



27 May 2022

Parliament Street,
P O Box 15,
Cape Town,
8000

Attention: Ms Tyhileka Madubela

BY ELECTRONIC MAIL: climatechangebill2022@parliament.gov.za

Dear Tyhileka

SASOL'S SUBMISSION ON THE 2022 DRAFT CLIMATE CHANGE BILL

In response to the call for comments on the draft Climate Change Bill ("the Bill"), I attach Sasol's response. We appreciate the opportunity to participate in the associated Parliamentary consultation process.

Sasol is supportive of this process and the proposed Act. We hold the view that a dedicated South African Climate Change Act is needed to govern the country's climate change response, including both mitigation and adaptation activities. Such an Act would be a key enabler for implementation and should be accelerated to place the country on a path to meet South Africa's reduction targets committed to at the 26th Conference of Parties (COP26).

In addition, Sasol supports the detailed Business Unity South Africa (BUSA) comments and has also provided input into that submission. For this submission, we have opted to emphasise issues that are of interest and concern to us. Detailed comments on specific wording changes and recommendations are included in Appendix A.

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1. Decarbonising Sasol's operations

Sasol is undertaking a fundamental transformation of our business (called Future Sasol). We are aiming to achieve a 30% greenhouse gas (GHG) reduction by 2030, off a 2017 baseline and net zero emissions by 2050. The way we intend achieving our targets is reflected in our associated roadmaps with progress reported annually in our Climate Change Report.

Sasol supports South Africa's COP26 Nationally Determined Contribution (NDC) which is recognised as being a key driver of the Bill. We see a clear path for us to support the country's commitments by reducing our GHG emissions in accordance with our targets and simultaneously accelerating action to advance the gas economy and develop the green hydrogen economy.

Future Sasol focuses on decarbonising our operations, while preserving and growing value. To date, we have achieved a 14% reduction since 2004. Our transition is being undertaken gradually to minimise social and economic impacts to ensure a just transition. We have published roadmaps that detail the technologies and feedstocks we aim to utilise to further reduce our emissions. Up to 2030 we will be using a mix of energy and process efficiencies, renewables and shifting to incremental natural gas as a transition feedstock away from coal. Post 2030, green hydrogen is expected to reduce in cost which we aim to incorporate in larger quantities to decarbonise and produce sustainable products.

We are progressing opportunities to leverage some of the country's greatest endowments, including renewable wind and sun for energy, platinum group metals, our mining expertise and relatively young population. As we pursue our gas ambitions, we are aiming to invest in greenfield and brownfield green hydrogen projects with a view to deliver social and economic value for the country. Collaboration is key to reach the desired pace and scale of the Paris Agreement goal and in this regard, we have partnered with a range of stakeholders. Our initiatives are focusing on green hydrogen catalytic projects in Sasolburg, Secunda and the Northern Cape. In 2023, the first volumes of green hydrogen are expected to be produced from our existing 60MW electrolyser in Sasolburg. This project is intended to anchor initial local demand in heavy-duty mobility, mining, city buses, green steel and back-up power. We have also signed a Memorandum of Agreement

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(MOA) with the Gauteng Department of Economic Development and its Agencies (GDED). Its intent is for both parties to collaborate on the commercialisation and industrialisation of green hydrogen projects in Gauteng. We have several partners, including Imperial, Cellcentric and Toyota, focusing on the development of hydrogen mobility for heavy-duty long-haul trucks. At our Secunda Operations, we aim to produce sustainable products and demonstrate our capability in sustainable aviation fuels (SAF). Initially, we will utilise 400 MW of renewable energy for SAF, potentially building up to 15 GW post 2040.

The Boegoebaai project in the Northern Cape has the potential to scale to a \$US10 billion investment bringing with it the potential for unprecedented economic growth and job creation opportunities in the region. At full capacity, this plant could drive the development of 9 GW of dedicated renewable energy capacity. Export sales from the facility could create up to 6 000 permanent jobs and more than 50 000 temporary jobs for Phase 1 of the project.

