

10 October 2016

The Director-General  
Department of Labour  
P/Bag x117  
Pretoria  
0001

**E-mail: [ian.macun@labour.gov.za](mailto:ian.macun@labour.gov.za)**

Dear Mr Macun

**REQUEST FOR INQUIRY INTO THE AFFAIRS OF THE METAL AND ENGINEERING INDUSTRIES BARGAINING COUNCIL (MEIBC) IN TERMS OF SECTION 54(4) OF THE LABOUR RELATIONS ACT.**

I refer to Neasa's letter of 3 October 2016 to the Acting Registrar of Labour Relations with regard to matter above and will address the issues raised *seriatim*.

1. I have not seen the letter of 23/08/2016 referred to in this paragraph.
2. Despite not being privy to the contents of the said letter if indeed its sentiments are as articulated in here, I would cautiously agree.
3. I totally disagree with the allegation made here on the following basis:
  - The Oversight Committee (OC) has made a lot of progress in that it has processed a lot of information as shared with your office a couple of days ago and has developed concept documents with concrete proposals in a number of areas. The only matter that still requires to be finalised is a recommendation on how the deficit situation should be addressed.
  - There has never been a plan to delegate any authority to the OC. Its task was to examine why the council found itself in a situation of bankruptcy and make recommendations on how that situation could be arrested. This is in line with the terms of reference it was given by the council with NEASA included.
  - The council receives requests for information from the leaders of the different treads of the OC and such information has been given which I have taken the liberty to share it with you herewith.

- Members of the OC have had an instance where they had queries in respect of information that was not submitted and that information was prepared and given. In this regard the two instances that come to mind are when minutes of the meetings were not circulated in time per instruction of the relevant tread leader and an issue about the preparation of daily cash flows. All these issues were addressed immediately and thereafter none of the OC members indicated any further problems with that information.

4. Management of the MEIBC prepared and presented the Annual Financial Statements (AFS) within 6 months and the Finance Committee (FACOM) minutes of August 2015 have recorded that.

However at a subsequent Management Committee (Manco) meeting two issues were raised first by NUMSA to the effect that the Council needed to convene a FACOM meeting that would confirm the minutes of the August 2015 FACOM that recommended the approval of the AFS.

NEASA seconded this motion, adding that the collective bargaining levy (CBL) liabilities including interest and allocation to parties exceeded cash balances. Despite an explanation that the AFS would not change, parties resolved to take the AFS back to the next FACOM. That was the last time (August 2015) the Council held a FACOM meeting, reason being cash flow pressures.

The Department of Labour was given an explanation of reasons for late presentation of final AFS to it. Draft financials with draft audit opinion have also been forwarded.

It is therefore not correct to conclude that the AFS were not prepared within 6 months as they were not only prepared within that period but an audit was also concluded.

5. I do not have a problem if the IARB exercises any of its responsibilities in terms of the law and I am ready to respond to any queries that it may wish to raise in this regard as I am of the firm belief that anything I have done I did for a reason.

I am, through the council's legal department, preparing a response to both letters regarding the IARB's query. It must however be noted that the MEIBC auditors were invited to meetings without my knowledge and questions related to council financials were raised and I am made to believe that the question of reporting the Council to the IARB was suggested by people who should be providing answers on why there was a delay the submission of the AFS to the DoL.

6. Given the crises that the Council operated under this matter fell by the wayside and the focus was to ensure sustainability of Council operations and also to ensure that the Council has cash flow to meet its immediate obligations to staff, landlords and other key suppliers.

This matter from my perspective is priority but it ranks lower than resolving the current crises that includes:

- Resolving the cash flow of the next few months.
- Approving levy increases or adjusting the structure of the Council to suit the current cash flows.
- Defending challenges that will affect the Council's ability to continue to operate as a going concern i.e. challenges to deny the Council revenue from non - parties.

7. The 2015/6 audit has not been done because I was told that I should prepare for a forensic audit that never happened. When I was informally advised that the parties would no longer pursue this matter, I

then started preparing for our normal Audit despite the fact that the Council is financially challenged. These audited financials should be ready before the end of the month of October 2016.

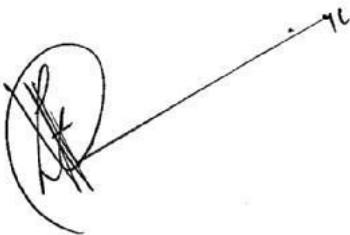
8. NEASA is participating in the OC and its sub structures, as usual they don't submit any progressive inputs instead they gather information from these meetings to rubbish the structure and use the information to approach DoL to intervene because they have never supported the OC or any initiative that will save the council from collapsing. Please understand their allegations about OC as a strategy to stop this process because it is coming very close to an everlasting solution of the council's financial challenges.

NEASA is participating in negotiations to amend the current Administration and Registration & Dispute Agreement and because there is progress made in these negotiations, I am told that they are planning to either walk out or be disruptive and stop the process hoping that without the agreement on levy increases the council will automatically collapse on its own.

9. As highlighted above, a lot of progress in the OC is being made and this progress in my view is the reason why Neasa is now pursuing a different route. I have shared with the DoL all our financials including the 2014/5 financials that have not been approved by parties. I have shared with DoL our proposed budget and the reasons that led to the council's current financial situation. The budget we proposed and shared with DoL, if it approved will change the fortunes of the council. The last time this council's levies were increased was in 2011 and any effort to increase levies was and is still opposed by NEASA for the past 5 years.
10. It is my submission that this NEASA request should be rejected and give progressive parties in the council an opportunity to finalize the process of OC and present the progress to the Registrar and DoL in the interest of centralized collective Bargaining.

In conclusion I would like to bring to the attention of the Registrar and Department that the OC will be tabling a proposed budget and a proposed levy increase soon and as usual NEASA is expected to reject those proposals.

Kind Regards



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**Thulani Mthiyane**  
**General Secretary**