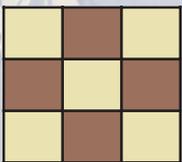
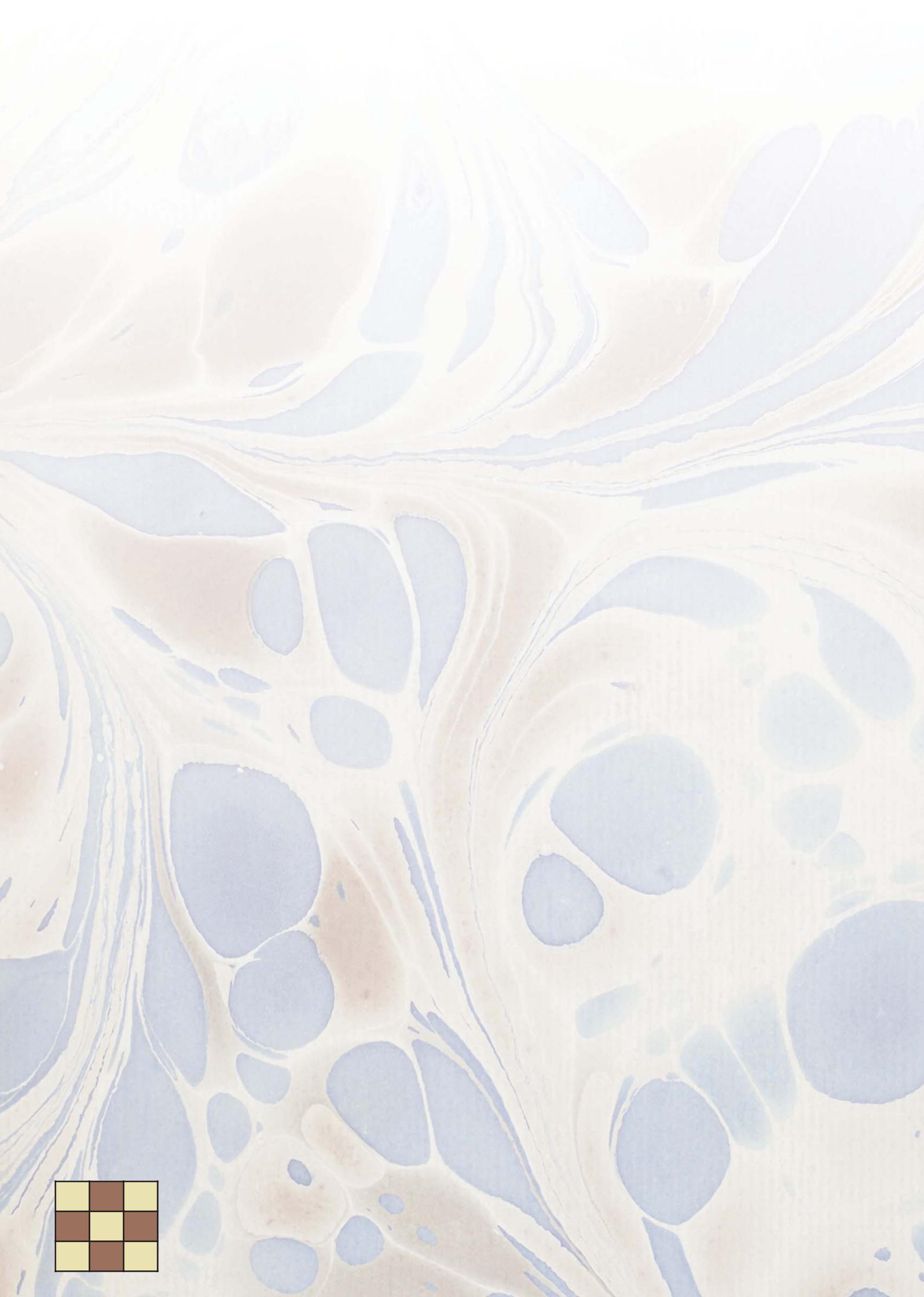




Department of Labour

# Ministerial Programme of Action

2004 – 2009



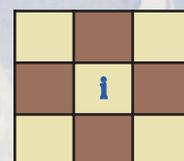


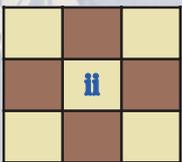
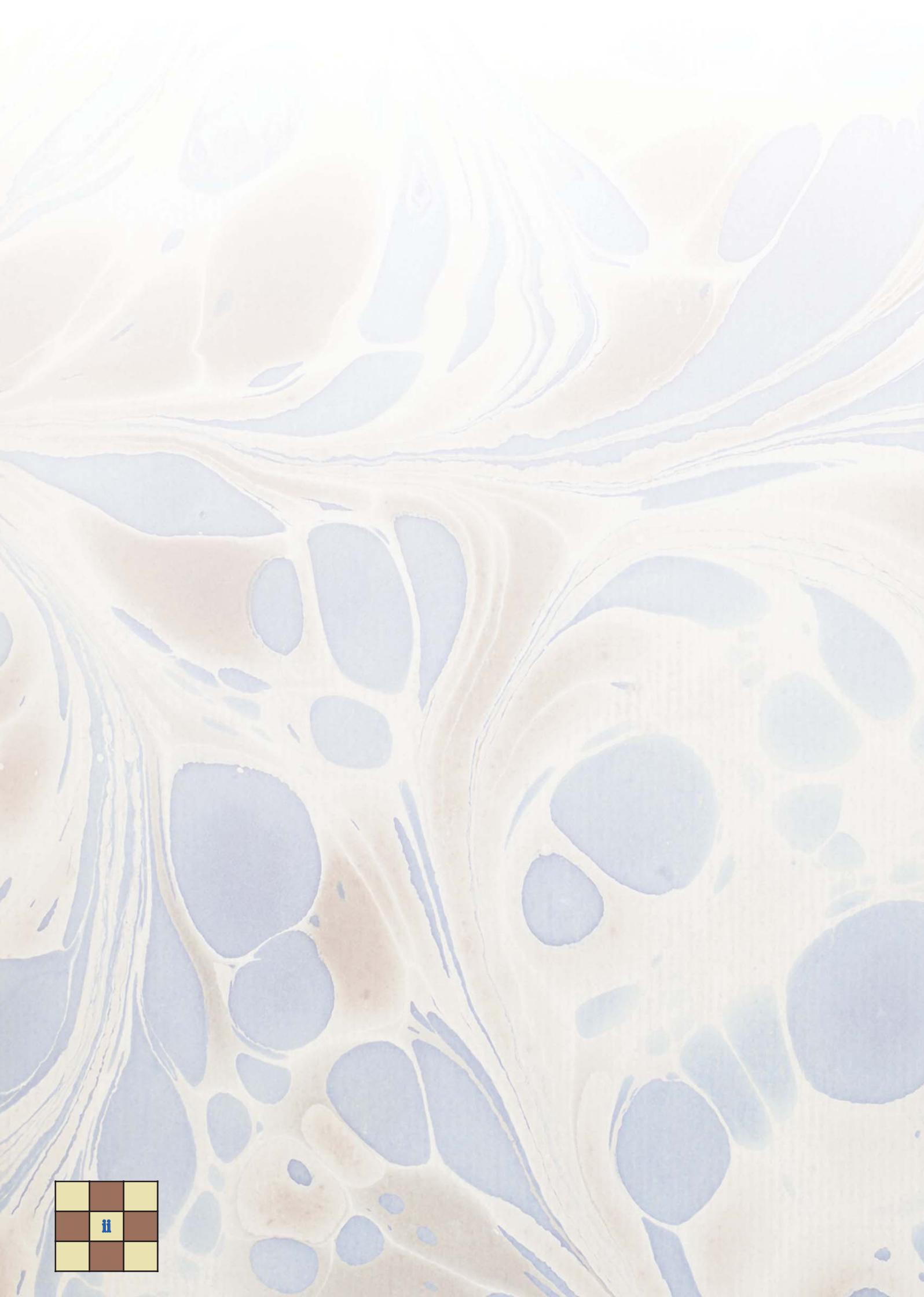
Department of Labour

