to an "independent body of experts". The Deputy President is currently engaged in discussions aimed at breaking the deadlock.

10. Detailed research has been done by progressive researchers on the prospects for a NMW in South Africa, and labour in alliance with community has placed detailed proposals on the table based both on extensive analysis of the international experience, as well as detailed consideration of the South African wage structure, and the conditions facing workers.

#### WE THEREFORE RESOLVE

On the deadlock in Nedlac

11. Congress mandates the newly elected COSATU leadership, as their first major political task emerging from this Congress, to communicate in the strongest possible terms to the captains of business that their conduct in refusing to discuss the level of a NMW is entirely unacceptable, and will be strongly opposed. The leadership must also meet with government and the ANC to communicate that we expect them to take a far stronger stance on this matter. The NMW is a matter of life and death for workers.

12. Congress reiterates labour's view that the level of the NMW must be negotiated, and rejects the notion of outsourcing this to an 'independent body of experts', which is nothing but an attempt to water down the demand for a meaningful minimum wage, by taking the negotiations out of the hand of the mass constituencies, and putting workers fate into the hand of conservative technocrats.

13. Congress rejects the continuous delaying tactics and foot-dragging by business. As was agreed at the COP meeting in August, the negotiations must be approached with the necessary urgency, and the final package must be concluded in time for the President to make an announcement at SONA in February 2016. Negotiators from all sides must drop all other commitments, and make themselves available to achieve this, and the necessary meetings scheduled and honoured. Business must ensure that their negotiators are properly mandated, and capacitated.

14. The urgent finalisation of an agreement on the NMW is non-negotiable for the working class. We will now engage in mass mobilisation to ensure that what has not been agreed in the boardrooms, will be resolved in the streets and workplaces. If the deadlock is not satisfactorily resolved by December 4th, we will immediately begin to mobilise for a Day of Action for a National Minimum Wage in January 2016, and will file a Section 77 notice in Nedlac.

15. We will go out to our members after this Congress, and mobilise them en masse for a mother of all battles to achieve the NMW. We will also embark on a campaign to investigate, expose and boycott those employers who are refusing to comply with set minimum wages.

16.A programme of mobilisation to popularise the NMW campaign must include:

- Embarking on a road show and rolling out workshops to educate organise and mobilise workers, communities, and other federations;
- Creating platforms for public engagement on the NMW;
- Mobilising and engaging all stakeholders, communities, including across federations on the NMW;
- Engaging the alliance and government through all available forums (such as the ETC, NEC, bilaterals with the Presidency, and relevant Ministers etc.)

On the Level of the National Minimum Wage

17.Congress supports the position taken by labours negotiators in Nedlac that the figure for a NMW must be based on the relevant benchmarks which have been advanced in the negotiations, namely:

- Using the international benchmark for setting a National Minimum Wage at 40% - 50% of the average wage. An indication of the average wages of SA workers is the average wage for formal sector workers, which is R10 274 according to the latest available information<sup>1</sup>. So a NMW set at 40-50% of this estimated average would be in the range of R4 110- R5 137.
- Using the poverty line or minimum living level as a second key benchmark for setting a NMW. The basic needs poverty line produced by Stats SA has been revised by SALDRU at UCT in 2015 and has been found to be R1319 per person or R5276 for a household of four (three being roughly the average number of dependents in poor households).
- The Wits NMW Research Initiative has produced a working poor line. This research indicates that a worker, with an average number of dependents, needs to earn R4 125 in wage income just to lift her or his head and those of their dependents above the poverty line<sup>2</sup>.

Congress supports the joint approach of the Labour and Community constituencies in Nedlac who, as a basis for negotiating a NMW figure, have agreed to advance a range for the NMW which reflects these benchmarks.

18.We reject with contempt the research presented by Treasury which suggests that even a NMW set at the ridiculously low level of R1258 per month, would cause substantial job loss! Research produced by the Wits NMW RI shows that a NMW of between R3500 – R6000 could be introduced without major negative effects, and would have many positive effects on the economy.

