



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

SUBJECT:	AgriBEE ENFORCEMENT GUIDELINES
CLASSIFICATION:	Confidential

1. BACKGROUND

The Broad Based Black Economic Empowerment (BBBEE) Act No. 53 of 2003 (as amended Act No. 46 of 2013) and Codes of Good Practice provide the overarching legislative framework for economic transformation in South Africa. However, the Act does not provide detailed strategies and measures to promote equity and ensure transformation of the economic sectors. The AgriBEE Sector Code (8 December 2017) was developed as a strategy and enabler for economic transformation in the Agricultural Sector. Section 10 of the BBBEE Act No 53 of 2003 (as amended by Act No 46 of 2013, Section 6) states:

“Every organ of state and public entity must take into account and, as far as is reasonably possible, apply any relevant code of good practice issued in terms of this Act in:

- (a) Determining qualification criteria for the issuing of licenses, concessions or other authorizations in terms of any law;
- (b) Developing and implementing a preferential procurement policy;
- (c) Determining qualification criteria for the sale of state-owned enterprises; and
- (d) Developing criteria for entering into partnerships with the private sector.”

In terms of section 10, all government departments are expected to implement BBBEE and relevant codes of good practice. DAFF’s Directorate: BBBEE Charters Compliance has developed an Enforcement Measures Plan during 2014/15. The “plan” for the alignment of services to the AgriBEE Sector Code was approved by DAFF EXCO (10 June 2015). These are the services that line function directorates render to agricultural sector clients, free of charge or at a minimal cost. Alignment of services are in line with section 10, which states that all government departments must include BBBEE criteria when allocating licences,

issuing certificates and permits, authorisations, approving grants for funding projects etc. The AgriBEE Sector Code is the relevant code of good practice for Agriculture and it is applicable to the whole agricultural sector.

Following EXCO's approval of the Plan, BBBEE Charters Compliance directorate held consultations with relevant services' directorates. Possible services (levers) were identified with the aim to subject these to alignment and possible use as enforcement levers by DAFF. By following this particular approach of developing enforcement guidelines, DAFF will contribute to transformation of the agricultural sector and create opportunities for beneficiaries of BBBEE. Therefore, measures need to be put in place so that previously disadvantaged persons have equitable access to licenses, permits, concessions, grants and economic goods and services provided by Government Departments, Institutions and Public Entities. Implementing the measures will put the country on a path of social stability as poverty will be eradicated and the majority of South Africans will become participants in the economy.

AgriBEE Enforcement Guidelines have also been developed against the background of amendments to the BBBEE Act (Act No. 46 of 2013) and Codes (published 11 October 2013). The BBBEE Amendment Act came into effect on 24th of October 2014 and the Codes on 1 May 2015. Amendments were informed by challenges in the implementation of BBBEE across the economic sectors. Some of the known challenges are fronting and conflict between BBBEE legislation and other pieces of legislation. Act No. 46 of 2013 includes a "trumping clause" which addresses how potential legislative conflicts will be handled so that the implementation of BBBEE is not negatively affected. The clause is section 3 of the Act and states "in the event of any conflict between this Act and any other law in force immediately prior to the date of commencement of the Broad Based Black Economic Empowerment Amendment Act, 2013, this Act prevails if the conflict relates to a matter dealt with in this Act." Section 6 of the Act outlines the responsibilities of every organ of state and public entities in the implementation of BBBEE when conducting its operation. As such, all departments, including public entities under their administration, are expected to comply with both sections 3 and 6 of the BBBEE Amendment Act No. 46 of 2013.

2. IDENTIFIED ACTS AND REGULATIONS THAT WILL BE AFFECTED BY THE AGRIBEE ENFORCEMENT GUIDELINES:

- Agricultural Pests Act 1983 (Act No. 36 of 1983);
- Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992);
- Agricultural Product Standards Act, 1990 (Act No. 119 of 1990);
- Animal Diseases Act, 1991 (Act No. 35 of 1984);
- Animal Identification Act, 2002 (Act No. 6 of 2002);
- Animal Improvement Act 1998 (Act No. 62 of 1998);
- Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
- Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947);
- Genetically Modified Organisms Act, 1997 (Act No.15 of 1997);
- Liquor Products Act, 1989 (Act No. 60 of 1989);
- Marketing of Agricultural Products Act, 1996 (Act No. 47 of 1996);
- Meat Safety Act, 2000 (Act No. 40 of 2000);
- National Environment Management Act: Biodiversity Act, 2004 (Act No. 10 of 2004);
- Perishable Products Export Control Act, 1983 (Act No. 9 of 1983);
- Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976);
- Plant Improvement Act, 1976 (Act No. 53 of 1976);
- Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970)