# Ministerial Programme of Action

## 2004 – 2009

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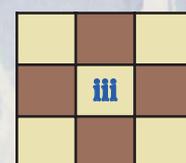




# Contents

## Page

Foreword	1
Department of Labour's Vision, Mission and Values	2
Introduction	4
<b>Part One</b>	
<b>South African Labour Market: A Ten-Year Review</b>	<b>5</b>
1. Inherited legacy of Apartheid in the labour market	5
Structural unemployment	6
A skills shortage and mismatch	6
Discrimination in the internal labour market	6
Working poor	6
Adversarialism	7
Inadequate protection of workers	7
Inadequate protection of vulnerable workers	7
2. Post-Apartheid labour market interventions	7
2.1. First Ministerial Programme of Action: 1994 to 1999	7
2.2. Second Ministerial Programme of Action: 1999 to 2004	9
Enhancing skills development	11
Monitoring and reviewing of labour market policies	12
Employment equity	12
Protection of vulnerable workers	13
Promoting occupational health and safety	14
Improving the social safety net	14
Promoting stable labour relations	15
Growth and Development Summit	16
Institutional restructuring	16
<b>Part Two</b>	
<b>Ministerial Programme of Action: 2004 – 2009</b>	<b>18</b>
1. Third term of democracy context	18
2. Ministerial Programme of Action: 2004 – 2009	19
Strategic Objective 1: Contribution to employment creation	19
Strategic Objective 2: Enhancing skills development	21
Strategic Objective 3: Promote equity in the labour market	22
Strategic Objective 4: Protecting vulnerable workers	22
Strategic Objective 5: Strengthening multilateral and bilateral relations	23



Strategic Objective 6: Strengthening social protection	23
Strategic Objective 7: Promoting sound labour relations	25
Strategic Objective 8: Strengthening the capacity of labour market institutions	26
Strategic Objective 9: Monitoring the impact of legislation	26
Strategic Objective 10: Strengthening the institutional capacity of the Department	27
Addendum: Monitoring and evaluation	29
Conclusion	30

# Foreword

As we celebrate Ten Years of Freedom millions of South African workers, employers and the country as a whole, can celebrate government's achievements in creating a better life for all.

In 1994, our democratic government inherited a labour market that was characterised by economic deprivation, adversarial labour relations and the denial of worker rights, a cheap and migrant labour system, massive income and wealth disparities, systematic discrimination against Black people, women and other groups, and high levels of unemployment.

This labour market was a cornerstone of the repressive and unjust system of Apartheid, and it was during the period of the previous five-year plan that it was extensively transformed into one that is closer to being just, equitable, and capable of meeting the demands of a dynamic economy.

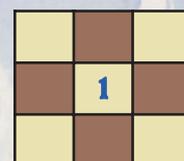
Indeed, it is with this strong sense of achievement that the Department of Labour also closed the chapter on the implementation of its second five-year programme, also known as the Ministry of Labour's Fifteen Point Programme of Action.

Some of the key achievements of this period were the following:

- The successful review of our labour laws which led to the introduction of amendments to the Labour Relations Act (LRA), and the Basic Conditions of Employment Act (BCEA). This made our laws more sensitive to job creation and to address unintended consequences of the earlier legislation
- The Department of Labour met its obligations as set out in the Presidential Job Summit agreements and also played a central role in the monitoring of the implementation of Job Summit agreements
- We have made great strides in the implementation of the Skills Development and Skills Development Levies Acts, that will ensure that we deliver to our people a high-quality workplace education and training system that is cost-effective, accountable, meets training needs and which complements employment and economic growth
- During the period 1999 – 2004, we have vastly improved the position of workers in our country. The implementation of the key legislative framework, such as the LRA and BCEA and other key legislation, has ensured that all workers are now covered by adequate legislation, that tries to balance security in the workplace (and in employment) with flexibility, to ensure that the overall performance of the economy in terms of job creation and investment is not negatively affected
- Sectoral determinations were introduced in order to improve the position of vulnerable workers. These have included determinations covering workers in the private security sector, domestic workers, farm workers, and workers in the wholesale and retail sector. A National Programme of Action is also being developed to address the critical challenge of child labour.

We have not only introduced new legislation and institutions that protect worker's rights and seek to empower them with skills, but we have continued to ensure that social dialogue is entrenched and that a true consensus is built around key interventions in the labour market with all the social partners.

It is through this partnership that we have also seen the hosting of a successful Growth and Development Summit (GDS), in June 2003. The agreements reached at this summit represent a collective effort on the part of all stakeholders, to greatly reduce the scourges of unemployment and poverty in our country.



It is in this context that it gives me great pleasure to present this Programme of Action for the period 2004 – 2009; this five-year plan seeks to consolidate the considerable gains that have been made in the immediate past whilst responding to new and emerging challenges facing our labour market and society as a whole.

The Department will continue to accelerate the effective and efficient implementation of government policies in the labour market. This will be accompanied by ongoing institutional transformation to enhance service delivery. We will also pay greater attention, as alluded to recently by President Mbeki, to the monitoring and evaluation of the impact of our policies.

This Ministerial Programme of Action commits the Department of Labour to an ambitious but achievable Programme of Action that is focused on the following:

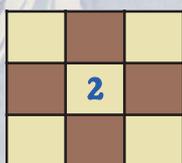
- Contribute to employment creation
- Enhance skills development
- Protect vulnerable workers
- Promote equity in the labour market
- Strengthen multilateral and bilateral relations
- Strengthen social protection (unemployment insurance and compensation for injuries and diseases and occupational health and safety)
- Promote labour relations
- Monitor the impact of legislation on broad government policy
- Strengthen the Department of Labour's institutional capacity to improve services provided.

It is my belief that this Ministerial Programme of Action 2004 – 2009 effectively positions the Department of Labour to deliver on its stated vision of a labour market that is conducive to economic growth, investment and employment creation and which is characterised by rising skills, equity, sound labour relations, and respect for employment standards and worker rights.

Our detractors do not share this vision nor believe that it is attainable. It is our successes that will prove that a balance between flexibility and security in the labour market can be a reality and that it is not ill-advised to pursue policies of which the objective is to develop a South African labour market that facilitates the creation of productive employment and brings about social development through income generation and poverty reduction.

I would like to thank all the staff at the Department for their commitment and determined effort. In the coming years, I urge them to build on their previous success and to draw on the wisdom and goodwill of their social partners, and all key stakeholders, in order to ensure the successful implementation of this Ministerial Programme of Action 2004 – 2009.

MMS Mdladlana, MP  
Minister of Labour



# Department of Labour

## Vision, Mission, and Values

### Vision

The Department will strive for a labour market which is conducive to economic growth, investment and employment creation and which is characterised by rising skills, equity, sound labour relations, respect for employment standards and worker rights.

### Mission

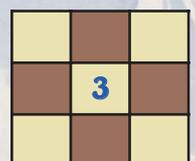
The Department will play a significant role in reducing unemployment, poverty and inequality through a set of policies and programmes developed in consultation with social partners which are aimed at:

- Improved economic efficiency and productivity
- Skills development and employment creation
- Sound labour relations
- Eliminating inequality and discrimination in the workplace
- Alleviating poverty in employment.

### Values

The Department has the following values:

- Client-centred services
  - We act on the understanding that our clients are the sole reason for our existence
  - We actively seek an understanding of our clients' needs and deliver our services accordingly
- Efficiency and effectiveness
  - We will be action-oriented and efficient in our work
  - We ensure that we are effective through achieving goals we set ourselves
- Representativeness
  - We will have a staff complement which is representative of the demographics of the population



- Diversity
  - We encourage and respect diversity
- Democratic practices
  - We subscribe to the principles of democracy and put these into practice in our work
- Transparency
  - We ensure that we are transparent in our dealings within the Department and with our external stakeholders
- Accountability
  - We accept our responsibilities and will be held accountable for our performance
- Sound labour relations
  - We practice sound labour relations within the Department
- Ongoing learning and development
  - We will create an environment which encourages learning and development
  - We take personal responsibility for our own development.

