

AgriBEE INDABA REPORT

The report is on day one and day two of the Indaba 6-7 December 2005. The proceedings of both days form the basis for compiling this report and include amongst other, the speech by the Minister for Agriculture and Land Affairs Ms Thoko Didiza, presentations by the Director General of the Department of Agriculture (Chairperson: AgriBEE SC, the Director: BEE Partnerships from the Department of Trade and Industry (the dti). Stakeholders' statements, breakaway commission report, plenary feedback session on commission reports, the "way forward" as presented by the Chairperson: AgriBEE SC and Indaba Resolutions as announced by the Deputy Minister of Agriculture and Land Affairs Adv Dirk du Toit, as well as questions and answers during the two-day Indaba.

The general thrust of the Indaba was that all stakeholders supported the draft Transformation Charter for Agriculture and alluded to the fact that it is a huge improvement on the AgriBEE framework as launched in 2004. Stakeholders single-out a number of key outstanding issues for deliberation and discussion at the Indaba. These issues were dealt with during the Breakaway Commissions which were arranged according to the pillars of the AgriBEE scorecard, namely

1. Ownership & Management Control
2. Human Resources Development
3. Enterprise Development & Preferential Procurement
4. Residual (Rural Development and Poverty Alleviation initiatives)

On the critical matter of scope of application of the AgriBEE Charter it was agreed that it should be across the value chain but it needed to be qualified in terms of the core business of enterprises.

All the documents and minutes as recorded, in writing and through other means, are to be used by the AgriBEE SC to continue their work further toward the finalization of a sector charter by early 2006.

A. SPEECHES & PRESENTATIONS

1. Issues emanating from the Minister of Agriculture and Land Affairs

- 1.1 Minister is satisfied with the consultation process undertaken by the Steering Committee. The process has been inclusive and transparent
- 1.2 The sector is well advanced to proceed to the next phase based on the agreement on improvements.
- 1.3 There are gaps that were identified during the pre-Indaba sessions.
- 1.4 There is concern about the outstanding codes on multinationals and SMMEs, and investment participation in the AgriBEE which will be dealt with in COGP phase 2.
- 1.5 The Indaba should as a matter of urgency deliberate extensively towards finalizing the charter. This is important because there are subsector charters that must be aligned to the sector charter.
- 1.6 Following the Indaba a process will be put in motion for negotiating any outstanding issue towards finalizing the Transformation Charter and submitting to Minister of Trade and Industry in terms of section 12.

2. Summary of DG – Department of Agriculture: Chairperson AgriBEE Steering Committee presentation

- 2.1 He outlined the whole Draft Transformation Charter.
- 2.2 He mentioned the negotiation and consultation process that was followed by the Steering Committee with the various stakeholders.
- 2.3 Mr Mbongwa highlighted that there are sub-sector charters i.e wine charter that are being drafted and that they should be aligned and be harmonized with sector charter.
- 2.4 The agricultural sector charter should have a one scorecard but the weightings should take into account farming and non-farming enterprises (this must be further be interrogated).
- 2.5 The AgriBEE Charter should align itself with other policies and such as Land reform and funding and support programmes.

- 2.6 Stakeholders should fully digest Codes of Good Practice.
- 2.7 There is some clarity seeking issues that must be addressed by the dti.
- 2.8 The DG mentioned that as a sector we have achieved the objectives of section 12 of BBBEE Act, but in terms of section 9 we still we still have to go through a process. The finalization of the charter under becomes legally binding.
- 2.9 He urged the Indaba to focus on the improvement for the draft charter and address the following issues/concerns:
- 2.10 In principle agreement, identify any gaps that need attention, how should the charter cover the entire value chain, SMMEs participation, and the scorecard weightings.

3. Clarity seeking issues addressed by the dti during the Indaba – Presentation by Mr J Ndumo Director BEE Partnerships EIDD

During the AgriBEE SC's pre-indaba stakeholder consultations it emerged that a number of issues/aspects with regard to the Codes of Good Practice as contained and referred to in the draft Transformation Charter for Agriculture require clarification. A list on issues was forwarded to the dti for clarification purposes during the Indaba.

- 3.1 The purpose of BBBEE is to develop a transformation process with political, social and economic dimension, as well as creating a more equitable economy to support the drive for economic growth.
- 3.2 There four barriers for the implementation for BBBEE transformation process, namely, i) poverty element (black unemployment and rural poor), ii) skills development (job seekers and black workers), iii) Business (preferential black procurement, BBBEE enterprises), iv Opportunity barrier pertaining to ownership and management.
- 3.3 The multiplier effect- the BEE score of the company the higher the multiplier effect to the economy.