3. AGRICULTURAL SECTOR SERVICES/ LEVERS ADMINISTERED BY DAFF

3.1 Registration certificates/ permits on Agricultural inputs control, animal feeds and medicines

The lever is about registering operators trading in agricultural inputs, animal feeds and remedies (pest control operators, Fertilizer Companies/ Traders, Agricultural Remedies, Stock Remedies, Animal Feed and Pet Food) through applicable legislation and regulations. The service is provided in terms of the Agricultural Pest Act, 1983 (Act No. 36 of 1983); Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.2 Phyto-sanitary registration of approved production units, pack houses and inspection points for export of fresh fruit

The lever is an inspection service delivered by DAFF to traders (import and export) of fresh fruit. Agricultural businesses are legally obliged to comply with official requirements and phyto-sanitary measures for the import and/or export of specified plants and plant products to and from specific markets. The service is provided in terms of the Plant Breeders' Rights Act, 1976 (Act No. 15 of 1976); Agricultural Pests Act, 1983 (Act No. 36 of 1983).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No

certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.3 Market access import and export permits

In terms of the lever, preferential market access import and export permits are issued to applicants (manufacturers, processors and traders of agricultural products). Government notices are published throughout a year for applicants to apply for permits. This lever is administered in terms of the Marketing of Agricultural Products Act, 1996. A point system, aligning the policy on the allocation of agricultural trade permits to the AgriBEE Sector Code, was developed. The point system for the allocation of agricultural trade permits is as follows:

Hundred (100) points attached to initiatives that are aimed at advancing the objectives of the Act and the Sector Code must be allocated according to the following table:

AgriBEE Status	Number of Points
Level One Contributor	22
Level Two Contributor	19
Level Three Contributor	17
Level Four Contributor	15
Level Five Contributor	12
Level Six Contributor	8
Level Seven Contributor	5
Level Eight Contributor	2
Non-Compliant Contributor	0
Total	100% or Points

The AgriBEE Status or level of contribution should be as reflected in a valid BBBEE status Certificate, which is in line with the AgriBEE Sector Code as published on the 8th of December 2017.

Important Principles:

Black Economic Empowerment is the primary requirement for the allocation of marketing permits – **i.e. first round.**

After the points have been allocated in accordance with the point system in section 2 above, the surplus quota can therefore be allocated starting with companies in level 1 to 8 up to the limit of the average historical market share for each company – **Second**

round

The average market share system will only apply after the BEE point system has been applied and the market share system will be applied in terms of section 3.2 above.

If after the first and the second round there is still a surplus (i.e. surplus of surplus), the **third round** would be to take the surplus of surplus and divide it by the number of all non-compliant companies.

Current status is that applicants are still submitting out-dated BBBEE status certificates and some applicants' BBBEE status is not at favourable level (i.e. Level 4 in terms of the market and current AgriBEE Sector Codes. The favourable level in terms of the Amended AgriBEE Sector Code is still to be determined). A further problematic issue is that applicants, like most measured entities in the sector, are not verified against the relevant code of good practice (AgriBEE Sector Code) but their BBBEE status is verified in terms of the Generic Codes (DTI). This lever is administered in terms of the Marketing of Agricultural Products Act, 1996.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.4 Applications by industry associations to have levies increased or decreased, administered by the National Agricultural Marketing Council (NAMC)

This lever falls directly under the authority of DAFF. Although industries approach the department to grant approval for collection of levies, the decision lies primarily with the

Government. Currently, 20% of levies collected by the approved levy administrators are being allocated towards transformation. This lever is administered in terms of the Marketing of Agricultural Products Act, 1996.

It is proposed to increase the 20% allocation to a 50% allocation towards empowerment efforts and transformation.

3.5 Fresh Produce Market Agents permits

Market agents are getting approval from the relevant authorities to operate on the market floors of the South African National Fresh Produce Markets countrywide. Agents are operating as individuals, partnerships, close corporations and companies. This lever can be utilised to transform the operations of national fresh produce markets by setting targets for market agents to procure from black farmers. There is an approved Code of Best Practice (CoBP) which was developed on own initiative by the relevant stakeholders and Government to make contribution to BBBEE. The CoBP's will be reviewed after a period of implementation. This lever is administered in terms of the Marketing of Agricultural Products Act, 1996.

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First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.6 Export certificates for liquor products

This lever allows for exports of liquor products to plan the export of consignments and simplify logistical arrangements. Exporters have to comply with BBBEE. The service is delivered in terms of the Liquor Products Act (Act No. 60 of 1989).

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First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then
- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.7 Export exemption certificates

This lever allows for online tracking of export certificates, manual approval of certificates, remote printing of export exemption certificates. Exporters have to comply with BBBEE. The service is delivered in terms of the Liquor Products Act (Act No. 60 of 1989).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then
- Level 3, if no level 3; then

➤ **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.8 AgriBEE Fund grants

Black people are assisted with grant funding to buy equity shares (minimum of 25% shareholding in existing agricultural enterprises). It is proposed that the AgriBEE fund grant program's criteria and requirements be aligned to AgriBEE Sector Codes. The enterprise which is selling the shares should have a valid BBBEE certificate.