# Introduction

This document outlines the Ministerial Programme of Action for the next five years, covering the period 2004 to 2009. It is intended to serve as a yardstick for the Department in the next five years in three key ways:

- To consolidate the Department's attention towards key aims and objectives as elaborated in the Ministerial Programme of Action
- To enable the Department to assess achievements and challenges against a set of key targets
- To allow the South African public in general, and the labour market community in particular, to hold the Department accountable against a set of key commitments made.

The document is divided into two key parts. In Part One of the document a review of the last ten years of South Africa's democracy is provided, with a particular focus on the labour market. The review is provided against the backdrop of the state of the labour market prior to the first democratic elections of 1994. This section concludes with an analysis of the labour market today, and its implications for the future.

The ten-year review of the labour market, and the analysis of the contemporary labour market, builds up to Part Two – which looks at the Ministerial Programme of Action for the next five years. The Ministerial Programme of Action is located within broader government priorities of the Third Term of Democracy

# South African Labour Market A Ten-year Review

## 1. Inherited legacy of Apartheid in the labour market

The first democratic government has been, and indeed continues to be, beset with the longer term and more inertial economic consequences of apartheid. These consequences can be represented generically as the economic outcomes shaped by the policy of legislated racial exclusivity. Indeed, the new government in 1994 had inherited an economy characterised variously, by an unsustainably high fiscal deficit, surging interest rates and a volatile currency. The upshot was a domestic economy caught in a severe low-growth trap. As government's Ten-Year Review document has highlighted: In the decade preceding 1994, economic growth declined to below 1 % per annum and by the early 1990's economic growth had stalled with the 1992 recession and drought.<sup>1</sup> Additionally, the twin effect of sanctions and an over-extended import-substitution industrialisation strategy, meant that many firms were not globally competitive.<sup>2</sup>



*When the first democratic government took office in 1994, it inherited an unsustainable fiscal deficit, surging interest rates and a volatile currency. In short, the economy was in sharp decline, and worker rights were not seen as human rights.*

<sup>1</sup> PCAS (2003). Towards a Ten-Year Review: Synthesis Report on Implementation of Government Programmes. GCIS: Pretoria.

<sup>2</sup> *ibid*

Overlaying these more immediate challenges, the domestic economy had been undergoing long-term structural and technological shifts. The former was represented by the shift in output away from the primary toward the services sectors, while the latter has been manifest in the onset of the microelectronics revolution as well as significant increases in capital-labour ratios. These shifts, as elucidated on below, have had a fundamental impact on the nature of the post-apartheid labour market. These labour market challenges though, have also been crucially shaped by an accumulation of segregationist- and apartheid-era legislation. This legislation, which included for example, the Mines and Works Act of 1911, the 1953 Bantu Education Act and the 1968 Bantu Labour Regulation Act all served to engender the characteristics of the apartheid labour market that the new government inherited in 1994.

As a result of the above legislative interventions and the trajectory of economic growth in the pre-1994 era, the South African labour market has a number of key features and characteristics, which ultimately served as the challenges for the new democratic government. These challenges, albeit not exhaustively, can be characterised by the following:

- **Structural unemployment**

The process of consistently low economic growth, together with structural and technological shifts in the economy had over the years, steadily and significantly increased the numbers of unemployed within the labour market. The inability of these individuals to find employment over the medium- to long-run has made the country's unemployment problem, in the main, structural in nature. This ranks as probably the starkest welfare challenge inherited by the democratic government.

- **A skills shortage and mismatch**

As a result of a very poor quality educational system for Black children via Bantu Education and the relative reluctance of the private sector to invest in training Black people, a disproportionate share of Black workers remained (and indeed continue to remain) under- or unskilled. In the face of the increasing demand for highly skilled workers originating in the pre-1994 period, the upshot was both a skills shortage and skills mismatch - as the large numbers of jobless individuals lack the requisite skills to take up the primarily high-skill jobs on offer.

- **Discrimination in the internal labour market**

Gender and racial discrimination that characterised the pre-1994 South Africa clearly also found expression in the labour market. The prevention of Black people and women from entering certain professional categories led to internal labour markets that were not reflective of the composition of the labour force. In addition, Black people and women continued to earn less than White and male counterparts in similar occupational categories. People with disabilities were also not provided employment opportunities even in occupational categories where their disabilities were irrelevant.

- **Working poor**

The apartheid economy had also created a situation whereby substantial numbers of workers remained poor despite being employed – the omnipresent developing country phenomenon of the 'working poor'. In a pre-1994 economy characterised by a combination of a large supply of unskilled labour, limited unskilled job opportunities, repression of unions and State sponsored discrimination, significant numbers of predominantly Black working poor individuals was also a feature.

- **Adversarialism**

The relationship between the majority of workers and their organisations on the one hand and employers and their organisations on the other, was characterised by mistrust and high levels of adversarialism. Wage negotiations were undertaken in bad faith, production schedules were often disrupted by wildcat strikes, and the lack of a modernised system of dispute resolution worsened insecurities and adversarialism.

- **Inadequate protection of workers**

Legislation governing labour relations did not provide adequate protection to workers. The labour relations environment effectively allowed employers to perpetrate unfair labour practices with impunity.

- **Inadequate protection for vulnerable workers**

The labour regulation regime was fragmented and did not cover all workers adequately. Workers such as those who work in domestic services and farms were susceptible to a unique form of vulnerability. The labour relations dispensation prevalent in the pre-1994 period, did not provide these individuals with a special form of protection. As a consequence, a large number of these workers were exposed to the grossest form of abuse in the hands of their employers.

## **2. Post-Apartheid labour market interventions**

Faced with the multiple labour market challenges noted above, and the necessity to align the country's legislative environment with internationally accepted norms and standards, the Department of Labour's responses in this first decade of democracy – are encapsulated in its two Ministerial Programmes of Action. Specifically, the first Programme that ran for the period 1994-1999 and the second from 1999 to 2004. These Programmes of Action were translated into strategic plans and associated work plans by the Department. An individual consideration of each of these Programmes is instructive of the sequential and cumulative policy interventions that this Department had undertaken over the last 10 years.

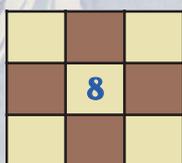
### **2.1 First Ministerial Programme of Action – 1994 to 1999**

During the first five-year cycle of our democracy, the newly elected government based its work programme on the dictum uttered by then President Nelson Mandela when he said in his very first State of the Nation Address:

"Accordingly, the purpose that will drive this government shall be the expansion of the frontiers of human fulfillment, the continuous extension of the frontiers of freedom. The acid test of the legitimacy of the programmes we elaborate, the government institutions we create, the legislation we adopt, must be whether they serve these objectives".

This clarion call could not have been more appropriate given the horrendous legacy, noted above, that the newly elected government inherited. For its part the Department of Labour sought to lay the foundation of an optimally functioning labour market through the process of intensive labour law reform and the creation of appropriate institutions to support economic growth, job creation, labour market stability and social dialogue.

Accordingly, the Department proceeded to establish a new labour market policy regime comprising a new Labour Relations Act, a Basic Conditions of Employment Act, an Employment Equity Act and a Skills Development Act - the latter being complemented by the South African Qualifications Authority Act. In addition it reformed the Unemployment Insurance Act. The



Department of Labour was also restructured by consolidating the various entities inherited from the previous regime and by reorganising its internal functions and operations. An overall structure for deliberating on labour, social, and economic policies in a consultative manner with key social partners was also established in the form of the National Economic Development and Labour Council (NEDLAC). A Presidential Jobs Summit was also held to enhance the ability of the economy to generate increased employment opportunities.