19.Congress believes that these three benchmarks indicate a useful range within which negotiators should negotiate the National Minimum Wage level. We also recognise that we may not be able to immediately achieve a NMW at the level which workers legitimately desire, and there may need to be a process of transition to achieve our desired target. But the first NMW should not be below the range indicated above.

20.At the same time, an initial level for introducing the first NMW, in line with these benchmarks outlined above, must be combined with a bold strategy, as has been done in Latin America, of progressively increasing the value of the NMW over the medium term, through significant real annual increases in the NMW, and deliberately transforming the wage structure. To this end, we support labour's proposal that the competent authority overseeing increases in the NMW, must be given a roadmap with targets to determine the future setting of the NMW.

21.We further support the need for concrete measures to address the massive pay gaps caused by ultra low wages alongside obscene executive pay, to work towards a ratio of 16:1 between the top and bottom of the wage structure, as agreed at our 2013 Conference.

On the Architecture of the National Minimum Wage

22. We endorse the position that it is preferable to minimise exclusions and exemptions from the NMW. International evidence, supported by the ILO, supports this view. The agreement in Nedlac is that the National Minimum Wage must set an economy wide wage floor below which no worker should fall, unless exclusions/ exemptions are agreed to upfront. Downward variation of wages and employment conditions will not be allowed by the NMW legislation, and SDs, collective bargaining, and employment contracts will only be able to improve on the NMW floor. The most vulnerable workers must benefit from the NMW.

23. We support the approach in Nedlac to only exclude very limited categories, such as the intelligence services, and some others excluded from the BCEA, such as unpaid volunteers.

24. We recognise that there are certain ultra low wage sectors, such as domestics and agriculture, which are excluded from the NMW in some countries. However we support the view that the exclusion of such sectors is a harmful practice leading to growth in the wage gap between sectors and inequality. As a compromise (to avoid the NMW being pitched at an excessively low level), labour has agreed to consider a tiered system whereby domestic, public works, and farm workers start off with a slightly lower NMW at for example 70- 80% of the general NMW, and then phase in to one rate over a set timeframe. However, this is only acceptable if the NMW is set at least within the range stipulated above (R4125-R5276).

25. We endorse the position taken by Labour in negotiations opposing the notion of exclusion, or setting a lower NMW, for young workers, workers in small businesses, workers in certain regions, or workers being trained. International evidence suggests that such exclusions do not meet their claimed objectives, and undermine the effectiveness of a NMW.

26. We support the view that Labour has advanced that a system of regulation and incentives can ensure that businesses co-operate in implementation of the NMW. Proper systems of enforcement and penalties should be combined with compliance certificates, and only businesses complying with NMW and other labour legislation, would qualify for state incentives and support. Specific state incentives, eg access to affordable credit, can be given to support compliant small businesses, provided the necessary safeguards are put in place.

27. Labour has proposed that the NMW be calculated through a combination of hourly, weekly and monthly reference periods, with a guaranteed payment for minimum hours worked, and a premium paid for those working under a stipulated number of hours. Congress endorses this approach to prevent employers reducing pay through cutting the number of hours.

#### On related demands

22. The campaign for a National Minimum Wage must be combined with a campaign for a living wage, and establishment of comprehensive Centralised Bargaining in all sectors of the economy.

23. The Freedom Charter states that: "The state shall recognise the right and duty of all to work, and to draw full unemployment benefits". Congress resolves to embark on an intensified campaign to establish a comprehensive social protection floor that caters for all, including the unemployed and underemployed, who currently fall through the cracks.

#### Footnote

1. This figure of full time formal sector wages (excluding domestic and farm workers) is used as a 'proxy'/ broad indication, because significant evidence suggests that wages reported by Stats SA underestimate the true level of wages. More research is being done on this matter.

2. This figure of the working poor line is lower than the poverty line for a family of 4 because: it assumes a slightly lower dependency ratio; and because it assumes that workers are receiving income from other sources, including grants. So the two lines are actually compatible