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THE GENERAL SECRETARY'S ABRIDGED REPORT

INTRODUCTION

The MEIBC from 2011 has lost a number of employees as a consequence of some taking on new work; others due to retirement and others sadly have passed away. We wish those that have moved on through retirement and new work the best of luck and our thoughts and prayers are always with those colleagues who have passed away.

With the departure of any of our people from the council, the organization is left with a huge skill gap, which needs to be attended to. As people are unique and become part of the MEIBC family it is always a challenge to fill the void with the exact mix of talent and personality. However to ensure continuity we have tried our best to bring in the required skill, experience and passion for the work we do.

With all these challenges, we did manage to soldier on and preserved in our responsibility of serving the industry with commitment, fairness and integrity. A number of activities were arranged by our communication manager, to carry out our commitment to be visible in the industry, promote the MEIBC brand and clarify to the industry through the General Secretary's office the role and the responsibility of the bargaining council (MEIBC). Our EXCO and regional managers decided that we should go to all MEIBC regions and reward those employers who are complying with our industry agreements. This project has been very successful as the industry appreciated and supported the initiative

I take this opportunity to thank my MANCO members for their continued guidance and constructive criticism where it is fairly required, the council staff, management and executive committee for their support, loyalty, hard work and dedication under very trying and challenging circumstances in which the existence of the bargaining councils in general and MEIBC in particular is extremely challenged.

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My intention is to table a consolidated General Secretary report at Annual General Meeting; unfortunately this meeting can only take place after the finalization of SEIFSA and NEASA seats allocation arbitration. I have again taken the opportunity to table an abridged report highlighting matters and challenges that have occupied this office since the settlement agreement of 2011/4 and Annual General Meeting of 30 March 2012.

THE ANNUAL GENERAL MEETING HELD ON THE 30 MARCH 2012

This meeting was convened to confirm the list of representatives and alternates on the council in terms of Section 5 of the MEIBC constitution, representatives of Management Committee in terms of section 7 of the MEIBC constitution and the election of President and Vice President of the council in terms of Section 6 of MEIBC constitution.

CONSTITUTIONALITY OF THE MEIBC AND ITS CONSTITUTIONAL STRUCTURES

The population of constitutional structures, regional and national structures was decided at the Annual General Meeting of the 30 March 2012. The employers' allocation of seats was based on the interim agreement between SEIFSA and NEASA. The council offices regionally and nationally have convened meetings as per the agreed schedule of meetings.

THREATS TO CANCEL MEIBC REGISTRATION

On 2013 the council received a letter from the Registrar of Labour Relations demanding among other things Financial statements of the council and alleged that the council has ceased to perform its functions and to be representative in terms of the Act. and demanded that the council should give reasons why he should not cancel the council registration. The council responded to these allegations by having a discussion with Registrar and dispatching a letter to the Registrar responding to the issues raised. At the Annual General Meeting held on 29 July 2013 the financials were tabled and adopted by this meeting and the same was provided to the Registrar. The allocation of seats was not dealt with in this meeting for the reasons mentioned above. These reasons were also dealt with in the General Secretary's report presented at this meeting. It's worth mentioning that some of MEIBC parties strongly believed that the Registrar should have gone ahead and cancel the registration of MEIBC.

THE 25 MARCH 2014 AGM

On the 25 March 2014 the council convened the Annual General Meeting. At this meeting the following issues were dealt with - Financials and the allocation of seats to employers as per the

2012 interim agreement between employers' organizations, trade unions seats were also dealt with in terms of the list that was submitted in 2012 and adopted at the 2012 AGM. Some lists were amended between these AGM's, some delegates were changed and the MANCO meetings were informed of these changes/amendments and they were approved accordingly by MANCO.

MANCO, FACOM, STANCO AND REGIONAL COMMITTEE MEETINGS

These meetings were convened as per the agreed schedules and attended by all parties of MEIBC. It also worth to note that some parties continued to challenge the constitutionality of these meetings especially after the letter from the registrar mentioned above and these challenges became more louder as we approached the wage negotiations. There was a view that negotiations should not proceed because the council was unconstitutional and trade unions represent less than 20% of the employees in the industry. These parties attended these meetings and threatened to challenge decisions taken in these meetings at the Labour Court.

COLLECTIVE BARGAINING LEVY AGREEMENT (CBL)

The office advised parties as early as 23 October 2012 at the MANCO meeting, that the above agreement was due to expire on 31 December 2012. Despite issuing notices to this effect we continued to receive through MIBFA monies for CBL contributions. The office sent the communication to all regional offices advising them of the status of CBL, communications and notices were also sent to the industry, through media statements of 6 December 2013 and 18 April 2014 and NEASA Metal industry alert of 31 January 2014, which is sent to all MEIBC members. In addition the office of the council and MIBFA changed the return forms to exclude the CBL contribution, we employed additional staff to phone and advise those employers who were still deducting the CBL contribution to stop and claim all the moneys they have paid after 31 December 2012. At the time of writing this report there was still huge amount of CBL money lying in our account. Please note that the number of employers who are claiming this money back has drastically increased. We must further note that some of our parties are of the strong view that the CBL should not be reinstated because it is discriminatory to non-parties. To make things worse the Department of Labour, has indicated that they require trade union parties to represent the majority of the employees covered by the CBL and employer organization parties to employ the majority of the employees covered by the CBL.