By the end of the first five-year period, major achievements had been made in enacting new legislation and drastically improving labour standards in the domestic labour market. South Africa had effectively created an environment conducive to the International Labour Organisation's (ILO's) goal of "Decent Work" for those in formal employment.

Despite the bedrock of an optimally functioning labour market being laid by the end of this First Ministerial Programme of Action, a number of major challenges remained. Some of these included:

- A current level and trajectory of economic growth, that has not been high enough in absolute terms, to result in employment expansion at the rate of the growth in the labour force. Put differently, the economy's low and single-digit growth rates have been consistently unable to act as a generator of a sufficient quantum of employment in the domestic economy
- There continues to exist, in addition to the problem of low growth inhibiting labour demand expansion, significant labour supply-side constraints that constrict employment. These are manifest in the form of inadequate supply characteristics amongst a large number of the unemployed in the face of South Africa's skills-biased employment growth trajectory.



*For its part the Department of Labour championed a process of labour law reform through the promulgation of progressive legislation and the creation of appropriate institutions to support economic growth, job creation, labour market stability and social dialogue.*



Accordingly the Department proceeded to establish a new labour market policy regime comprising a new Labour Relations Act, a Basic Conditions of Employment Act, an Employment Equity Act, and a Skills Development Act together with a South African Qualifications Authority Act.

- The inadequate coverage of those in vulnerable forms of employment, particularly in the informal economy and in atypical forms of employment
- The unintended consequences of some of the new labour market policies on small, medium and micro enterprises; and the perennial complaints of some employers that the new labour policies were unduly restrictive, cumbersome and rigid.

It was the above challenges then, that shaped the thinking and activities of the Second Ministerial Programme of Action. It is to a more detailed consideration of the elements of this Second Ministerial Programme of Action that we now turn.

## **2.2 Second Ministerial Programme of Action – 1999 to 2004**

In the second cycle of our democracy, the newly elected President Thabo Mbeki, set the tone for this cycle by pointing out that:

"The other area that has attracted considerable comment is the labour market and its actual or perceived impact on investment and job creation. Much of this commentary is ill informed or promotes a particular ideological and political point of view."

The most recent independent study on this issue was published by the ILO in February this year.

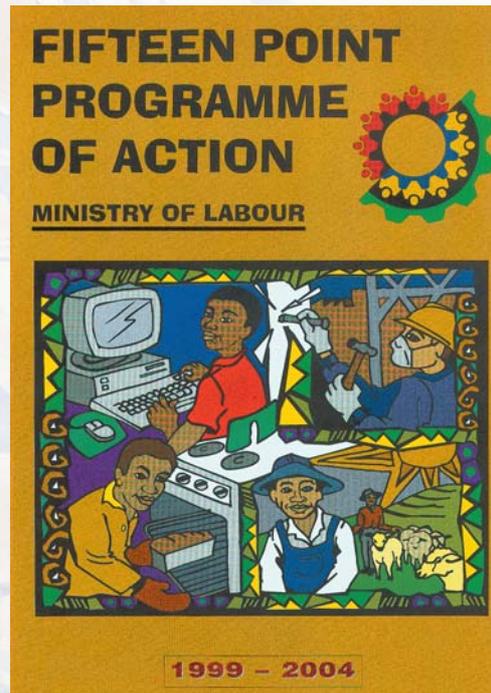
The report states that:

"One of the key findings of the study was that when compared to other middle-income countries, labour regulations on dismissal, fixed-term contracts and working conditions do not appear to be particularly onerous. A degree of numerical adaptability (at exit) does exist- thus dismissing the

view that inflexible labour markets are at the heart of the employment problem. Unfortunately employers perceive that the recent "avalanche" of labour market policy now makes it more onerous to employ: These perceptions, whilst they may not be rooted in reality when one considers the regulatory environment in other countries, do appear to be influencing the behaviour of the economic actors."

The government will continue to give priority to the issue of job creation. If perceptions or realities influence the process negatively, these must be addressed".<sup>3</sup>

Within this environment, the Minister of Labour, Membathisi Mdladlana, adopted a Fifteen-Point Programme of Action, which built on the work done in the first five years whilst also attempting to resolve the challenges (noted above) faced in the first cycle. The Fifteen-Point Programme of



Action committed the Department to contribute towards addressing specific labour market problems - some of which have been identified above.

As a result, the key elements of this Fifteen Point Programme encompassed the following:

- the government's commitment to seek an appropriate balance between labour market flexibility, efficiency, and equity through skills development, promotion of employment equity, extension of coverage to vulnerable groups, addressing unintended negative consequences of existing labour market policies, and strengthening social dialogue
- the need for a proper alignment of policies in order to promote economic efficiency, growth and development which can result in employment generation and increased labour absorption. This involved following up on Job Summit resolutions, designing social safety nets and active labour market policies, promoting increased productivity, and monitoring economic developments with respect to their impact of employment and conditions of employment

<sup>3</sup> President T Mbeki, 25 June 1999. Address at the opening of Parliament.

- restructuring the Department of Labour to enhance its ability to execute its mandate in a manner compatible with the attainment of the Fifteen-Point Programme of Action.

As this second cycle of democracy comes to an end and as another stage of democracy begins, the Department can point to a number of achievements with respect to meeting the commitments made in the Ministerial Programme of Action for the period 1999 to 2004. These include specific advances within the areas of skills development, occupational health and safety, social safety nets and the protection of vulnerable workers – all of which we elucidate on in greater detail below.

### **Enhancing skills development**

The first National Skills Development Strategy (NSDS), was launched in February 2001 and Sector Education and Training Authorities (SETAs) and a National Skills Fund (NSF) have been established to further operationalise the rolling out of the skills development strategy. Since then, about 300 000 workers have participated in the ABET programme. About 3,9 million workers have participated in structured training, of whom 2,2 million have successfully completed their training.



*Generally, globalisation will begin to shift the overall demand for labour from older more established workers toward younger, and in some cases female workers who are seen to be amenable to newer work processes usually because of their vulnerability and relatively weaker bargaining power.*

About 74 000 people received training in the SMME sector. Money spent on strategic projects has also yielded plausible results in providing employment opportunities to those who would have otherwise remained unemployable. About 70 000 learners are participating in the learnership programme.

The NSDS has begun to have the impact of a strategic intervention towards a reduction in unemployment. It means that millions of people who could not productively participate in the economy due to lack of skills can now do so. It means we have enabled millions of fellow South Africans who had resigned themselves to a life full of misery and despair, to regain their self-worth, self-esteem and self-confidence.

The NSF through funding windows like the social development funding window dedicated to unemployed youth and rural poor, have had a direct impact on household poverty reduction.

### **Monitoring and reviewing of labour market policies**

In response to claims that our labour market policies were inefficient, coupled with counter claims that our policies do not provide sufficient protection to workers, President Thabo Mbeki instructed the Department to review its policies and effect whatever adjustments that may be necessary to address the concerns raised. The review found that the policy thrust of our labour market was sound and consistent with the broad approach of other policies of government.

