

# Transformation in Agriculture

## Global Citrus Summit

John Purchase

8 March 2017



## SONA 2017: President Jacob Zuma (9 Feb 2017)

“It is therefore a fundamental feature of our strategy that victory must embrace more than formal political democracy; and our drive towards national emancipation must include economic emancipation”.

“What do we mean by **radical socio-economic transformation**?

“We mean **fundamental change in the structure, systems, institutions and patterns of ownership, management and control of the economy** in favour of all South Africans, especially the poor, the majority of whom are African and female, as defined by the governing party which makes policy for the democratic government”.

## Minister Nkwinti (DRDLR): SONA Debate Speech (14 February 2017)

“Within this context, the following will be done to ensure the attainment of our overall goal of radical socio-economic transformation in relation to land reform:

Undertake a pre-colonial audit of land ownership, use and occupation patterns”.

“Once the audit has been completed, a single law should be developed to address the issue of land restitution without compensation. The necessary constitutional amendments should be undertaken to effect this process”.

# Minister Gordhan: Budget Speech (22 Febr 2017)

**Extremely strong political context and positioning in Budget Speech – speaks repeatedly of transformational challenges and inclusive growth:**

“These South African realities are known to all of us:

- Income growth has been uneven - the bottom 20 per cent have benefited from social grants and better access to services, the top 20 per cent have benefited from the rising demand for skills and pay increases. Those in the middle have been left behind.
- Wealth remains highly concentrated – 95 per cent of wealth is in the hands of 10 per cent of the population.
- 35 per cent of the labour force are unemployed or have given up hope of finding work”, etc.

***“To achieve the vision of the Constitution, South Africa needs transformation that opens a path to inclusive economic growth and development.***

***Transformation without economic growth would be narrow and unsustainable.***

***Growth without transformation would only reinforce the inequitable patterns of wealth inherited from the past.”***

# Background to Transformation

1. Transformation per se not a Constitutional Imperative. However clear redress directives in terms of Section 25 of the Constitution, the so-called Property clause – will deal with in more detail later.
2. Clearly though a far more equitable and sustainable society needed to be achieved to address the legacy of apartheid and in the early 2000's especially a raft of legislation was passed to ensure greater economic participation by previously disadvantaged individuals (PDI's):
  - Broad-based Black Economic Empowerment (B-BBEE) and Codes of Good Practice/Sector Codes
  - Employment Equity
  - National Skills Development Act
  - Preferential Procurement Policy Framework Act (PPPFA), etc.
3. Land Reform (various Acts) and Water Reform (2X Acts) legislation

# Broad-based Black Economic Empowerment (B-BBEE)

# B-BBEE environment change.....

- I. B-BBEE Amendment Bill: Assented 27 Jan 2014
- II. Revised Codes of Good Practice: Gazetted Oct 2013
- III. AgriBEE Sector Code: Gazetted 28 Dec 2012
- IV. Revised AgriBEE Sector Code: Soon to be gazetted for 60 day comment.

Implementation ~October 2015.....?



# Introduction

- Impact of changes proposed by the Bill were examined in five key policy areas, as follows:
  - Circumvention : B-BBEE Fronting;
  - Establishment of B-BBEE Commission;
  - Alignment of the B-BBEE Act to other key pieces of legislation and other policy instruments ( e.g. PPPFA, NGP, IPAP and Mining Charter );
  - Monitoring of B-BBEE in Public and Private sector; and
  - Redesign of the B-BBEE Verification Industry.

## II. Revised B-BBEE Codes of Good Practice

- Gazetted in 12 October 2013
- B-BBEE Technical Assistance Guidelines (The TAG)
- 7 Elements reduced to 5
- Thresholds for EME's & QSE's revised
- Revised B-BBEE Status: Recognition level
- More stringent and onerous



**the dti**

Department  
Trade and Industry  
REPUBLIC OF SOUTH AFRICA

## REVISED SCORECARD

| Element                                   | Code series | Revised Weighting |
|-------------------------------------------|-------------|-------------------|
| Ownership                                 | 100         | 25 points         |
| Management Control(MC)                    | 200         | 15 points         |
| Skills Development(SD)                    | 300         | 20 points         |
| Enterprise & Supplier<br>Development(ESD) | 400         | 40 points         |
| Socio-economic development(SED)           | 500         | 5 points          |
| <b>TOTAL</b>                              |             | <b>105 POINTS</b> |



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- ❑ The thresholds for Exempted Micro Enterprises and Qualifying Small Enterprises have been adjusted as follows:
  - EME increased from **R5 million** to **R10 million**
  - QSE: **R5 million - R35 million** to **R10 million - R50 million**
  - Large entities: **R50 million and above**

### III. AgriBEE Sector Code: Gazetted 28 Dec 2012

Currently still being scored on this code.