It is in the spirit of enabling a just transition and prosperous growth of the country that we provide additional comments on this important Bill.

2. High-level comments on the Bill

2.1. An enabling policy and regulatory environment

South Africa's NDC encapsulates the country's pace of transition which is different to developed countries and is underpinned by sustainable development deemed critical for the country's transformation. At the heart of this transition is the principle (as provided for in the Just Transition Framework) of ensuring "no one is left behind" which requires economic diversification and innovation.

As such, it is critical that an enabling policy and regulatory environment be developed and implemented to stimulate green industries and green value chains, create a circular economy and support funding for necessary related research and development. Introducing mechanisms beyond tax incentives and penalties, such as the provision of green financing grants, subsidies,

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loans and the establishment of Renewable Energy Development Zones (REDZs) and SEZs, to name a few, will accelerate action from the private sector.

Ultimately, the transition cannot exacerbate the high levels of poverty, unemployment and inequality experienced today and, if leveraged appropriately, opportunities in the low carbon future can contribute towards a more sustainable and thriving South Africa. Collectively, all role players will need to leverage opportunities to decarbonise and grow the economy, with the use of green hydrogen and/or renewable energy. While these technologies present such opportunities, they are nascent in their development and application, and will take time and significant capital investment before meaningful penetration in the market. These nuances in technology availability and maturity must be recognised in how the Bill's climate change mitigation measures like the carbon budget are implemented (see draft Climate Change Bill, chapter 5, section 22 and 24). In this way unintended consequences can be managed, such as premature closure of certain operations before the transition is able to be undertaken. The associated socio-economic implications for the country will be highly undesirable.

Sasol's remark and proposal: Lack of adequate recognition and provision in the Bill of mitigation potential and the feasibility to transition as criteria for allocation of the carbon budget. Importantly, the availability of economically feasible technology must be recognised. It is recommended that the Bill include specific criteria for allocating carbon budgets and sector emission targets in chapter 5, section 22 and 24 that takes into account mitigation potential, the ability to transition and the inability to transition at pace due to externalities outside of an emitter's control.

A related matter that is likely to cause significant risk for Sasol and industry lies in the fact that carbon budgets and the manner in which it is likely to be allocated could become a vehicle to negatively impact (suspend, withdraw, deny issuing or significantly limit operating parameters) environmental authorisations held/applied for by an operating entity. In such a scenario an operating entity could be forced to implement emission reductions and be prevented from operating the plant at full capacity, despite being legally authorised to do so in accordance with authorisations issued under other acts. This could result in the company not being able to operate

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at the levels provided for in existing authorisations, with the potential for serious deviation penalties. The rights obtained by an authorisation should remain unaffected and not impaired through legislation not directly related to what is primarily being regulated thereunder.

Sasol's remark and proposal: Lack of alignment between existing authorisations and the carbon budgets. It is recommended that the Bill include provision for carbon budgets to not retrospectively impact on the rights granted to a company through existing authorisations. The rights obtained by an authorisation should remain unaffected and not impaired through legislation unrelated to what is primarily being regulated thereunder.

In addition, key government departments and mandates (including but not limited to the Department of Mineral Resources and Energy, the Department of Trade, Industry and Competition and National Treasury) must therefore be aligned to create an enabling policy and regulatory environment for decarbonising high emitting and other industrial sectors.

Most notably, the existing policy environment is limited with a few policies and measures currently in place to effectively incentivise industries to decarbonise. Sasol is strongly of the view that particularly in the climate change policy environment, both positive and negative incentives are required to achieve the country's NDC and Just Transition imperatives. Case in point is the United States and Germany, both of which are considering or have implemented penalty mechanisms including carbon pricing, supported by subsidies, product premium mechanisms and rebates for economically unviable and immature technologies such as carbon capture and storage and more expensive feedstocks such as green hydrogen. Incentives have the potential to benefit the country in the long term in the form of economic growth, job creation, downstream monetisation and localisation, to mention a few. Only negative or penal incentives such as carbon budgeting and taxes will not achieve the same potential for accelerated action and direct (re)investment opportunities in the economy.