INDUSTRY MEMBERSHIP VERIFICATION AUDIT

After the indication by DoL that they will be conduct their independent verification exercise, we agreed to fully corporate and assist them by giving them all the information they will require from the office. The detailed report on the procedure followed and the DoL and MEIBC reports will be fully covered in the AGM report, we currently assisting those parties that felt that these reports are inaccurate because in their view does not give the correct membership for their respective organization. These parties will have to present to us the proof that the employees they claimed to be their members are contributing either council levies or MIBFA Pension/Provident Fund and the companies they working for are registered with MEIBC, and for employers claiming members, those members must be registered with the council.

SEIFSA AND 22 AFFILIATED ASSOCIATIONS DISPUTE WITH NEASA ON ALLOCATION OF SEATS ON BARGAINING COUNCIL

At the time of writing this report the above mentioned parties were fresh from the arbitration that was held on 13, 14, 15 and 16 October 2014, we understand that parties could not go beyond these dates due to non-availability of some of the people involved in this process. We note with great concern that this process can only resume in January 2015 and that between now and then there will be no resolution on the employer's seats allocation. As it was explained above this will delay the holding of normal AGM that was schedule for the 25 November 2014. We sincerely hope that we will be able to convene our next AGM before the end of March next year and be in compliance with our constitution that requires us to hold an AGM once a year.

PCASA, FEOSA, CEASAR AND SAUEO

In the matter between NUMSA, MEWUSA and PCASA, the matter concerned the legality of the strike by NUMSA and MEWUSA members in the plastic companies especially those who are members of PCASA. In delivering his judgment Judge Le grange reflected on the submission and arguments raised around the status of PNF and PCASA in the council, in light of the fact that the MANCO accepted their membership with conditions that included their compliance with Section 17 of the MEIBC constitution and Section 56 (2)(a) of the LRA. The judge was very critical of the decision of giving PCASA observer status in the council. The following is an extract from this judgment.

"In circumstances, I believe the available evidence tends to suggest on a balance of probabilities that PCASA was not properly admitted as a member of the council, which its own complaints when it announced its 'withdrawal' seem to confirm. Even if it was not expressly refused membership the failure to admit it unconditionally by 2 December 2013 means it's application was deemed to have been refused from that date, notwithstanding its participation in

MANCO and PNF it had a readily available remedy at hand to rectify the situation which was to approach the court in terms of Section 56(5)".

PCASA has applied for leave to appeal this judgment to the Labour Appeal Court.

Unfortunately the three other employer organisations were factually treated the same by the council and therefore this judgment would affect their status in the council. We wish to confirm that CEASAR is no more an employer organization; the Registrar who has successfully challenged them in court has confirmed this.

We hope this MANCO will reflect on this matter and guide the office on the way forward on this matter.

INDUSTRY POLICY FORUM

After a slow or delayed start which was in the main caused by the delay in appointing the successor of the previous General Secretary and the debate about who should be part of IPF process, IPF was launched on the 11 September 2014. This was followed by a number of meetings that were facilitated by StratAlign. Again the momentum was retarded by industry wage negotiations. The Settlement agreement signed on the 29 July 2014 mandated the office to resuscitate discussions in the IPF.

StratAlign developed the following reports:

- 1) Regional visit report
- 2) Scoping documents
- 3) IPF founding document and project plan
- 4) Facilitated the signing of IPF Road Map

2011/4 MEIBC WAGE SETTLEMENT

On the 2 July 2014, NEASA's second challenge to review the Ministers decision to extend the 2011/14 Main Agreement to non-parties was heard in Labour Court. The judgment on this matter is not yet out.

2014/ 2017 SETTLEMENT AGREEMENT

The office arranged a national and regional pre bargaining conference; regional venues were connected and linked to National venue, which was held in Gauteng at Benoni Lakes. We again

thank our communication manager and all our IT team members for making this a successful event.

In the Pre bargaining conferences, different guest speakers were invited which included employers and trade unions economic experts. Mr Ian Macun of the Department of Labour shared with parties the expectation of the department when parties decide to request the Minister to extend the agreement to non-parties in terms of section 32 of the Labour Relations Act.

The council through its General Secretary promised to deliver an all-inclusive wage negotiation. We are glad to confirm that all rounds of negotiations that were convened by the council were attended by all MEIBC parties, all of them participated fully and took the advantage to motivate their demands and bilateral meetings were also convened with different parties. The council encouraged and supported all other initiatives that were parallel to council convened and facilitated meetings. We encouraged parties to share the outcome of discussions that were happening outside council facilitated meetings, with the main negotiations forums and to fully brief the council and other parties.