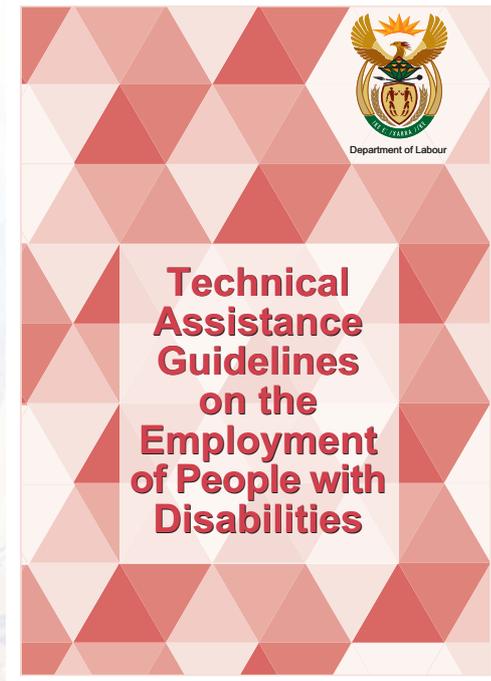
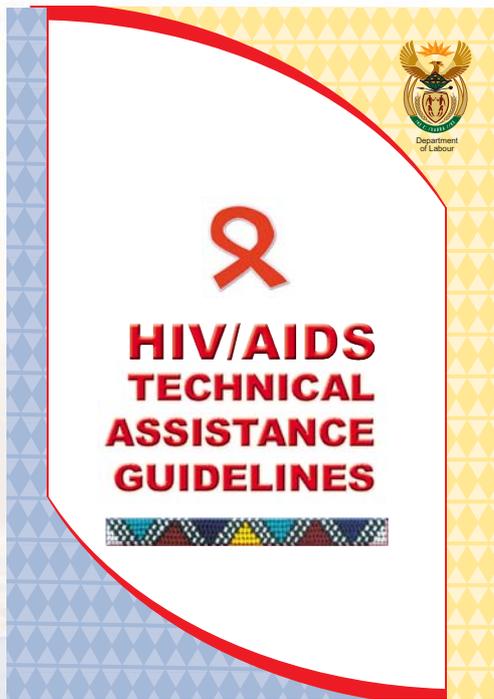
However, the review also found that certain aspects of our legislative instruments created legal uncertainties and unintended consequences. As a result an amended package of new labour legislation was published for comment. A protracted period of consultation resulted in an agreement reached through NEDLAC. The broad thrust of the package of the proposed legislation goes a long way toward striking the illusive balance between labour market efficiency and appropriate labour standards. When the proposed legislation was debated in Parliament, all political parties agreed with the broad thrust of the package.

Given the fact that labour market policy will always be a contested terrain, an agreement by social partners and political parties on a package of labour legislation was, for the Department, an important milestone and a tremendous achievement. It meant that the Department could constructively channel its collective energy towards implementation of legislation rather than be caught up in unproductive and polemic debates. Both the World Bank and the International Monetary Fund (IMF) in their recent publications have come out in support of the package adopted.

### **Employment equity**

Under this strategic objective, it was agreed that we would seek to eliminate inequality and discrimination in the workplace through the implementation of the Employment Equity Act. Achievements of this strategic objective include the publication of the first Employment Equity Register for the period 2001–2002, the development and publication of technical assistance guidelines for HIV and AIDS aimed at assisting employers to support workers who are infected and affected; and the development of technical guidelines on the employment of people with disabilities in the work place aimed at supporting the employment of people with disabilities.

It is also encouraging that all the mining, petroleum, ICT and financial services charters have a chapter on employment equity. This intervention will help contribute to positive demographic shifts within these sectoral labour markets . But a much more aggressive enforcement strategy on the



part of the Department will be required, in order to meet the mandate imposed on the Department by legislation. This matter is prioritised in the Ministerial Programme of Action for 2004 - 2009.

#### **Protection of vulnerable workers**

During the second cycle, the Minister promulgated sectoral determinations that protect the most vulnerable workers in the labour market namely, domestic and farm workers.



*During the second cycle the Minister promulgated sectoral determinations that protect the most vulnerable workers in the labour market namely, domestic and farm workers.*

In the domestic workers' sector, the sectoral determination has resulted in a positive mindset change in the case of employers who hitherto under-valued the indirect contribution of domestic workers to the economy. Before the promulgation of the sectoral determination some employers undermined the rights of domestic workers, manifest in unlawful and non-procedural behaviour. As a direct consequence of the sectoral determination for these workers, working hours of domestic workers are regulated and they are entitled to a minimum wage. These workers are now protected by legislation and can no longer be dispensed with sans a just cause and a fair procedure.

Inspections carried out in this sector have revealed that the majority of employers have embraced this sectoral determination and are willing to comply.

With regard to the Agricultural Sector, the sectoral determination was not received with equal enthusiasm where some farmers attempted to resist its implementation. Our challenge is to ensure that every farm worker throughout the country enjoys these newly acquired rights. Our assessment is that the culture of exploitation of farm workers, practised over many decades and condoned by the apartheid administration is deeply rooted. Reversing this culture will require that we mobilise all our resources and create an environment whereby the rights of every worker, including a farm worker, are not violated with impunity.

The Department has also identified a number of sectors which are being investigated with the intention to promulgate sectoral determinations in the Ministerial Programme of Action for 2004–2009.

### **Promoting occupational health and safety**

Important interventions were made in the last five years to ensure that we address the scourge of occupational health and injury-related incidents in the last five years. The first key intervention of the Department in this respect, was to introduce the integrated inspection model. Secondly, the Department embarked on education and advocacy campaigns to impress upon employers that the responsibility to secure workplaces and prevent injuries, fatalities and health hazards rest with them. Thirdly, the OHS Accord was signed, thus mobilising social partners to work together in promoting compliance. Relatedly, the Department also developed training programmes aimed at strengthening the capacity and confidence of inspectors to do their work. The inspectorate introduced an innovative approach of targeting and focusing on specific high-risk industries instead of spreading itself too thinly. Coupled with the strategic use of media, high visibility of inspectors, blitz inspections and advocacy, national awareness around occupational health and safety issues was raised to unprecedented levels. Finally, the Department has facilitated the external reporting of potential violations in the interests of preventing accidents and fatalities.

Ultimately then, as a result of the above OHS initiatives, both employers and workers are better informed about their rights and obligations. In addition, these interventions have gone a long way to ensuring that workers enjoy reasonable protection against workplace accidents and diseases.

### **Improving the social safety net**

Given the problems experienced by the Unemployment Insurance Fund (UIF) in the past, it was clear to the Department during the second cycle that nothing short of a radical overhaul of the UIF policy framework was necessary. Pursuant to that objective, a new Unemployment Insurance Act was passed. This law is aimed at improving the liquidity and solvency of the Fund, and extending coverage to domestic and seasonal workers who were hitherto excluded. The new UI

Act also de-links maternity and unemployment benefits, strengthens compliance and enforcement measures, and introduces effective dispute resolution measures.



*According to our database nearly half a million domestic workers are now registered with the Fund.*

As a result of the introduction of the new Act and the implementation of certain administrative measures, the UI Fund is now financially stable, with reserves in the region of R5,2 billion.

While the Compensation Fund remained financially sound, it had administrative inefficiencies. In response to the dissatisfaction expressed by the public regarding the unjustifiably long turnaround time in processing claims for occupational injuries and diseases, the Department has now introduced an automated system called 'FYI'. This system has significantly improved the Department's processing record. The Department has however, come to the conclusion that the Fund should undergo restructuring. This work will be carried out in a manner that takes into account the commitment already made by Cabinet to integrate the OHS and the Compensation Fund competencies across government.

### **Promoting stable labour relations**

Institutions that were established in terms of legislation passed in the first five-year cycle to promote stable labour relations and social dialogue have shown an outstanding performance in the past five years. The Commission for Conciliation, Mediation and Arbitration (CCMA) has played a pivotal role in promoting industrial peace and stability through dispute prevention, mediation and arbitration.

Bargaining councils constituted in terms of, and regulated by, the Labour Relations Act continued to play a significant role in preventing and resolving disputes in their respective industries. Independent research has found that in the last five years, incidents of unprotected and wildcat strikes have declined significantly and that the number of workdays lost to strike action had

declined significantly. This observation is a demonstration of the efficacy of our labour market policies.

NEDLAC has also played a significant role in promoting social dialogue, creating a platform for consultation on major policy issues and in processing section 77 notices in a manner that averted potential strike action. NEDLAC also played an important role in facilitating the conclusion of the Growth and Development Summit which epitomises the best results of social dialogue. The role of the Department has been that of providing oversight and promoting good governance in respect of all these institutions.