- 3.4 Accreditation of verification agencies- dti will be handling the verification the BBBEE status/submissions of BBBEE verification process.
- 3.5 Public entities and section 21 companies are excluded in the BBBEE process.
- 3.6 It is expected that Medium and large enterprises will be treated the same. Micro enterprises will have some dispensation depending on their strengths. This will come clearer in phase 2 codes of good practice to be released second week of December 2005.
- 3.7 Deviation from the codes should be justified and not bizarre.

B. STAKEHOLDERS' STATEMENTS

4. Issues/concerns from AgriSA on the Draft Transformation Charter for agriculture

- 4.1 Uncertainty about the voluntarily aspect of businesses.
- 4.2 It is not clear how the retail sector will be incorporated into the charter.
- 4.3 Codes of Good practice for SMMEs is crucial.
- 4.4 Unease relating to the legality of BBBEE. A legal opinion should be sort.
- 4.5 The CSI should carry more weight- there must be starting and ending dates (sunset clause).
- 4.6 Government should consider incentives schemes for participation in AgriBEE.

5. Issues/concerns from NAFU on the Draft Transformation Charter for agriculture

The process was transparent but there are some concerns:

- 5.1 The ability of black people to own assets- a dedicated funding mechanism is required.
- 5.2 A Charter Council must be appointed to take the Charter to the next level in terms of section 9.

- 5.3 Fragmented support programmes are needed for the implementation of the charter- an unlimited of not less than R500 000 from Mafisa. Mafisa should do more and do business of funding across the agribusiness value chain.
- 5.4 Nafu disassociates itself from the end note in the Draft Charter.
- 5.5 Nafu recommends intensive land rentals and sharecropping for farmers to accumulate wealth to be able to buy those farms in the long run.
- 5.6 Vigilant gains of the land summit must not be reversed or ignored.

6. Issues/concerns from TAU SA on the draft Transformation Charter for agriculture

- 6.1 Ask for impact studies of AgriBEE.
- 6.2 Codes for the industry must not be the same.
- 6.3 Land claims issues should be dealt with before AgriBEE.
- 6.4 Many aspects of the charter are not clear.

7. Issues/concerns from SACOB-SAAPA on the Draft Transformation Charter for agriculture

- 7.1 There is a concern for the codes of good practice that are outstanding.
- 7.2 Ownership of shares of listed companies is not in their control.
- 7.3 Shares owned by pension funds and trust they do not have control over it and shares to the staff.
- 7.4 How will the voting rights be reflected when evaluating the BBBEE status.
- 7.5 Is there capacity to monitor the charter implementation process.
- 7.6 What will be the composition of the charter council?
- 7.7 Directives (SARS).
- 7.8 Clarity on multinationals with regard to ownership – a leveled field is preferred.

8. Issues/concerns from ABC on the Draft Transformation Charter for agriculture

Support BBEE but there are threats and opportunities:

- 8.1 Industrialization and globalization of agriculture should be taken into account.
- 8.2 Rural development and poverty alleviation is important.
- 8.3 Land redistribution and capital transfer issue should be considered.
- 8.4 Incompleteness of Codes of Good Practice is a challenge for the process.
- 8.5 None co-operation in the sector.
- 8.6 Verification and admin cost of the process are likely to be high.

9. Issues/concerns from Wine industry on Draft Transformation Charter for agriculture

- 9.1 Urge the dti to come up with workable solution on verification.
- 9.2 The weighting on CSI should be increased to 15%.

10. Issues/concerns from South African Banking Council on Draft Transformation Charter for agriculture

- 10.1 Land reform is a challenge for the sector.
- 10.2 Recommend the role of property in global wealth creation.
- 10.3 The cost of doing business in South Africa is very high- should be reduced.

Two suggestions:

- 10.4 New incentives to grow agriculture
- 10.5 PPPs for efficiency in the sector.

There are three gaps that have to be addressed:

- 10.6 Acquisition of land asset.
- 10.7 Equity gap (Mafisa should be extended down the value chain)
- 10.8 There is a skills gap.

11. Issues/concerns from Labour (FAWU) on the draft Transformation Charter

11.1 There is a support for the charter but need clarity on process and content.

Process issues are as follows:

11.2 Clarity between AgriBEE initiative and presidential working committee and land reform, negotiation issues need to be consider in addition to the consultation, supporting working need to be established to work with the key pillars of the scorecard along with the Steering Committee, there must a way of facilitating disputes resolution mechanisms.