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First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No funding to be given to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.9 Agro-processing funding support

The lever is in the form of incentives and grants. Applicants (industry associations, commodity groups, local and foreign investors etc) will request DAFF to form partnerships to implement projects. DAFF's support to investment projects will be requested in form of letters of recommendations/ in-principle approval/ funding from Programs of the department.

The approvals will lead to increased agro-processing investment in the sector, job creation and growth. Also, assistance will be required to develop project business plans (to meet specific requirements of Government Funding Programs). Government, through the DTI and other Development Funding Institutions (DFIs) provide financial incentives in the form of grants and loans for agro-processing development and investments. Some of the available incentives schemes are: Manufacturing Competitiveness Enhancement Program (MCEP); Black Business Supplier Development Program (BBSDP); Black Industrialist Program (BIP); Jobs Fund, etc. Investors apply for these grants and loans, which are non-repayable and offered by the Government and DFIs at preferential interest rates. It is proposed that the relevant incentive schemes for agro-processing be subjected to BBBEE requirements (This lever falls under the Department of Trade and Industry's ambit).

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First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No funding and/or support to be given to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.10 Authorisations for land use and sub-divisions (issue permits and directives in terms of Conservation of Agricultural Resources Act, Act No. 43 of 1983)

The lever regulates land-use practices to promote the sustainable use of the natural agricultural resources. Government's Land Care Program is also relevant under this lever. The service is delivered in terms of the Conservation of Agricultural Resources Act, Act No. 43 of 1983); Subdivision of Agricultural Land Act (Act No. 70 of 1970).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.11 Registration certificates of Plant production premises

The lever controls the registration of premises where plant production operations take place, administered in terms of the Plant Improvement Act, 1976 (Act No. 53 of 1976). Inspection of premises is also performed by DAFF's inspectors.

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First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.12 Certification of animal and animal production facilities (i.e. inspection and Approval, Registration and re-registration of import and export facilities); Registration of import and export agents; Registration of reproduction operators; Registration of artificial insemination and embryo collection centres)

The lever controls registration of operators, facilities, etc. where animal, animal products and re-production operations take place, administered in terms of National Legislation such as Meat Safety Act, Animal Improvement Act etc. Inspection of premises is also performed by DAFF's officials. Objective is to manage public health and animal disease risk to ensure compliance of products of animal origin to South African import requirements as well as importing country's requirements, thereby improving market access. This function is carried out by National and Provincial Departments, in terms of Meat Safety Act, 2000 (Act No. 40 of 2000); Animal Diseases Act, 1984 (Act No. 35 of 1984); Animal Identification Act, 2002 (Act No. 6 of 2002); Animal Improvement Act, 1998 (Act No. 62 of 1998) and the Regulations thereof.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.13 Procurement of goods and services

Through the PPPFA and Regulations, overseen by the National Treasury, public sector procurement of goods and services is utilised as a lever by the Government across 3 tiers. PPPFA Regulations of 2011, which were issued as a result of alignment between PPPFA

and BBBEE legislation, now requires all suppliers doing business with the state to submit valid BBBEE certificates when contracting for Bids. BBBEE status is accounted for in the following way

20 points – for all bids with a Rand value equal or above R30 000 and up to R50 million (80/20 principle)

10 points – for all bids with a Rand value above R50 Million (90/10 principle)

After the revised BBBEE Codes were promulgated, Treasury issued a draft PPPFA Regulations, which stipulates that BBBEE status will account for 50 points (50/50 principle) for all bids below R10 million. It is proposed that National Treasury and Provincial Treasury Departments, as well as Municipalities (through the Municipal Finance Management Act) implement the new PPPFA Regulations of 50/50 principle and that all efforts are made to do local procurement of agricultural sector products. The service is delivered in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); PPPFA Regulations, 2017 (Gazette No. 40553).

It is proposed that a point system be applied. Bids be approved/ awarded to bidders with the highest BBBEE scorecard points. Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.14 Plant breeders' rights certificates issues for new plant varieties) in terms of the Plant Breeders' Rights Act (Act No 15 of 1976)

A plant breeder's right is a form of intellectual property rights (also governed by IP rights legislation of DTI) providing for the acquisition of legal rights in terms of the Plant Breeders' Rights Act, 1976, in order to obtain royalties as remuneration for efforts made during the breeding of a new variety of a plant. It therefore provides the owner of a plant variety the opportunity to obtain financial reward for his /her efforts, as the breeding and development of a new variety is expensive and time consuming. It is important to obtain new and improved plant varieties as there is a constant demand for better quality, higher yields, better processing properties (agricultural value chain) and increased disease resistance. A plant breeder's right is valid for a period of 20 to 25 years, depending on the kind of plant.