### **Growth and Development Summit (GDS)**

At the behest of President Mbeki social partners worked together towards developing a shared vision for economic growth, job creation and poverty reduction. Emanating from this engagement, an historic deal was signed by all social partners on 7 June 2003. GDS commitments seek to address four themes namely:



- More jobs, better jobs, decent work for all
- Advancing equity, developing skills, creating economic opportunities for all and extending services
- Addressing the investment challenge
- Local action and implementation for the development and implementation of the GDS Agreement is prominent in Ministerial Programme of Action 2004 – 2009.

### **Institutional restructuring**

Institutional restructuring was characterised in this period, by the Department restructuring into business units in order to promote efficiency and enhance effectiveness. In addition, labour centres were established to enhance the accessibility of departmental services to the public and to give substance to Batho Pele Principles.

Another unprecedented intervention we embarked on during the period under review was the Information Technology programme via a Public Private Partnership with Siemens Business Services. Aimed at improving government's performance through technological applications, this programme is the first of its kind. Despite set-up problems that are always prevalent in undertakings of this nature, the Department has already begun to reap the fruits of this intervention.

## Part Two

# Ministerial Programme of Action: 2004 – 2009

### 1. Third term of democracy context

As we usher in the second decade of democracy we note the positive economic indicators, including macro-economic stability manifest in prudent fiscal and monetary policy, a stable currency, declining real interest rates and a resilient economy that has been growing at an average rate of 2,5%.

However the economy continues to face a series of obstacles, some of which remain despite the significant advances made in the first two Ministerial Programmes of Action. Some of the more pertinent challenges that remain include:

**Firstly**, that our economy reveals dual characteristics. The one characteristic is that of an advanced, industrialised economy which is well developed, employs people who are skilled, is technologically driven, upholds labour standards, and is globally competitive.

Alongside this first economy is that of a developing country economy, which in many cases is structurally disconnected from the first. High levels of income poverty, limited access to knowledge, technology and markets characterise this second economy. It is also characterised by poor labour standards and informal work relations.

The **second** challenge facing us is the legacy of structural unemployment, which has already been noted above as possibly the starkest indicator of the welfare challenge facing this society. There are two notable features of the country's unemployment crisis: Firstly that the unskilled are simultaneously most likely to be the first to lose their jobs in periods of employment contraction, and least likely to be hired in periods of employment expansion. Secondly, the youth, which currently constitute 70% of the unemployed, are the dominant, identifiable cohort within this group of long-term unemployed individuals.

The **third** challenge relates to inequalities and discrepancies in terms of ownership, shareholding, management, which remains dominated by White males. Black people, women and people with disabilities remain marginalised in relation to meaningful and influential participation in the economy.

The **fourth** challenge relates to the changing nature of work. This is evident in the increased propensity amongst employers to switch away from permanent and full time employment toward atypical forms of employment such as casual labour, part-time employment, temporary and

seasonal work. Externalisation in the form of outsourcing and subcontracting is also on the rise, as the pressures in part of greater international competitiveness are felt by domestic firms.

The **fifth** challenge relates to domestic as well as cross-border migration. The former describes a phenomenon whereby people from rural areas, most (though not all) of whom are unskilled, migrate to urban areas in search of employment. The latter refers to economic refugees who have left their country and settled in the urban areas of South Africa, hoping to find employment. Both phenomena bear the risk of increasing the numbers of unemployed people in large urban centres, with the concomitant greater pressure on public services and utilities.

The **sixth** challenge is that of a shortage of very specific skills required by domestic firms in order to both expand production and increase their global competitiveness. This challenge does not only require that we train less qualified people to acquire these skills, but also that re-orientation and retraining of those who have qualifications is undertaken.

The **seventh** challenge is that of strengthening labour market institutions and increasing their capacity to carry out their mandates.

The **eighth** challenge relates to the management of HIV and AIDS in the workplace in such a way that workers who are infected and affected are not unfairly discriminated against, on the basis of their HIV status. Allied to this is the challenge of preventing AIDS from adversely affecting workplace productivity. In addition, the pandemic's deleterious impact in terms of a potential reduction of supply of skilled workers is noted.

The **ninth** challenge relates to ensuring that the labour market has an efficient and effective system of occupational health and safety fully integrated with a system of compensation for occupational injuries and diseases across government. The growth of the informal economy introduces a particular challenge in this regard.

The **tenth** challenge relates to ensuring the development and implementation of effective instruments for constant review of the impact of labour market policies in the economy.

The **eleventh** challenge is that of ensuring that key economic policies of government are in harmony with one another and are mutually re-enforcing in promoting growth, reducing unemployment and eradicating poverty.

## **2. Ministerial Programme of Action: 2004 - 2009**

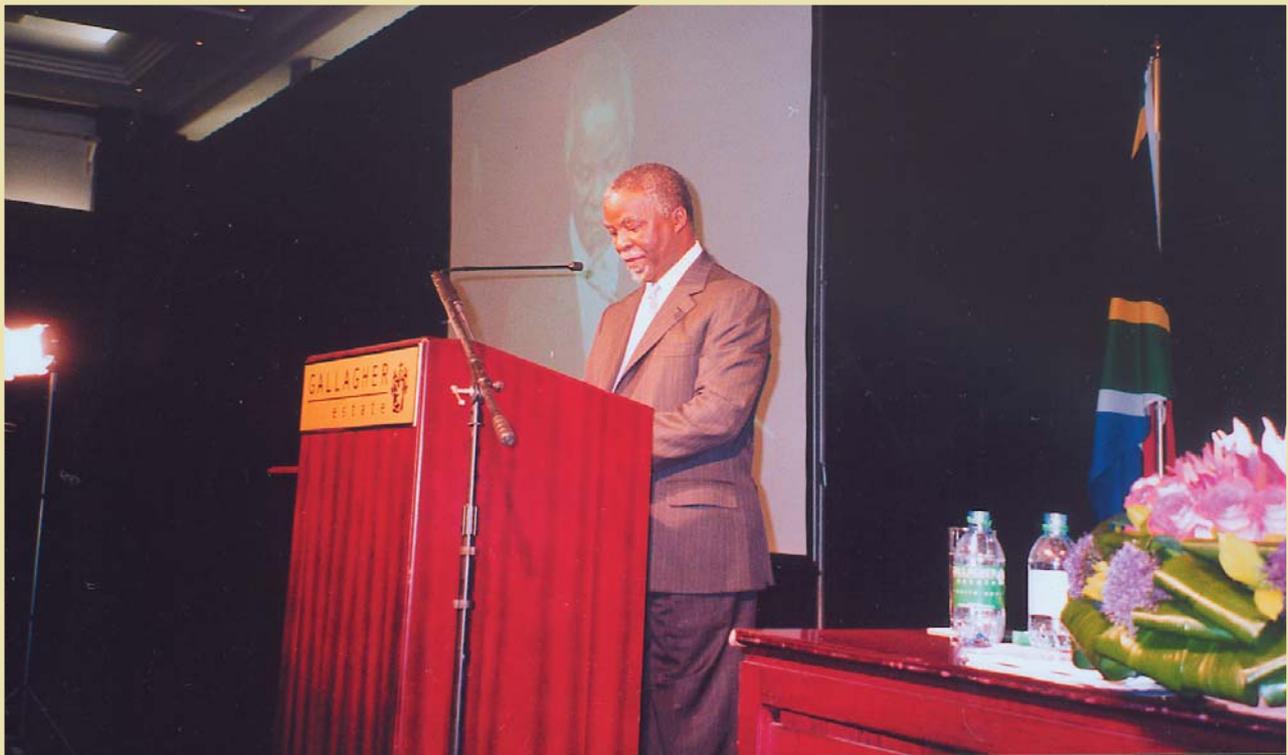
This section unveils interventions that will be undertaken in order to address the numerous, inter-related challenges which have been identified above.

### **Strategic Objective 1: Contribution to employment creation**

It is generally understood that while labour market policies do contribute to the promotion of decent work, they cannot of themselves create jobs. A combination of properly harmonised macro-economic, industrial as well as labour market policies is necessary for ensuring that the economy generates enough employment opportunities in order to reduce the rate of unemployment.