Contents issues – There is a need to distinguish between farm and non-farm activities, weight on CSI should be increased, BBBEE should not be seen as a cost but an investment, ownership equity must not defeat the broad based nature of BBBEE.

11.3 The pillar on CSI must address HIV/AIDS and unemployment issues.

11.4 Due to time constraint other issues could not be raised-but are available

12. Issues/concerns from Youth on the Draft transformation Charter for agriculture

12.1 The weakness of the charter is that it leaves everything in the hands of the industry

12.2 They must have their own slot-must be included in all the levels like women and disabled.

12.3 Arable land should be redistributed to youth for farming.

13. Issues/concerns from Rural Women on the Draft Transformation Charter for agriculture

- 13.1 Rural women have no ownership to land-land either belongs to the Chiefs or private.
- 13.2 They require training to run their own farms and not projects.
- 13.3 The Seta must introduce courses and trainings in rural areas.
- 13.4 They need their own processing facilities to process their products- infrastructure.
- 13.5 They experience price discrimination from co-operatives that provide inputs.

14. Issues/concerns from People with Disabilities on the Draft Transformation Charter for agriculture

The Draft charter is supported but there must be specific targets like for women.

- 14.1 The BBBEE charter says nothing about the disabled.
- 14.2 The Setas discriminate against disabled.
- 14.3 There are 18 categories of sicknesses but only 3 are recognized.
- 14.4 There must be a penalty for fronting with regard to disabled people.

C. BREAKAWAY SESSIONS (COMMISSIONS) and PLENARY DISCUSSION

15. Ownership and management control

15.1 Contribution from the breakaway session

- 15.1.1 On section 2.1 of the charter it was proposed that 'provided that their business (defined as turnover > 50%) is based on agriculture' should be added to the sentence.
- 15.1.2 On Land Reform issues- the negative effect of land restitution was alluded to-all land claims that need to be finalized for the success of AgriBEE implementation.
- 15.1.3 Communal land is not addressed in the Charter- It is suggested that the Steering Committee together with Department of Land Affairs look at this issue.

- 15.1.4 AgriBEE must not address only the agricultural land- but also tenure issues especially for farm workers.
- 15.1.5 People with disabilities must be taken into account on access to land- There must be specific targets for this group under the indicator of ownership by BBEE schemes on new entrants.
- 15.1.6 Alternative forms of land access must be explored.
- 15.1.7 A positive AgriBEE process should be put in place to encourage people for a buy in for the AgriBEE.
- 15.1.8 AgriBEE charter can learn from the wine sector ownership scorecard menu which included Land Reform. This proposal should be taken serious.
- 15.1.9 Land reform should be part of AgriBEE package and not a stand alone issue.
- 15.1.10 When coming to equity ownership employees should have preference.
- Verification issues
- 15.1.11 The question raised is how can targets be verified to reduce cost to the industry or the private sector.
- 15.1.12 What can be done to support those who fill in the scorecard or meet the requirements of the scorecard? (Overarching issue).
- 15.1.13 Cause of failures should be investigated and mechanisms be put in place to assist. Alternative mechanisms of funding must be explored incorporating consolidation of new entrants debt situation.
- 15.1.14 Steering Committee should identify sources of funding for each element of the scorecard.
- 15.1.15 Communal land issues especially considerations for ownership by rural women should be included in the Charter.

15.2 Contribution from the plenary sessions

- 15.2.1 The question was asked with regard to communal land what transformation needs to take place in communal land?
- 15.2.2 Land claims should be dealt with as soon as possible.
- 15.2.3 The issue of indigenous knowledge systems in doing agriculture should be looked as a component of empowerment strategy.

16. Human Resources Development

16.1 Contribution from the breakaway sessions

- 16.1.1 HRD is critical for improvement of quality of jobs in agriculture.
- 16.1.2 The critical point is that farmers should be able to own and manage productive resources.
- 16.1.3 All public programmes relating to HRD should be co-ordinated.
- 16.1.4 There are two important components of HRD- guiding and mentoring of new farmers as well as incentives for to encourage interest in agriculture as a career.
- 16.1.5 There must be a differentiation between subsector and interest groups.
- 16.1.6 General issues under HRD
- 16.1.7 There must be scorecard or targets for the unemployed youth.
- 16.1.8 It is important that there should be an alignment of AgriBEE to other Acts on HRD such as Skills Development Act.
- 16.1.9 Funding as well as commitment and participation of SETA is crucial.
- 16.1.10 Agriculture should be promoted as a career especially to young women and there should be a review of curriculum.
 - Specific contents issues
- 16.1.11 Black people should be replaced with designated group. This was rejected during the plenary session because of the fact that it will contravene BBBEE Act.