### IV. Revised AgriBEE Sector Code:

Soon to be gazetted for implementation.  
Signed off in March 2016.

# Broad-based Ownership Schemes – not resolved



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## Statement on the Recognition of Broad-Based Schemes

2015-05-08

The Department of Trade and Industry (**the dti**) has noted the questions relating to paragraph 1 (d) of the General Notice issued in Gazette Number 38764 on 5 May 2015, dealing with recognition of the Broad-Based Recognition Schemes:

- The Notice will not have a retrospective effect. This means that all B-BBEE Deals concluded prior to 1 May 2015 will not be affected. These Deals will have a full recognition under Code Series 100.
- **the dti** will appoint a Technical Task Team which will explore the appropriate balance between active (direct) and passive (broad-based schemes) ownership. The Technical Task Team will report to the Minister of Trade and Industry its recommendations within thirty (30) days.
- Upon receipt of the recommendations, the Minister will provide further guidance on the implementation of Code Series 100.

### Enquiries:

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Issued by: The Department of Trade and Industry

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## 2. THE MANDATE OF THE AgriBEE CHARTER COUNCIL

- To align the AgriBEE Transformation Charter (Section 12) with the Codes of Good Practice in terms of a section 9 of the BBEE Act no. 53 of 2003 – i.e. gazette of the AgriBEE Sector Code in terms of Section 9 (1).
- To provide guidance with respect to the implementation of the AgriBEE Sector Code.
- To monitor the implementation of the AgriBEE Sector Code in the Agricultural sector as well as to review it.
- To compile reports on the status of B-BBEE in the agricultural sector.

## 2. MANDATE OF THE CHARTER COUNCIL CONT...

- To share information with sector stakeholders and approved accredited verification agencies.
- To facilitate communication and popularisation of the AgriBEE Sector Code.
- To advise the Minister of DAFF with regard to the matters of transformation in the agricultural sector - AgriBEE.
- To report to the Minister of Trade and Industry and the BEE Advisory Council on the status of Broad Based Black Economic Empowerment within the Agricultural sector.

# **AgriBEE Survey by Agbiz**

**Limited to members falling under AgriBEE Transformation Charter  
& AgriBEE Sector Code**

**Conducted 2007, 2009, 2012 & 2014**

# Agribusinesses implementing AgriBEE

Intentions unpacked though Agbiz 2014 AgriBEE survey

Lindie Stroebel

12 April 2014

Agbiz media event

# Responses to the survey

- Total of 21 responses
- 3 Categories, based on turnover
  - Category 1 (5 responses, A-E): < R1 billion
  - Category 2 (9 responses, F-N): R1 billion > < R4 billion
  - Category 3 (7 responses, O-U): > R4 billion