The Department of Labour will contribute towards employment creation in the following ways:

- 1.1 By actively striving to ensure that its labour market policies and strategies complement national growth and development objectives
- 1.2 New labour market regulations in relation to new job creation strategies, such as cooperatives, will be developed, implemented, monitored and evaluated
- 1.3 Social dialogue will be strengthened to support growth and development
- 1.4 There will be ongoing monitoring of the achievements and targets of government departments' GDS commitments
- 1.5 The Department will ensure that it meets its own GDS commitments



*The President requested social partners to work together towards developing a shared vision for economic growth, job creation and eradication of poverty.*

- 1.6 Sectoral skills plans will be aligned to sectoral growth paths
- 1.7 Provincial skills plans will be aligned to provincial economic growth and development strategies
- 1.8 Expanded Public Works Programmes' (EPWP) participants will be trained
- 1.9 Learnership targets will be achieved as per the GDS targets
- 1.10 Exit strategies for people on EPWP and learnerships will be developed and implemented.

Pursuant to the GDS Agreement the following programmes will also be undertaken:

- Exploration of the feasibility and usefulness of additional active labour market policies for employment promotion
- Positioning labour centres to improve the matching of supply and demand in the local labour market
- Support for cooperatives.

## **Strategic Objective 2: Enhancing skills development**

Based on the lessons learnt in implementing the first national skills development strategy, and taking into account new challenges which have emerged, the Department will launch the second national skills development strategy. The new strategy, which takes into account feedback from interested parties, would build on the foundation laid by the first skills development strategy. The new strategy, which is to be implemented from 2005 to 2009, will seek to address existing weaknesses and bottlenecks. This will be achieved by:

- 2.1 Revising and implementing the HRD Strategy
- 2.2 Reaching the NSDS 2001–2005 targets and reporting on them at the Skills Conference in 2005
- 2.3 The New NSDS strategy 2005–2009 will be launched at the Skills Conference in 2004 and implemented
- 2.4 The NQF review will be finalised, implemented, monitored, and evaluated.



*The second challenge facing us is the legacy of structural unemployment. Unskilled workers find themselves gradually being displaced and excluded from productive participation in the economy. The youth, which currently constitute 70% of the unemployed, continue to experience barriers to entry into the labour market.*

### **Strategic Objective 3: Promote equity in the labour market**

Since gender, race and discrimination based on disabilities and other irrational grounds continue to pervade the labour market in the third cycle of democracy, the Department of Labour will seek to eradicate such discrimination by vigorously implementing the employment equity legislation. To this end, the following interventions will be undertaken:

- 3.1 The Department will conduct a study on the impact of the Employment Equity Act since its inception and its policy implications
- 3.2 The Department will strengthen enforcement mechanisms whilst promoting the culture of self-regulation. In monitoring compliance targeted audits will be embarked upon
- 3.3 The Employment Equity Strategy and NSDS 2005 – 2009 will be aligned
- 3.4 Technical Assistance Guidelines (TAGs) and Codes of Good Practice will be implemented
- 3.5 Incremental Black Economic Empowerment (BEE) targets – for procurement of goods and services will be incorporated into public entities associated with the Department
- 3.6 Employment equity and BB BEE legislation will be aligned.

Further to these interventions, and since all of the existing sectoral charters have an employment equity dimension, the Department will work with the relevant sectors to assist them in meeting their employment equity obligations arising from their respective charters. The Department will also monitor the impact of HIV/AIDS and continue to promote the implementation of the TAG.

### **Strategic Objective 4: Protecting vulnerable workers**

Several sectoral determinations were promulgated during the second cycle of our democratic rule. These sectoral determinations were necessary in order to protect workers whose unique work circumstances render them susceptible to the grossest forms of abuse. The main challenge in the third cycle of the democratic government is to ensure that workers in the sectors governed by sectoral determinations benefit from these interventions. The approach will include ensuring that in the first place, employers and workers understand their reciprocal rights and obligations. To this end, the Department will continue to embark on advocacy campaigns aimed at engendering the culture of voluntary compliance. During the period 2004–2009 the Department will increase its capacity to enforce sectoral determinations, especially in the domestic and agricultural sectors. It is also anticipated that during the period 2004–2009, more sectoral determinations will be promulgated in sectors in respect of which such interventions are deemed necessary.

While the notion of atypical or non-standard forms of employment is not a problem per se, it has been clear that certain types of atypical employment relations expose workers to unacceptable forms of vulnerability and exploitation. These forms of employment relations affect workers negatively and also contribute to growing precariousness and insecurity in the labour market. In order to respond to this challenge we shall conduct research into the full impact of casualisation, of labour and outsourcing and devise ways of dealing with their negative impact on workers and the economy as a whole.

Pursuant to these objectives, the Department will protect vulnerable workers by undertaking the following interventions:

- 4.1 Workers in vulnerable sectors and segments will be identified and protection extended. Sectoral determinations published for residual and emerging vulnerable workers (Children in the Performing Arts, Forestry, Taxi and Sheltered Employment)
- 4.2 Current sectoral determinations will be evaluated
- 4.3 Compliance with legislation will be increased
- 4.4 Bargaining councils will be established in vulnerable sectors (Security, Civil Engineering, Contract Cleaning and the Building Industry)
- 4.5 The Child Labour Action Programme will be finalised and implemented
- 4.6 Sheltered employment factories will be restructured.

#### **Strategic Objective 5: Strengthening multilateral and bilateral relations**

After many decades of isolation as a result of its abominable policies of apartheid, South Africa now occupies an enviable place in the global arena, in both multilateral as well as bilateral relations. Over the next five years the Department will promote a collective multilateral approach to global challenges and work for the democratisation of global institutions that operate within its spheres of influence. To that end, South Africa will continue to participate in the SADC, ARLAC, NEPAD and in the International Labour Organisation.

We have also signed several bilateral agreements with ministries of labour in countries that South Africa has an interest in. The challenge in the next five years is to ensure that we solidify our relationships with strategically placed countries and also extend our influence in the region so as to promote the "globalisation of labour standards".

The Department's interventions in this regard will include:

- 5.1 Ensuring effective participation in the ILO, SADC and the AU Labour and Social Affairs Commission
- 5.2 Effectively discharging South Africa's obligations to the ILO
- 5.3 Ensuring that the objectives of signed bilateral agreements are implemented and monitored and achieved
- 5.4 Mobilising, coordinating and managing technical cooperation.

#### **Strategic Objective 6: Strengthening social protection**

In the past few years Parliament has passed a series of legislation aimed at providing a social safety net, including the provision of social support to workers in the event of temporary loss of income due to unemployment or work related injuries. In the next five years, the Department will seek to strengthen these social support systems. The support will include:

- 6.1 Ensuring an improved client satisfaction on Unemployment Insurance Fund and Compensation Fund services

- 6.2 Achieving financial viability and sustainability of the Unemployment Insurance Fund and Compensation Fund
- 6.3 Improvement in revenue collection by at least 10 % during the first year
- 6.4. Extending the coverage of unemployment insurance to other vulnerable workers
- 6.5 The national integration of compensation and occupational health and safety competencies across government departments
- 6.6 The reduction of occupational health and safety incidents in targeted industries
- 6.7 The reduction of workplace fatalities especially in high risk sectors.



*The ninth challenge relates to ensuring that the labour market has an efficient and effective system of occupational health and safety fully integrated with a system of compensation for occupational injuries and diseases across government. The growth of the informal economy introduces a particular challenge in this regard.*

## Strategic Objective 7: Promoting sound labour relations

It is generally agreed that the degree of adversarialism that characterised the pre-1994 period drastically declined during the first ten years of democracy, manifest in part by the decline in the number of person-days lost due to strike action. This was largely attributable to the efficacy of our labour market policies as well as the maturation of social dialogue – which is also regulated by labour legislation.