- 16.1.12 On section 5.3.1 and 5.3.2, the focus is only on managerial, technical positions should also be included.
- 16.1.13 Section 5.3.3 should read thus: Proactively employ people with disabilities and youth with potential to acquire skills.
- 16.1.14 Skills development programmes must be efficient and affective and they must be able to produce world class agriculturalists.
- 16.1.15 On section 5.4.2 the word farmers should be replaced with agriculturalists and it should be agriculturalists and agro processors.
- 16.1.16 On section 5.4.3 it should be stressed that to promote agriculture as a competitive career.
- 16.1.17 Labour should be included in section 5.4.4 labour should be included as stakeholders to review the curriculum.
- 16.1.18 Section 5.4.8 should read thus: Ensure transformation of agricultural training institutions to accelerate preferential recruitment and admission of training institutions.
- Scorecard issues
- 16.1.19 Bonus points for learnerships should be considered as well as the % on indicator weighting.
- 16.1.20 There must be specific targets for each designated group.
- 16.1.21 There must be skills programmes for those who cannot go on learnerships.

16.2 Contribution from the plenary session

- 16.2.1 There is no mentioning of co-ordination of training initiatives – Departments of Labour, Agriculture and education should look at this issue.
- 16.2.2 There must be a review of the curriculum to look at the relevant skills.
- 16.2.3 Inclusion of mentorship in the scorecard.

- 16.2.4 Quantify indicator weightings (relation to overall weight factor – 10% EE)
- 16.2.5 In house training should be qualified.
- 16.2.6 Professional Black people who can provide mentoring should be identified and be utilised.

17. Enterprise Development and Preferential Procurement

17.1 Contribution from breakaway session

- 17.1.1 The criteria of using Earning Before Income Tax (EBIT) need clarification- is it 1% contribution or 5% contribution per annum?- Refer to working group.
- 17.1.2 What is qualifying transaction- Does it include ED and the issuing of contracts to Black enterprises (sharecropping, out grower contracts).
- 17.1.3 Skills development 13% contribution could be too high and it should not go higher.
- 17.1.4 There is a need to define Enterprise Development in the document to avoid confusion. It should refer to establishing Black firms and that they are integrated.
- 17.1.5 Once black firms are transacted attention should be given to viability and risk assessment.
- 17.1.6 Safety nets for Black firms once established is crucial to curb number of failures.
- 17.1.7 AgriBEE should lead to expansion and production capacity of the firm, sector and economy.
- 17.1.8 AgriBEE should not dictate or lead to market distortions.
- 17.1.9 Access to markets should be a focus, with preference for provision for Black firms to access markets- development of second economy and local consumption.

- 17.1.10 Specialised training on marketing and procurement i.e e-commerce should be provided for Black firms.
- 17.1.11 Recognition must be given to firms that support expansion of black business. Incentives such as tax should be considered.
- 17.1.12 There is a need for appropriate business models for enterprise development.
- 17.1.13 Enabling environment should be un-pact-i.e there should be a positive investment climate that gives confidence to investors as well as lowering and keeping down compliance cost.
- 17.1.14 Reducing of the cost of doing business in South Africa should be considered.
- 17.1.15 30% land reform target should be linked to 20% preferential procurement target- an indirect link.
- 17.1.16 There should not only be preferential procurement but also preferential sale, discounts and quotas for Black people businesses.
- 17.1.17 What happens if risks occur due to droughts, disaster- if alternate arrangements be used (BEE trading companies). There should be safety nets that take into account uncertainties and natural hazards.
- 17.1.18 Preferential procurement might not happen because of monopoly or drought-therefore firms in this case should not be penalised.
- 17.1.19 Non-agricultural preferential procurement (i.e stationary) should not dominate preferential procurement.
- 17.1.20 Proudly South African campaign should be supported and also be brought into the draft charter.
- 17.1.21 More debate is needed on scope of application- remains inconclusive.

17.2 Contribution from plenary session

- 17.2.1 Energy price should consider in terms of preferential procurement.

- 17.2.2 The 30% land reform target and 20% target for pp there is no link- what is needed for black firms to succeed is networking and information on where to procure.
- 17.2.3 There must be clear criteria for pp as well as capacity building for those involved. Capacity building of procurement managers is essential.