The benefits attached to this lever can be realised later in the development of the plant breeding and it could therefore be problematic to subject the owner (person who holds permit) to BBBEE criteria upfront. It is therefore proposed that the part of the product and value chain that commercially and economically benefit from the improved varieties (research and contracted farms that do research and trials, laboratories, green houses, hydroponics, agricultural inputs suppliers, seed companies etc operating this part of the sector) be subjected to BBBEE requirements. It is important that BBBEE not discourage plant breeders to develop and improve plant materials. Also, plant breeders' rights are governed by International Protocols, such as the International Union for the Protection of New Varieties of Plants (UPOV). South Africa is a member of the UPOV and as such must comply with its standardised procedures and statutes.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn

Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.15 Permits issued under Genetically Modified Organisms Act

The lever involves issuing of import/export permits of genetically modified organisms (GMOs). Issuing of permits facilitates trade and Trans-boundary movement of GMOs for research or production purposes. The service is delivered in terms of Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), as amended by Genetically Modified Organisms Act, 2006 (Act No. 23 of 2006).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.16 Permits issued for use of genetically modified organisms (contained use, trial release, commodity clearance, general release, extension)

The lever ensures safe use of genetically modified organisms in compliance to Biosafety and Security Regulations. Service is delivered in terms of Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), as amended by Genetically Modified Organisms Act, 2006 (Act No. 23 of 2006).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.17 Import permits issued for imports (animals and animal products, vaccines, pharmaceuticals, specimens and contaminated objects)

The lever aims to control and prevent the entry of animal diseases into the RSA, as mandated by the Animal Diseases Act, (Act No. 35 of 1984) and the Meat Safety Act, (Act No. 40 of 2000) for all live animals and animal products as well as animal vaccines, specimens, pharmaceuticals and contaminated objects imported into the RSA. This lever ensures food safety and compliance with Bio-Safety and Security Regulations.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No

certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.18 Import permits issued for import of plants, plant products and other regulated articles

The lever makes possible the issue of pest risk analysis-based import permits which are necessary for authorising the import of plants and/or plant products into South Africa. The service is delivered in terms of Plant Improvement Act, 1976 (Act No. 53 of 1976).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

3.19 Import permits issued for import of animal products and other regulated articles

The lever provides for issue of veterinary import permits in terms of the Animal Diseases Act, 1984 in order to authorize importation of animal and animal products into South Africa.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**

- Level 2, if no level 2; then
- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

4. LEVERS ADMINISTERED BY PROVINCIAL EXECUTIVE AUTHORITIES FOR SERVICES PROVIDED IN TERMS OF RELEVANT AGRICULTURE AND ENVIRONMENT LEGISLATION AND REGULATIONS

4.1 Hunting permits

Permits for hunting are issued in terms of the National Environment Management Act: Biodiversity Act, 2004 (Act. No. 10 of 2004); and “the Regulations” means the Threatened or Protected Species Regulations, 2007 published in Government Gazette No. 29657, Government Notice No. R 152 of 23 February 2007.

Specific permits covering animals and plants are issued under the above legislation and with conditions to which owners must comply with as determined by “the Regulations”:

4.1.1 Animals

All permits issued for hunting any species or Threatened or Protected Species;

Game farm hunting permits issued for hunting any species or Threatened or Protected Species – authorising the buying and hunting of a specimen of a listed threatened or protected animal species; animal nursery permits; scientific institution permits; and commercial exhibition facility permits.

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First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then

- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

4.1.2 *Encephalartos*

Several species of *Encephalartos* are commonly referred to as bread trees, bread palms, cycads

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then
- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

4.2 Nature Conservation Ordinance Permits to ring birds; catch, convey, display, keep, export, import of a wild animal; sell, export, import a dead animal; catch fish with a net/shocker; import, release, sell live fish; import, donate, sell, possess, export protected plants; sell biltong/game meat. Hold angling competition

The lever is about issuing permits to individuals, groups of people, associations etc to carry out the above activities in a regulated manner. Holders of the permits are not doing the activities with a profit motive. Services are being delivered in terms of the Nature Conservation Ordinance, 1983 (No. 12 of 1983).

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

4.3 Exemption farm permit under the Nature Conservation Ordinance, 1983

The lever is about issuing licences, permits and exemptions in terms of the Nature Conservation Ordinance No. 12 of 1983 (*previously called Transvaal Nature Conservation Ordinance No. 12 of 1983*). The ordinance/ regulation cover all issues on:

- Declaration of Nature Reserves;
- Hunting and hunting rights;
- Fisheries: permissions necessary to catch fish and other related activities;
- Wild animals;
- Professional hunters and hunting outfitters;
- Problem animals;
- Indigenous plants;
- Endangered and Rare Species of Fauna and Flora;
- Trading in and Preservation of cave formations

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then
- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with application.