At the dawn of the third cycle of democratic rule, new labour relations challenges are beginning to emerge. The labour relations environment is entering hitherto uncharted territory, whereby workers and management need to negotiate complicated issues such as methods of production. Global competition calls for a more enhanced degree of cooperation between labour and management. In other words, in respect of industries that face fierce international competition, management and labour need to redefine their relationships to enable them to jointly produce goods and services at globally competitive prices. The challenge for the Department of Labour is that of facilitating the deepening of these relationships - in the first instance through NEDLAC.

Bargaining councils as centres of social dialogue have been functioning effectively in the first two cycles of democracy. However, the impact of bargaining councils on small business continues to be raised as one of the constraints of the growth of SMMEs. An empirical study shall be undertaken on this matter and interventions developed, should the results of the study suggest it necessary. At the same time, the tendency to casualise workers and create triangular labour relations undermines both the letter and the spirit of labour legislation - thus rendering workers vulnerable. As earlier indicated, comprehensive research on atypical forms of employment would be carried out with an intention to effect whatever interventions are required.



*At the dawn of the third cycle of democratic rule new labour relations challenges are beginning to emerge. The labour relations environment is beginning to extend into an unprecedented terrain whereby workers and management need to negotiate complicated issues such as methods of production.*

Further to these objectives, the Department will continue to promote sound labour relations through:

- 7.1 Ensuring a continuing decline of workdays lost due to industrial action
- 7.2 Ensuring an effective and efficient dispute resolution system
- 7.3 Ensuring that the proportion of workers covered by collective agreements is increased
- 7.4 Ensuring improved representation of small business interests in collective agreements
- 7.5 Inclusion of broader economic and employment growth issues into collective bargaining agreements
- 7.6 Active engagement and participation by the Department in tripartite statutory bodies
- 7.7 Enhancing and extending social dialogue.

### **Strategic Objective 8: Strengthening the capacity of labour market institutions**

The Department of Labour created appropriate labour market institutions during the first cycle of democratic rule. Most of these institutions have been operational for about ten years, during which many lessons have been learned. It is now necessary to carry out an evaluation of these institutions, assess their strengths and weaknesses, and effect whatever interventions are required to increase their efficiency and enhance their effectiveness.

In this regard the Department will:

- 8.1 Improve service delivery provided by statutory bodies and public entities associated with the Department, through clear performance standards for relevant agencies
- 8.2 The views of the public will be sought to assess the services received from the statutory bodies and public entities
- 8.3. The capacity of social partners to deliver on GDS commitments and other areas of cooperation will also be enhanced by the Department's support.

### **Strategic Objective 9: Monitoring the impact of legislation**

During the second cycle of our democracy, government departments were structured into clusters in order to promote collaboration and improve coordination both at a policy as well as implementation level. While this intervention has improved the overall performance of government, it has also revealed a lack of synergy in relation to how macro-economic policies, industrial policies and labour market policies are harmonised in a bid to create an environment conducive to job creation. During preparations for the GDS some of these policy contradictions became more pronounced. The GDS commitment to half unemployment by the year 2014 calls on all government departments to prioritise employment creation, not as a residual of other policies but as a key objective. This will inevitably mean that government departments should develop their capacity to explicitly illustrate how the policy positions they develop contribute to job creation.

The Department of Labour will, during the third cycle of democratic governance carry out research, monitoring, and evaluation aimed at determining the extent to which labour market policies are harmonised with other economic policies and contribute to the objective of creating work opportunities.

To this end the Department will:

- 9.1 Publish bi-annual labour market reviews and labour statistics reports. These labour market trends will be analysed and linked to the Department's interventions



- 9.2 The impact of aggregate and disaggregate departmental policies and programmes on stated goals and objectives will be researched and reported
- 9.3 Annual client satisfaction surveys will be conducted on levels of service delivery and made public
- 9.4 The harmonisation of labour market policies and other government policies will be promoted
- 9.5 Strategic partnerships and cooperation with established research institutions will be embarked upon.

#### **Strategic Objective 10: Strengthening the institutional capacity of the Department**

In 1999, the Department was restructured into business units in order to respond to the challenge of shifting focus from policy formulation to implementation. This has significantly improved the Department's service delivery record. Certain key functions have been decentralised from Head Office to provincial offices and others from provincial offices to labour centres.

During the period 2004–2009 the Department will undertake an evaluation of lessons learned in the last five years and identify areas of work that need to be strengthened in order to further

increase the effectiveness of the institution in delivering its services.

Further to such an evaluation, the Department will ensure that there is:

- 10.1 Improved service delivery to the external clients of the Department by enhancing decentralisation of services
- 10.2 Improved service delivery provided by agencies associated with the Minister of Labour
- 10.3 Improved service delivery to the internal clients of the Department
- 10.4 Improved management practices within the Department
- 10.5 Full Public Finance Management Act (PFMA) compliance achieved by the Department and public entities
- 10.6 Internal compliance with the labour laws
- 10.7 Internal and external communication are strengthened.



*The Department will ensure that there is improved service delivery to the external clients of the Department by enhancing decentralisation of services.*

# Addendum: Monitoring and evaluation

The first cycle of the Department's interventions in the labour market was largely a period of developing a new policy framework and institutions that would ensure its implementation. The second cycle was characterised largely by an increased focus on implementation and learning from the lessons that were emerging. The cycle beginning in 2004, which is the third cycle, has been appropriately characterised by President Thabo Mbeki, in his State of the Nation Address on 21 May 2004:

"The government is also in the process of refining our system of monitoring and evaluation, to improve the performance of our system of governance and the quality of our outputs, providing an early warning system and a mechanism to respond speedily to problems, as they arise. Among other things, this will necessitate an improvement of our statistical and information base and enhancing the capacity of the Policy Coordination and Advisory Services Unit".

To further consolidate the President's point, the Minister of Labour has already indicated that. "... we live in a rapidly changing world and in order to ensure that our labour market policies continue to address the real issues facing the people, it is essential that our understanding of the labour market is accurate. In this regard; we have strengthened the Department of Labour's research and statistical analysis capacity"

The policy context for South Africa's transformation agenda has been set, and a new set of challenges now face the country. South Africa has gradually matured from the process of policy formulation and has begun the process of policy implementation: The next five years will have to grapple much more with the notion of policy impact.

Unlike the previous two Programmes of Action therefore, the high emphasis on implementation means that monitoring and evaluation will be a key component of the Programme of Action.

Three key issues arise when looking at mechanisms for measuring success. **Firstly**, the Department will use both internal and external mechanisms to measure success, thus utilising both its internal structures and outside agencies as required. **Secondly**, within each of the two mechanisms, the Department will use processes that build on the strengths of both qualitative (rich text) and quantitative (hard data) aspects of measuring success. **Thirdly**, processes of measuring success will build within them, intervention mechanisms that offer a feedback to the clients. Given that this programme was developed through extensive consultation with the social partners, mechanisms will be established to enable social partners' involvement in the evaluation of impact of this programme.

Ultimately then, the ongoing monitoring and evaluation of the Department of Labour's policy

outcomes, remains a key ingredient that runs the gamut of all ten Strategic Objectives in this 2004–2009 Ministerial Programme of Action.

# Conclusion

The Ministerial Programme of Action, which covers the period 2004–2009, is an attempt to address the remnants of the apartheid legacy in the South African labour market. It is also firmly embedded within the context of increased levels of global competitiveness that do suggest a dynamic, yet at times onerous, working environment for workers and employers alike. The programme, in terms of the domestic policy environment, also recognises that the challenges of long-term sustainable employment require a concerted, coordinated and multi-pronged approach that draws on the strengths of all government departments.

By putting in place a programme of action we set broad parameters indicating the direction we take in the next five years. The ten key focus areas highlighted here will be addressed on a piecemeal basis using the Department's annual workplans based on the Department's Strategic Plan. Unforeseen circumstances may emerge and justify adjustments to this programme. That is in the nature of planning. This Ministerial Programme of Action is a statement of commitment to deliver these services to the public. It is the basis of what should be expected of the Department in the next five years.