Incentives that should be considered include green funds, tax breaks (extension of existing ones such as Income Tax Act 12L and introduction of new ones) and subsidies.

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Sasol also acknowledges the vulnerable position of the country in relation to the imminent implementation of the European Union's Border Tax Adjustments starting in 2023. We appreciate that a carbon tax, higher than today's rate, would be warranted, as well as a tax penalty above the budget to drive the country towards meeting its 2030 NDC target. This further emphasises the requirement for a sound policy and regulatory framework/environment to enable the desired transition. It has been referenced by many research organisations including the Carbon Pricing Leadership Coalition (CPLC) that carbon taxes/pricing mechanisms are effective as part of a suite of incentives and disincentives (Ref: World Bank: "State and Trends of Carbon Pricing 2021" and "Carbon Pricing Dashboard", November 2021), particularly to support vulnerable, hard to abate sectors such the energy intensive ones. This is largely due to the fact that these same sectors need the time and supportive incentives to transition whilst supporting the economy. If the transition is not timed appropriately, whereby these sectors are scaled back whilst low carbon sectors are grown, it can cause serious and irreparable damage in the form of potential job losses, erosion of economic growth, balance of payment impacts and loss of key products in the economy, to name but a few.

Sasol's remark and proposal: The Bill does not adequately consider the benefits of incentives and other measures in driving the desired GHG reduction outcomes and is scant on providing an enabling provision for the development of these, save for the "may" make regulations on incentives in Chapter 6 . We recommend the specific inclusion of an enabling provision for the development of both positive and negative incentives (integrated incentives framework) to accelerate decarbonisation across the value chain and grow low carbon sectors and products through a "must" requirement in the Bill, Chapter 6.

2.2. Alignment of the Carbon Budget and the Carbon Tax

We acknowledge the commitment from the Department of Environment, Forestry and Fisheries and National Treasury to align the carbon budget and carbon tax instruments. We are still awaiting clarity on the manner in which the integrated carbon budget and tax system will be applied. This is viewed as urgent to provide certainty to the market, ensure the avoidance of double taxation and ultimately provide for the development of an efficient and economically effective integrated

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mitigation measure. Currently both instruments have been designed to achieve the objective of reducing the same ton of GHG emissions and if not effectively aligned before the implementation of the Bill (once enacted), companies such as ourselves could be at risk of double penalties resulting in significantly reduced capital availability for the transition.

Therefore, a fit for purpose policy and regulatory framework/environment, supportive of the NDC, aligned with the country's mitigation potential and economic circumstances, as well as industries' ability to act is required to support the required transition activities in a just manner.

Sasol's remark and proposal: Lack of further clarity regarding the operationalisation of the integrated carbon budget and tax system and its alignment with an enabling policy and regulatory framework is a concern. Sasol submits that a fully integrated budget and tax system supported by a mix of incentives and measures that encourage mitigation and new low carbon sector development is critically needed. An enabling provision must be added to the Bill that ensures the development of a holistic integrated mitigation system and that an administrative penalty, without criminalisation, will apply if carbon budgets are exceeded, supported by both positive and negative incentives to be developed further in regulations.

2.3. Legal penalties

The Bill is proposed as a Specific Environmental Management Act (SEMA) under the National Environmental Management Act (NEMA). Sasol supports that the Bill is enacted as a SEMA. However, the following should be expressly considered and addressed in the Bill to avoid ambiguity regarding the application of NEMA's principles in the context of the Bill:

- The exceedance of a carbon budget should not equate to/be viewed or be deemed as pollution for the purposes of applying Section 28 of NEMA. This is a differentiable activity and should be expressly defined and managed as such. Consequently, we support the view which indicates a carbon tax to be the penalty in the event that a budget is exceeded albeit also supported by positive incentives in the form of an integrated mitigation system. Within the context of climate change mitigation, recognition must be given to technology

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maturity and availability which might be constrained, or global changes resulting in delays to implementation of technologies and therefore exceedances of budgets can occur. Given the nature of climate change management which is directly tied to the structure of the economy and the availability of energy sources, the Bill cannot equate exceedance of a carbon budget to environmental pollution if options to meet the budget are not available and the choice to exceed a budget has to be made.