4.4 Permits under the Threatened or Protected Species Regulations, 2008 restricted activities (import, keep, export, transport, pick, kills) – possession permit, personal effects permit, standing permit.

The lever involves issuing of permits to owners that allows for activities in terms of the Regulations.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- Level 1, if no level 1; then
- Level 2, if no level 2; then
- Level 3, if no level 3; then
- Level 4.

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn

Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

4.5 Permits under the Convention on International Trade in Endangered Species Regulations, 2010 (import, export, re-export)

The lever grants permits and certificates for the import, export, re-export in accordance with the provisions of Convention on International Trade in Endangered Species (CITES) and to attach to any permit or certificate any condition that is deemed necessary.

Proposal: Preference for measured entities that have Exempted Micro Enterprises (EME) status. For measured entities that fall under Qualifying Small Enterprises (QSE) and Large measured entities categories, the following process must be followed:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No certificate/ permit to be issued to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

5. CONSULTATIONS WITH STATE OWNED ENTITIES (SOEs) OPERATING IN AGRICULTURE

5.1 National Agricultural Marketing Council (NAMC)

The National Agricultural Marketing Council was established in terms of the Marketing of Agricultural Products (MAP) Act, Act No. 47 of 1996, as amended by Act No 59 of 1997 and Act No. 52 of 2001. NAMC provides advice to the Minister, responsible for Department: Agriculture, Forestry and Fisheries (DAFF) on the marketing of agricultural products. Specifically, this SOE is responsible for the administration of statutory measures, agricultural

trusts and also implementing agent for agricultural and rural development projects. The Statutory Measures division was established in terms of the MAP Act where industries apply for statutory levies for registration and returns. This is approved for four (4) years and has certain conditions of approval, which are as follows:

- The levies must be audited by auditor general
- At least 20% of the levy collected must be used for transformation
- Have database of black producers for monitoring purposes.

NAMC has another division called Agricultural Trusts and its purpose is to update and provide secretariat services in terms of preparing submissions to the Minister for Ministerial representative appointments and at the same time monitor their expiry dates. On annual basis the division prepares status report on trusts, based on the questionnaire send to trust administrators and CEOs to update the Minister on the trust operation and support on transformation. Some of the trusts collect levies which then support transformation through the 20% levy collected whereas some support transformation through trust funds. On annual basis the NAMC host the Trust workshop where the Minister is invited and deliver his expectation to the Trusts. NAMC, as a State Owned Entity should comply with the BBBEE Act. In terms of NAMC's operations, procurement of goods and services are done according to BBBEE guidelines in conjunction with National Treasury's Preferential Procurement Regulations. The entity is aware that it should be verified on its BBBEE contributions and has committed to do annual BEE verification assessments. NAMC is currently is a level four BEE contributor.

Levers:

Statutory Measures (levies)

The lever is about approval of industries' requests to collect levies from producers and other entities operating in their specific industry. The NAMC developed transformation guidelines based on the AgriBEE Transformation Charter. The guidelines states that at least 50% of the transformation levy must be spend on enterprise development, 20% for training and remaining 30% for other pillars of the Transformation Charter. Going forward, NAMC will do amendment of its transformation guidelines to ensure alignment with the Amended AgriBEE Sector Code. This is to ensure industries meet minimum targets on AgriBEE, which demonstrate compliance with the sector code's Priority Elements of Ownership, Skills

Development and the Enterprise and Supplier Development (ESD). In view of NAMC's critical role in the sector, the entity has established the Transformation Review Committee (TRC), as a forum to input and comment on industries' annual transformation business plans submitted under the statutory measures conditions for DAFF's approval. NAMC's statutory measures' division also collects information via questionnaire that is sent to levy administrators annually. Following the consultation meeting on developing AgriBEE Enforcement Guidelines, the NAMC agreed that BBBEE reporting could be included in the annual survey of industries reporting to its division.

Proposal:

The Minister may before granting approval to industries request, requires submission of BEE certificates by Administrator Entities. Certificate of BEE compliance will indicate the industries' contribution to implementing relevant elements of BBBEE, based on its annual total revenue thresholds. Preference must be given to Levy Administrators (called measured entities in terms of BBBEE legislation) that have Exempted Micro Enterprises (EME) status. For Qualifying Small Enterprises (QSE) and Large measured entities, the following process must be followed:

First preference for granting approval to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any levy administrator with BBBEE status between Level 5 – 8, provided that the levy administrator commits to transformation (written confirmation). No granting of statutory measures (levies) to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with requests.

Agricultural Trusts

The lever is about NAMC influencing the transformation strategies of industries under the MAP Act. NAMC participates in the programmes of the Trusts and should communicate the BBBEE agenda as a strategic objective for trusts.