It is unfortunate that not all of our parties are in support or signatories of the agreement that was signed on the 29 July 2014. NEASA has approached the Labour Court to interdict the MEIBC from applying to the Minister of Labour for the extension of the agreement. This matter was argued at the Labour Court on 14 November 2014. We are awaiting the judgment. The MANCO decision that gave the office a mandate to ask the minister to extend the settlement agreement is on hold pending the outcome of the judgement.

The agreement mandated the office to administratively process the following agreements:

- 1) Establishment of industry short time fund (Funded on a joint 5c contribution.
- 2) Amending Main Agreement to permit employees to take up part time work during short time
- 3) Establishment of an Administrative Fund to Compensate shop stewards and trustees who have exhausted plant level allotments.
- 4) Resuscitate the Medical Aid working committee.
- 5) Appoint a labour broker Compliance officer.
- 6) Approach the DoL on the appointment of Labour broker Ombudsman.
- 7) Assign agents on Medupi and Kusile projects.
- 8) Align main agreement with IOD and COIDA latest changes.

UNITY OF MEIBC PARTIES AND EMPLOYERS ORGANISATION IN PARTICULAR

We take this opportunity to share with you what has been done by the office in regards to the above-mentioned matter.

We facilitated a discussion between SEIFSA representing its associations and NEASA, about employer speaking with one voice when it comes to matters affecting their members in the industry. This initiative resulted in the reinstatement of NEASA in the IPF processes and the unity of employers during 2014 wage negotiations.

Building up to 25 March 2014 AGM the office had discussions with key employers leaders and proposed what we thought will temporary resolve the issue of employers who did not have seats in the council pending the finalization of seats dispute, this was rejected and the proposal couldn't be tabled at the AGM.

FREE MARKET FOUNDATION CHALLENGE

We will again take this opportunity to share and remind you of the reasons why FMF has taken the minister, the democratic government and all Bargaining Council to court. They are seeking an order declaring that the Section 32 of Labour Relations Act 66 of 1995 conflicts with the Constitution of republic of South Africa. They contend that the section gives bargaining Councils the power to impose by means of collective agreement binding obligations on employers and employees who are not members to the council. They are asking the court to declare the provision of Section 32 to be unconstitutional as it is subversive to the principle of majoritarianism and deletion of Section 32(5) of the LRA. If they succeed that will mean Bargaining Councils will be irrelevant and reflect a huge victory to those who do not believe in Centralized Collective Bargaining and the extension to non-parties of agreement concluded at the Bargaining Councils. Some Labour experts who are well educated on these matters argue that this will lead to a race to the bottom. Some argue that this will lead to millions of our people being employed and demise of trade unions that contribute to unemployment by making working conditions and wages unaffordable to small employers.

While we are waiting for the matter to go to court, it seems that there are concerted efforts to frustrate the extension of agreements, which include the arguments around parties representativeness in the industry, arguments for the new membership verification process and challenges to every outcome and in the process succeed in delaying the extension of the agreement for the next three years. Speaking to other Bargaining Council's General Secretaries we are made to believe that they are now facing the same challenges.

**THE ADMINISTRATION, REGISTRATION, DISPUTE RESOLUTION AND COLLECTIVE
BARGAINING LEVY AGREEMENTS**

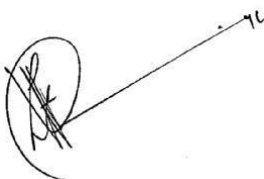
We reported above in details about the CBL. In addition we will be asking the Department to extend the Administration and Registration Expenses Agreement and Dispute Resolution Agreement to be extended for next five years, as these agreement are due to expire in March 2015. We will also ask the Minister to extend the CBL agreement subject to approval by the beneficiaries of this levy.

FUNDS AGENTS

The EXCO and Regional Managers are discussing the incorporation of Funds Agents to the council pool of agents. They will be expected to do all agents work including the routine inspections. A meeting with MIBFA is going to be arranged to discuss this matter and their willingness to continue with the current arrangement. Our GMF will unpack this arrangement in his 2015/6 budget.

In conclusion we wish you and your love ones the best during festive season, we thank you again for the support you gave us as we execute our constitutional duties. Thank you for understanding and respecting our responsibilities prescribed in Section 13(1) of MEIBC constitution.

" The Council shall appoint a Council Secretary, whose duty it shall be to conduct the correspondence of the Council, attend all meetings of the Council and the Management Committee, record minutes of such meetings and circulate copies thereof to representatives and alternates. He shall keep such books of account as shall be prescribed by the Management Committee, and shall, in addition, perform such duties as may be assigned to him by the Council or Management Committee."



Thulani Mthiyane

MEIBC General Secretary