- Offences and penalties governing the enforcement of the Bill, including the exceedance of carbon budgets should be detailed separately as was included in the 2021 version of the Bill and should not default to the provisions in NEMA. For reasons explained above, the argument is maintained that exceedance of a carbon budget cannot be legitimately regulated as an offence, subject to criminal enforcement, but rather as an activity subject to the imposition of an administrative penalty in the form of a carbon tax.

Sasol's remark and proposal: Exceedance of a carbon budget cannot be viewed and managed similar to local pollution issues which may constitute a criminal offence subject to criminal enforcement. Sasol submits that the Bill should recognise the imposition of a carbon tax as the administrative penalty, without criminalisation, should a carbon budget be exceeded. This is supported by the arguments raised above regarding mitigation potential, technology availability, maturity of technology solutions and the necessity for the imposition of both negative and positive incentives to enable the meeting of reduction objectives.

2.4. Sectoral emission targets

In terms of maintaining regulatory certainty and the avoidance of double penalties, the Bill confirms that sectoral emission targets (SETs) will apply to government entities while carbon budgets will apply to companies. This is supported but it must also be ensured that related policies and measures developed and applied by government entities to meet a SET do not result in double or triple penalties as well as unexpected requirements for additional company level emission reductions over and above those set by carbon budgets. The development of positive and negative incentives must therefore be developed to encourage companies to meet their agreed carbon budgets.

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Sasol's remark and proposal: The Bill does not provide sufficient assurance that SETs will not negatively impact industry beyond the requirements set by the applicable carbon budget. Sasol recommends the inclusion in the Bill of an enabling provision that ensures SETs and associated policies and measures are developed to support achievement of carbon budgets held by companies within the relevant sectors.

3. Conclusion

Sasol recognises that the Bill has been significantly developed from the initial versions and has taken into account previous builds and inputs made in other public consultation process. However, we maintain that more can be done to ensure that the Bill and other legislative objectives are better aligned to achieve South Africa's climate goals in a just way.

Sasol would like to reiterate our support for this Bill and appreciate the opportunity to be involved in the consultation process. We request an opportunity to provide an oral representation at the public hearings.

Should you have any queries related to any matter contained within the submission, please do not hesitate to contact me for further information.

Kind regards

Shamini Harrington
Vice President: Climate Change

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Appendix A: Detailed comments on the Draft Climate Change Bill

Climate Change Bill clause	Sasol comment and recommendation
CHAPTER 1: INTERPRETATION, OBJECTIVES AND APPLICATION	
Definitions	
<i>"adaptation" means any adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;</i>	Agree with the definition provided.
	Sasol recommends the inclusion of the definition of "resilience" which is used repeatedly through the Bill. As per the previous version of the Bill the following definition can be used: "resilience" means the capacity of social, economic and environmental systems to cope with a hazardous event or trend or disturbance, responding or re-organising in ways that maintain their essential function, identity and structure, while also maintaining the capacity for adaptation, learning and transformation;
	Sasol recommends the inclusion of the definition of "Intergovernmental Panel on Climate Change" which means the panel established in 1988 by the World Meteorological Organization and the United Nations Environment Programme as defined by the United Nations Convention on Climate Change;
	Sasol recommends the inclusion of the definition of "person" which means the definition of person as defined in the Interpretation Act 33 of 1957;
Principles	Sasol recommends the inclusion of a principle focused on financing the transition which will be costly in a developing country context.
10. Presidential Climate Commission	Align this section of the Bill with the Presidential Climate Commission Charter.
11. Functions of Presidential Climate Commission	Align this section of the Bill with the Presidential Climate Commission Charter.
<i>(c) provide monitoring and evaluation of progress towards government's emissions reduction and adaptation goals</i>	It is unclear from this statement what metrics will be used to monitor progress. This issue