Proposal:

Before NAMC give support to the operations of the trusts, it should ask for BBBEE status level of industries (annual BEE certificates). The relevant BEE status level will give evidence of commitment from industries towards the BBBEE program of the Department of Agriculture, Forestry and Fisheries through their implementation of AgriBEE Sector Codes. Trusts could also be approached by Government and industries to facilitate development of black suppliers in the sector, towards achieving agreed targets on Preferential Procurement in the amended AgriBEE Sector Code: Target of 40% BBBEE Procurement Spend from Empowering Suppliers that are at least 51% black owned and the target of 12% BBBEE Procurement Spend from Empowering Suppliers that are at least 30% black women owned. In addition to the above proposal, NAMC must provide reporting framework to the trusts so that implementation programmes be monitored and recognised.

All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted with applications.

5.2. Onderstepoort Biological Products (OBP) SOC Limited

Onderstepoort Biological Products was corporatized in 2000 under the Onderstepoort Biological Products Incorporation Act, 1999 *Act of 1999). OBP produces approximately 53 products, 20 of the products provide 91% of the annual total revenue of OBP. The entity fulfils a critical role in supporting the animal health program of the Department of Agriculture, Forestry and Fisheries. As per the 2014/15 Annual Report performance, OBP held 6% market share of the total vaccine segment. Also, its top performing products in 2014/15 were as follows:

Name of Product	Percentage contribution
LSD 25 and 50 DOS	21%
AHS 12 DOS PACK	14%
RVF LIVE 100ml	9%
PASTEURELLA (SHEEP) 100ml	8%
PASTEURELLA (CATTLE) 100ml	6%
BOTULISM 100ml	5%
BT 100ml	5%
S19 20xD 5ml	4%
RVFINACT 100ml	4%
PK (ALUM) 100ml	3%

2014/15 Annual Report: Onderstepoort Biological Products (Table 2 extract)

Although this SOE does not play a regulatory role like other state organs, the service it renders is crucial to the agricultural sector and its food security priorities. OBP has contributed to uplifting society through its primary and secondary Corporate Social Investment (CSI) programs and its own skills development initiatives. Procurement of goods and services are in line with Treasury's PPPFA guidelines and the entity participates in the transversal contract, supplying vaccines to Provincial Departments responsible for Agriculture and Rural Development. Onderstepoort Biological Products has a verification process in place and is currently a level four BEE contributor, in terms of the generic scorecard.

Levers

Preferential Procurement

The lever is about OBP producing vaccines for animal market segment. Majority of sales are to Government clients (Provincial Departments). Procurement is done through a Transversal contract by the National Treasury's Chief Procurement Officer. Departments of Agriculture, through Government Programs i.e. Veterinary Public Health; Animal Improvement Schemes; Comprehensive Agriculture Support Program (CASP), Rural Development Program; etc buy a percentage of the total vaccines annually from OBP and the other vaccines from private suppliers. OBP is a state-operating entity and contribute to the Government's objectives of rural development, animal health and safety, job creation and empowerment of communities.

Challenges faced by OBP

The open tendering system and conditions of Transversal Contract. This means that this SOE is left to compete with private/multinational companies, which poses a "threat" since OBP does not operate mainly to make profit but for national well-being. It is thus unfair to expect OBP to compete fairly during the tendering process. Since OBP is a state organ it should be providing more of the products to Government buyers instead of private companies, making huge profit/ gains. And it is not certain whether these private entities, majority are multinational, are contributing to the AgriBEE Sector Code implementation. For example, Provincial Departments of Agriculture's annual Total Procurement Spend is in excess of R500 million for animal vaccines alone. However, the biggest portion of that goes to private entities.

In terms of OBP's contribution to the Government's BBBEE Program, through implementing initiatives on Management Control, Employment Equity and Skills Development elements, the entity is at a favourable BBBEE status level. For 2015/16 reporting cycle, the entity already acquired the services of a BBBEE verification agent to complete its annual BEE rating. This will be the second time OBP undertakes a BBBEE verification rating. Government departments and SOEs are being rated against the Scorecards for Specialised Enterprises, Statement 004: BBBEE Codes Phase 2 that was published on 6th of May 2015 (Gazette 38766). OBP has been advised by Directorate: BBBEE Charters Compliance to inform its appointed BBBEE verification service provider that the relevant benchmark is the Scorecards for Specialised Enterprises.

Proposal:

Considering the fact that the organ operates in a specialised field, it is hard if not near impossible for them to procure from BBBEE Compliant companies (BEE Beneficiaries) businesses. This has a huge impact on their overall BBBEE Contributor level and scorecard.