18. Residual (Rural Development & Poverty Alleviation initiatives) element

18.1 Contribution from breakaway session

- 18.1.1 Rural development and poverty alleviation was accepted- to replace residual.
- 18.1.2 In dealing with this element there must be a differentiation between on-farm residence and those not staying on farms- different in the scorecard.
- 18.1.3 Farm evictions should stop and there must be compliance to legislation- this will also promote growth. Government is requested to intervene.
- 18.1.4 Section 5.7.1.1 there must be a national standard on the issues raised; Section 5.7.2 The word support should be added (support recreational...) and also add group collective effort; Section 5.7.1.3 It should read thus: Health care programmes and related services; Section 5.7.1.1 The transport legislation should be considered; Section 5.7.1.6 should be 'provide and invest in and support farm schools; Section 5.7.3.
- 18.1.5 Minimum standards for quality purpose should be established and recorded for the purpose of the operational management and scoring-scorecard.
- 18.1.6 There must be a support from employer for life skills development (i.e household budget).

- 18.1.7 Three proposals on scoring: give minimum standards and those who do over and above should score points, no scoring for law compliance, and give bonus points for those who do over and above.
- 18.1.8 Section 5.7.4.3 should include women and people with disability as.
- 18.1.9 Possible increase for CSI target to 15% - 30% should be considered, but also other targets should be raised to balance.
- 18.1.10 Government should ensure law enforcement.
- 18.1.11 There is no mentioning of food security in the Draft Charter
- 18.1.12 There should be a separate section that deals with rural development under CSI.
- 18.1.13 Section 5.7.3 should only be land and not agricultural land.

18.2 Contribution from the plenary session

- 18.2.1 There must be a technical team appointed to assist the Steering Committee especially on scorecard because dti does not understand agriculture.
- 18.2.2 Government commitments sectoral determination and ESTA.
- 18.2.3 HIV/Aids should be addressed in the document.
- 18.2.4 NGOs in collaboration with government could play vital role in rural development.
- 18.2.5 Minimum wage is a component of social development and it must be included in the document.
- 18.2.6 Food security should be considered as it important for poverty alleviation.
- 18.2.7 Steering Committee to give “carrot” out that more be done in this area.

19. ASSESSMENT OF THE INDABA BY STEERING COMMITTEE

- 19.1 Draft Charter a product of the Sector Plan

- 19.2 Consultation process has been broad, inclusive and transparent
- 19.3 Proposed charter advances BBEE Act
- 19.4 Indaba has:
- Been informed about process, the draft Charter and the dti Codes, expected Dec 2005
 - Interrogated the draft for gaps
 - Identified further work required to be undertaken
 - Participated in constructive recommendations in breakaway groups
 - Expressed broad satisfaction with consultation process and the draft charter
- 19.5 Key value chain stakeholders participated in the Indaba

The Steering Committee Recommendations:

- 19.6 Following support received for the draft Charter at the Indaba it be endorsed as the basis for finalisation of the AgriBEE Charter and Scorecard in terms of Section 12 of the Act;
- 19.7 The Steering Committee be tasked to undertake work and, subject to the release of the second phase of BEE Codes of Good Practice expected in December 2005 to deal with and finalise, by March 2006, issues that had been recommended at the Indaba
- 19.8 Inputs and additional issues raised be considered by the Steering Committee to enhance the Charter;
- 19.9 A working version of the draft Charter be made available in the official languages by end January
- 19.10 A process of further communication and road shows be conducted on the draft Charter by stakeholders with their constituencies and by the Steering Committee in collaboration with provincial Departments of Agriculture
- 19.11 That the Steering Committee arrange for the Minister to launch the final AgriBEE Charter with stakeholders once the Charter has been approved by the Minister of Trade and Industry.

19.12 That the Indaba endorses this proposed way forward by way of a formal resolution

20. AgriBEE Indaba resolutions:

20.1 *commends* the Steering Committee for the transparent and inclusive process of consultations it had followed in developing its proposals;

20.2 *submits* that the process and the Charter advances the objectives of the BBBEE Act, No 53 of 2003;

20.3 *concur*s with the Minister that the Steering Committee should be tasked with the finalization of the AgriBEE Charter with stakeholders taking into account the inputs resulting from the breakaway sessions;

20.4 *endorses* the way forward proposed by the Steering Committee;

20.5 *endorses* the draft Charter as the basis for the conclusion of the final AgriBEE Charter in terms of Section 12 of the BEE Act.