	would be addressed if alignment with the Charter is undertaken.
CHAPTER 3 CLIMATE CHANGE RESPONSE: PROVINCES AND MUNICIPALITIES	Amend language to include alignment with broader environmental considerations. We believe that alignment between climate change and air quality requirements as each imposes obligations on an operator which can be achieved through an integrated mitigation plan. In other words, revision of the Minimum Emission Standards, which may impose stricter standards on operators to comply with, should be aligned with climate change objectives such that operators are able to achieve compliance in an integrated and holistic manner. In this way cost effective approaches can be implemented.
Climate Change Response	
<i>15 (2)(1)(b) analyse the nature and characteristics of the province or metropolitan or district municipality, as the case may be, and the particular and unique climate change needs and risks that arise as a result of such nature and characteristics;</i>	This assessment must be done in an integrated way and should align/consider all environmental consequences and opportunities such as between air quality and climate change in alignment with principle (k) in this Bill.
<i>15 (2)(1)(c) identify and spatially map, within the sphere of operations of the province, district or metropolitan municipality, as the case may be, risks, vulnerabilities, areas, ecosystems and communities that will arise, or that are vulnerable to the impacts of climate change;</i>	Amend to include broader environmental issues. Integration/alignment with air quality initiatives and objectives is important and supports principle (k) as included in this Bill.
CHAPTER 4 NATIONAL ADAPTATION TO IMPACTS OF CLIMATE CHANGE	
Adaptation Objectives	
<i>16 (1)(c) a date by which the national adaptation objectives should be incorporated into all relevant national planning instruments, policies and programmes which address, or are affected by, the actual and potential impacts of climate change.</i>	We recommend that this should be changed to “must”.
<i>16 (2) The Minister may, periodically, review and amend the national adaptation objectives contemplated in subsection (1)(a).</i>	Expand clause to include specific criteria that would trigger this review. In this regard the “may” would be the correct verb to use so long as the specific criteria are detailed.
Adaptation Scenarios	

17 (2) (b) include a systematic observation of the climate system and early warning systems;	Not clear what “systematic observation” refers to, perhaps a definition should be added to the list.
17 (3) The Minister may, periodically, review and amend the national adaptation scenarios contemplated in subsection (1).	Amend to include a time frame for a minimum review should specified criteria be triggered. We believe this must be more structured with time frames indicated.
National Adaptation Strategy and Plan	
18 (3) The Minister may review and amend the National Adaptation Strategy and Plan at a five yearly interval to take into account—	While it is understood that a review might not always be needed, we also acknowledge that the climate change space is dynamic and that this will likely happen every five years.
18 (4) (b) reduce the risk and vulnerabilities to current and future climate scenarios;	Wording is not clear; suggest this be revised.
18 (4)(e)provide an integrated and coordinated approach to the management of adaptation measures in response to the impacts of climate change by organs of state in all spheres of government, and where relevant it should also include non-governmental organisations, the private sector and local communities.	Business is a key partner in increasing resilience to the impacts of climate change and therefore “should” as highlighted in yellow should be changed to a “must”.
Sector Adaptation Strategy Plans	
19 (1) (b) within two years of the publication of the National Adaptation Strategy and Plan, develop and implement a Sector Adaptation Strategy and Plan which must be informed by the assessment undertaken in terms of paragraph (a)(i) and serve to implement the measures and mechanisms determined in terms of paragraph (a)(ii); and	Support the “must” here.
Adaptation Information and Synthesis Adaptation Report	
20 (1) The Minister may by notice in the Gazette, or in writing, require any person to provide, within a reasonable time or on a regular basis, data, information, documents, samples or materials to the Minister that are reasonably required for the purposes of the National Climate Change Response White Paper.	It is unclear as to what requirement is referred to when referencing the National Climate Change Response White Paper. A redrafting of this clause is required.
CHAPTER 5 GREENHOUSE GAS EMISSIONS AND REMOVALS	
National Greenhouse Gas Emissions Trajectory	
21 (4) (b) may periodically review the national greenhouse gas emissions trajectory when national	The criteria detailed in this Bill supporting this clause all individually and collectively provide sufficient proof of the need for a revision and