OBP's annual procurement plan should focus on targeted vaccines. A certain percentage (quantitative restrictions) of all procurement of vaccines for national programmes (set target %) should be firstly from OBP. This will also apply for disease control measures whereby DAFF and PDA's are expected to provide control measures for animal disease outbreaks in provinces. Secondly, where OBP is unable to supply vaccines then PDA's can procure from private entities. Such procurement from private/ multinational measured entities should be based on the following principle:

First preference to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, but there must be competition amongst applicants. No Procurement from Non-Compliant entities/ contributors. All sworn Affidavits for EMEs

and the BBBEE status certificates from QSE and Large Measured Entities (suppliers) must be submitted with Procurement Bids.

5.3. Agricultural Produce Agents Council (APAC)

Agricultural Produce Agents Council is a body established in terms of the Agricultural Produce Agents Act No 12 of 1992. The objective of the council is to regulate the occupations of fresh produce, export and livestock agents and to maintain and enhance the status and dignity of those occupations and the integrity of persons practicing those occupations, according to section 9, Agricultural Produce Agents Act, 12 of 1992. APAC is mainly responsible for issuing trade certificates and administering the Fidelity Fund. There is no obligation for livestock Agents to register with APAC, only 20% of Agents are registered. If BBBEE reporting is enforced, then some agents might choose to deregister with APAC which will mean more agents operating in unregulated environment. Only fresh produce market agents are required to register with APAC. The industry, in collaboration with DAFF, has developed a set of Draft Codes-of-Best-Practice for fresh produce marked agents, which serve as guidelines towards implementing BBBEE and transformation initiatives in their organisations. Poor understanding and lack of awareness programs on AgriBEE legislation creates a lot of grey area, which sometimes results in entities overstating their BBBEE compliance. For example, someone will say that he has taken his farm worker to a language school and therefore report that as Skills Development for scorecard points. This is, despite the measurement principle that only critical skills or those identified in skills development matrix of AgriBEE Sector Code scorecard can be credited under skills development element.

Levers

The lever is about *APAC overseeing implementation of Codes of Best Practice by entities that are actively operating on the National Fresh Produce Markets*. Agents that are providing services to farmers for selling and trading in fresh fruit and vegetables must implement the agreed Codes of Best Practice and report annually on the status. Adherence to priority scorecard elements should be monitored. The Draft Codes of Best Practice must be reviewed in line with Amendments to BBBEE legislation and AgriBEE Sector Code. The markets where trading take place, fall under ambit of the Department of Cooperative Governance and Traditional Affairs (COGTA) and Municipalities. Further consultations with these stakeholders are needed going forward.

Proposal:

Where APAC is responsible for issuing/ renewal of certificates, in future it is proposed that APAC requires the agents under the Act to report on BBBEE compliance. This is as APAC, as a statutory organ is required to report on BBBEE in terms of the BBBEE Amendment Act No. 46 of 2013. APAC can assist with gathering information through its annual information collection. Market agents' entities, although not employing more than 3 employees, can contribute to BBBEE. As such, for Qualifying Small Enterprises (QSE) and Large measured entities, APAC may subject agents to the following process:

First preference for issuing/ renewal of certificate license to:

- **Level 1, if no level 1; then**
- **Level 2, if no level 2; then**
- **Level 3, if no level 3; then**
- **Level 4.**

If no level 4, then preference will be given to any measured entity with BBBEE status between Level 5 – 8, provided that the entity commits to transformation (written confirmation). No issuing/ renewal to Non-Compliant entities/ contributors. All sworn Affidavits for EMEs and the BBBEE status certificates from QSE and Large Measured Entities must be submitted.

5.4. Perishable Products Export Control Board (PPECB)

Perishable Products Export Control Board is a state public entity established and authorized in terms of the Perishable Products Export Control Act, No 9 of 1983 to achieve cold chain services. PPECB also delivers examination and food safety services as authorized by the DAFF under the Agricultural Products Standards Act No.119 of 1990. PPECB already completed its BBBEE status verification since 2014 and its BEE certificate and report for 2016 reporting cycle will be done by October this year. The generic scorecards were used to do BEE verification, as the organisation found the applicable sector code, which is AgriBEE Sector Code problematic at the time. PPECB should ensure BBBEE verification rating is done in terms of the Scorecards for Specialised Enterprises, as per Gazette Number 38766. PPECB is doing much on transformation, focusing on elements such as Preferential Procurement and internally Management Control and Employment Equity.

Challenges: PPECB is only looking at the export-end of the agricultural value chain and not where the primary activity originates. The biggest challenge PPECB experiences, is with Small Holder Farmers that struggle to meet the export requirements. Currently, PPECB together with DAFF's Marketing directorate provide training to small holder farmers on product quality standards to enable them to access local and export markets.

Another aspect is the alignment and prioritisation of various Government policies, including that of BBBEE. As such, PPECB requested that the AgriBEE Enforcement Guidelines should align to key policies such as the National Development Plan; Industrial Policy Action Plan (IPAP); Agricultural Policy Action Plan (APAP), which objectives are on sector growth and promotion, job creation, investment etc. The prioritisation of departments' mandates and implementation programmes should receive consideration as well (which objectives and targets to pursue first over others).