<i>circumstances require such a review, including when such requirement is demonstrated by</i>	therefore the verb should be reflected as a “must”.
Sectoral Emissions Targets	Sasol recommends the inclusion in this section of an enabling provision that ensures SETs and associated policies and measures are developed to support achievement of carbon budgets held by companies within the relevant sectors and add additional burden.
<i>22 (2) The Minister may vary the list of sectors and sub-sectors that are subject to sectoral emissions targets.</i>	On what basis will the sectors be varied and done without prejudice. The “criteria” that will prompt such a change must be included, to ensure transparency and fairness.
<i>22 (4) (c) include quantitative and qualitative greenhouse gas emission reduction goals for the first five years, the subsequent five to 10 years and for a 10 to 15-year period thereafter.</i>	Supported.
<i>22 (5) (b) the best available science, evidence and information.</i>	Suggest inclusion of a criteria for consideration of other environmental objectives especially air quality and that a more integrated approach be taken.
<i>22 (9) (b) publish such amendment in the Gazette;</i>	When the relevant sectoral and sub-sectoral policies are updated and gazetted – adequate timelines must be incorporated for consultation and review by stakeholders.
<i>22 (9) (d) monitor the effectiveness of implementing such policies and measures in achieving the relevant sectoral emissions target.</i>	It must be recognised that there may be a delay between implementing a SET and tracking progress against the same SET. This should be recognised.
<i>22 (10) (c) ensure that the duly revised and amended policies and measures are implemented and monitored for effectiveness.</i>	Suggest the inclusion of a transitional arrangement that recognises that substantive revision of sector implementation plans may require re-work and result in execution delays possibly leading to targets not being met.
Listed Greenhouse Gases and Activities	
<i>23 (6) In the event that a review undertaken in terms of subsection (5) indicates the need for revision and amendment of one or both of the lists, the Minister may, by notice in the Gazette, revise and amend the relevant list, by—</i>	If the review according to the specified criteria indicates the need for a revision surely the Bill must state this activity as “must” as per yellow highlight.
Carbon budgets	Lack of further clarity regarding the operationalisation of the integrated carbon budget and tax system and its alignment with an enabling policy and regulatory framework is a concern. Sasol submits that a fully integrated budget and tax system supported by a mix of incentives and measures that

	<p>encourage mitigation and new low carbon sector development is critically needed. An enabling provision should be added to the Bill that ensures the development of a holistic integrated mitigation system, supported by both positive and negative incentives should be developed in regulations.</p>
<p>24 (2) <i>When allocating carbon budgets, the Minister must take all relevant considerations into account, including, amongst others—</i></p>	<p>It is recommended that the Bill include specific criteria for allocating carbon budgets that considers mitigation potential, the ability to transition and the inability to transition at pace due to externalities outside of an emitter’s control.</p> <p>Lack of alignment between existing authorisations and the carbon budgets. It is recommended that the Bill include provision for carbon budgets to not retrospectively impact on the rights granted to a company through existing authorisations.</p> <p>We believe the Minister must consider the implication on the objectives of the other environmental departments such as Air Quality and Water. It is entrenched as a principle of co-operative governance and supports integrated environmental management and sustainability. This also aligns with principle (k) of this Bill.</p>
<p>24 (7) (a) <i>A person to whom a carbon budget has been allocated may apply for a revision or cancellation of the budget under prescribed circumstances</i></p>	<p>The circumstances where this can be undertaken must be clearly articulated.</p>
<p>National Greenhouse Gas Inventory</p>	
<p>26 (3) <i>The Minister may by notice in the Gazette, or in writing identify a list of activities and thresholds for which measurements or estimations of greenhouse gas emissions and carbon sinks from stationary, mobile, fugitive, process, agriculture, land use and waste sources must be carried out.</i></p>	<p>The wording previously proposed is supported: The Minister may by notice in the Gazette, or in writing; require any person undertaking an activity that is listed in terms of section 24(1) of this Act and whose total emissions are above the threshold determined in section 24(3)(b) of this Act, in the manner prescribed, to submit data annually to contribute to the Report.</p>
<p>CHAPTER 6 GENERAL MATTERS AND TRANSITIONAL ARRANGEMENTS</p>	
<p>Regulations</p>	

27 (2) (a) (1) the determination, review, revision, compliance with and enforcement of an allocated carbon budget, amendment and cancellation of a carbon budget allocation, the content, implementation and operation of a greenhouse gas mitigation plan, and all matters related thereto; and

Sasol submits that the Bill must indicate clearly that exceedance of a carbon budget results in an administrative penalty and not criminalisation. The following wording must be included in section 32 new (1 bis): A person whose greenhouse gas emissions exceeds the quantity of greenhouse gas emissions prescribed by that person's allocated carbon budget, during the applicable period, will be subjected to a carbon tax on emissions above the carbon budget as provided for in the Carbon Tax Act, the modalities of which will be outlined in the carbon budget regulations.

The imposition of a carbon tax as the administrative penalty for exceedance of a carbon budget is supported. The Bill should reference an administrative penalty, without criminalisation, to enforce compliance with the carbon budget. Furthermore, effective alignment of the budget with the tax is proposed to ensure efficiency in the design, enable emission reductions and the avoidance of double taxation. Sasol supports a budget with the carbon tax applied only on emissions exceeding the budget. To be most effective a carbon tax within the budget should not apply. However, to date National Treasury has proposed both a carbon tax above the budget and a tax below the budget which is a significant financial penalty.

In addition, criminalising the exceedance of a carbon budget is not supported as GHG emissions cannot be equated to or be deemed as pollution because it is a differentiable activity. Within the context of climate change mitigation, technology maturity and availability, financial constraints, cost effectiveness of mitigation as compared to the carbon tax, global changes and directives from government could very well result in a need/choice made whereby a company exceeds the allocated budget. These circumstances are requisite when determining compliance mechanisms for carbon budgets. As a result, criminalisation cannot be applied in the instance of carbon budgets

	<p>exceedance. Case in point is the recent Ukraine crisis whereby the EU needed to revert to utilising coal to avoid Russian gas. In addition, rising gas prices during winter also resulted coal being more heavily used in the EU. GHG emissions are a function of the structure and energy resources within a country and are not easily divorced without major changes occurring in the economy. Ultimately, energy security weighed heavily on short term climate imperatives and necessitated the adoption of unplanned measures in the EU. GHG emissions in and of itself are not pollutants in the same way as air quality pollutants. They are dependent on context and circumstance which might require unforeseen measures to be taken that could result in budgets being exceeded. Ergo criminalisation cannot be applied to carbon budgets.</p>
<p><i>27(1)(b) in relation to the management of climate change response including incentives and disincentives to encourage a change in behaviour towards the generation of greenhouse gases amongst all sectors of society;</i></p>	<p>This is critically needed and should not fall within the purview of the “may” make regulations clause. This requirement should be moved to section 27 (2).</p> <p>Sasol submits that a fully integrated budget and tax system supported by a mix of incentives and measures that encourage mitigation and new low carbon sector development is critically needed. An enabling provision must be added to the Bill that ensures the development of a holistic integrated mitigation system, supported by both positive and negative incentives to be developed further in regulations.</p>
<p>Offences and Penalties</p>	
<p><i>32 (2) A person convicted of an offence in terms of subsection (1) is liable to the penalties contemplated in section 49B(2) of the National Environmental Management Act.</i></p>	<p>In the case of exceedance of carbon budgets NEMA cannot apply based on arguments made above. In this regard an administrative penalty, without criminalisation should apply.</p>
<p>SCHEDULE 2</p>	
<p><i>National Departments and State-Owned Entities responsible for certain functions required to develop a Sector Adaptation Strategy and Plan</i></p>	<p>It is unclear how the current department structure maps back to the departments listed in the schedule. Further clarity required.</p>