BBBEE Contributor status: PPECB's Preferential Procurement is already aligned to the BBBEE codes. The entity is in full compliance with National Treasury's PPPFA Regulations in terms of 90/10 and 80/20 principles for bids. Most suppliers in the PPECB's database are Exempted Micro Enterprises (EME). PPECB wanted to know whether specific "set-asides" are in place to increase the number of black suppliers in general. This issue was raised with the National Treasury, but no answer provided. PPECB's own contribution and compliance to BBBEE is very much on Skills Development element, which is a Priority Element of BBBEE Codes. Technical training on export-readiness and standards are offered to Small Holder Farmers and there is a flagship Exporters Technologist Training Program (ETTP) currently being rolled-out. PPECB works closely with DAFF and the Department of Trade and Industry (**the dti**) on such initiatives to empower black farmers to become exporters to existing and new markets. Many of the beneficiaries of the ETTP are black (BBBEE definition) and are employed in PPECB or elsewhere as Quality Managers in the retail and cold chain sector. This initiative is to change the "face" of the agricultural sector.

In addition to issues noted under "challenges" and BBBEE Contributor status, PPECB is concerned that other bigger issues are affecting transformation in the Agricultural Sector, Land Claims and Restitution. PPECB said it is doing only part of the export industry chain and that further consultation on developing AgriBEE Enforcement Guidelines should be held with export industry chain organisations such as CMI, SGS, SABS as these entities are doing the "commercial" part of the value chain. These organisations are registered under

SANAS – it is best to make contact there. Lastly, the issue of AgriBEE scorecard versus generic needs consideration especially in the bigger scheme of things. Exporters will usually work with a different scorecard as they are operating across various sectors, i.e. logistics, which fall under Transport Sector Codes. In such cases, the guidelines for BBEE verification are that the appointed BBEE verification agent will know which scorecard is applicable for assessing BBEE contributions.

Levers

Food safety services: PPECB fulfils this role by conducting statutory food safety audits nationally. These audits focus on worker hygiene; use of plant protection products; and traceability together with agricultural practices. Following successful food safety audits a food safety compliance certificate is issued, referred to as Good Agricultural Practices (GAP). Proposal is that PPECB may withhold the certificate until the entity submits its BEE certificate.

Cold chain management: PPECB is responsible for managing export cold chain and ensures that products leaving the country are handled, stored and transported at specific temperatures and optimum conditions. Proposal is that PPECB may require a valid BEE certificate before the service is rendered to an entity. The “legality” of the 2 proposals needs to be investigated, given the legislative obligations in terms of Food Safety.

6. WAY FORWARD

Regulators should implement the approved AgriBEE Enforcement Guidelines and align their services (or levers) to the guidelines. BBEE status will be qualification criteria when regulators are administering applications for the services offered by the Department, Provincial Departments of Agriculture and State-Owned Entities. Reporting on regulators’ compliance with the approved AgriBEE Enforcement Guidelines must be done quarterly and annually.

7. CONCLUSION

It is well known that the structure of the South African agricultural sector is dominated by few large suppliers and entities. The ownership of these enterprises is mainly in the hands of white people and business operations are capital intensive. The number of commercial farmers has decreased considerably over the last two decades. Black people have traditionally been active in the agricultural sector, either as emerging farmers and/or workers. Government provides comprehensive support to black farmers (commercial and small holder farmers) in the form of production grants and loans, agricultural support, extension services, marketing support etc. However, there are still challenges which need solutions and BBBEE is seen as key to come up with some needed interventions to empower black people in the agricultural sector. However, BBBEE cannot do this alone. Therefore, contributions from industry by participating in Government Programs such as the National Development Plan; Industrial Policy Action Plan (IPAP); Agricultural Policy Action Plan (APAP); Department of Rural Development and Land Reform's Agri-Parks; and many other interventions will accelerate economic growth and create employment and income opportunities for previously marginalised people in agriculture. It is envisaged that through achieving AgriBEE Sector Code's scorecard targets, more black people (Africans, Coloureds, and Indians) will own and managed agricultural enterprises and assets. However, the Sector Code needs to have "teeth". The AgriBEE Enforcement Guidelines are the regarded as the "teeth" which will ensure faster implementation of AgriBEE Sector Codes by measured entities. This can only be achieved by making BBBEE a qualification and legal requirement for Government to:

- issue new licenses and permits, as well as renewals;
- grant concessions and rights (e.g. water rights);
- provide financial support and incentives (e.g. Empowerment Funds);
- buy goods and services, through Preferential Procurement;
- enter into and sign Partnership Agreements with industries, investors and other Governments; and
- disposing of state-assets, in any form or way.