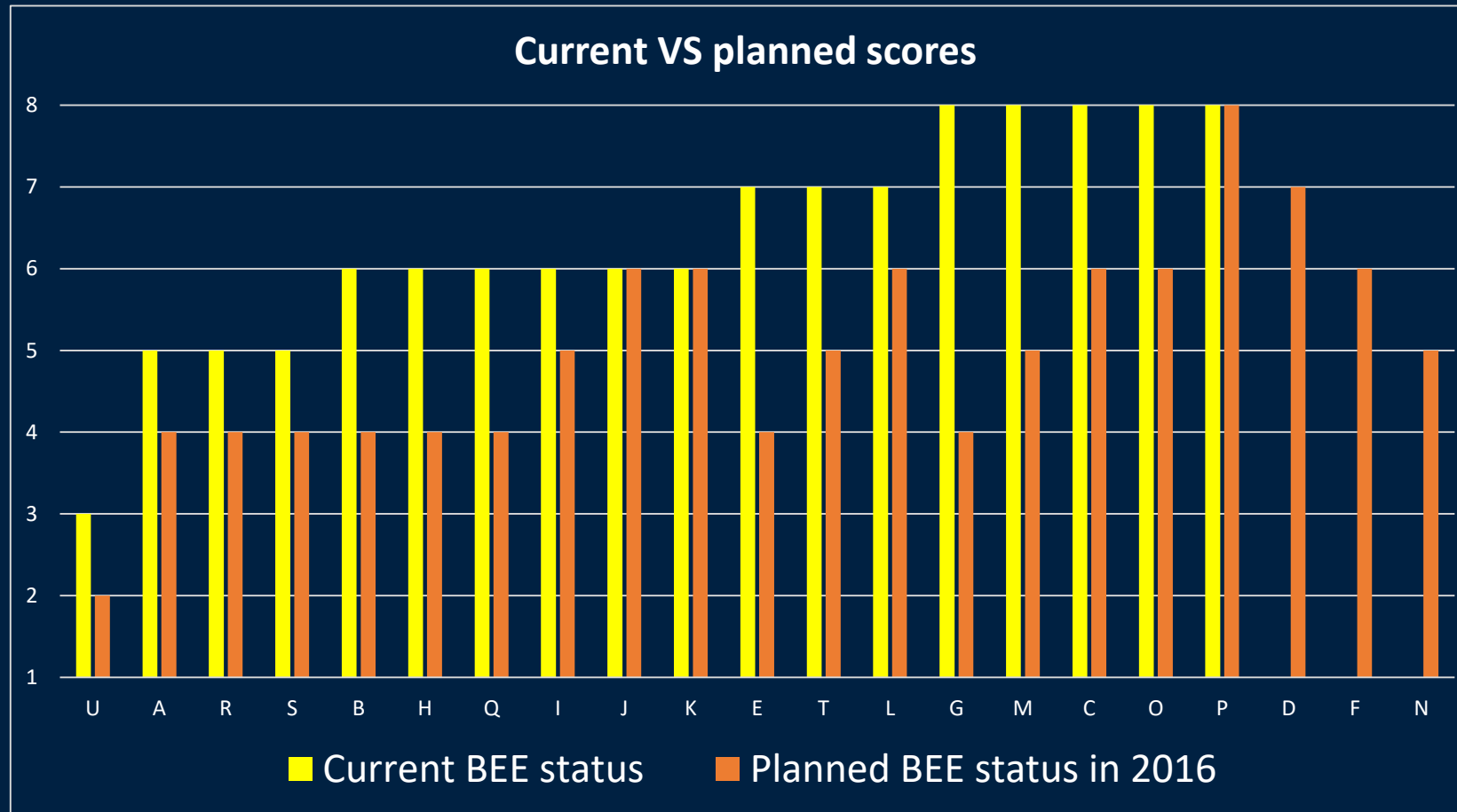
# Score cards

## *Intention to measure*

- Cat 1: (5 responses)
  - 2 Determined BEE scores and got accredited scorecards
  - 3 Are in process of getting accredited scorecardsAll in Cooperative business form
- Cat 2: (9 responses)
  - 5 Determined BEE scores and got accredited scorecards
  - 3 in process to getting accredited scorecards
  - Only 1 without accredited scorecard, but in process of determining score
- Cat 3: (7 responses)
  - ALL 7 have accredited BEE scorecards

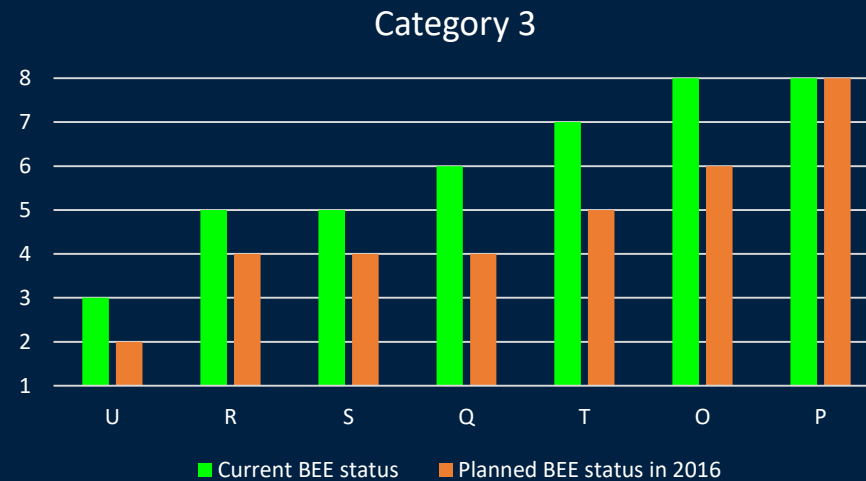
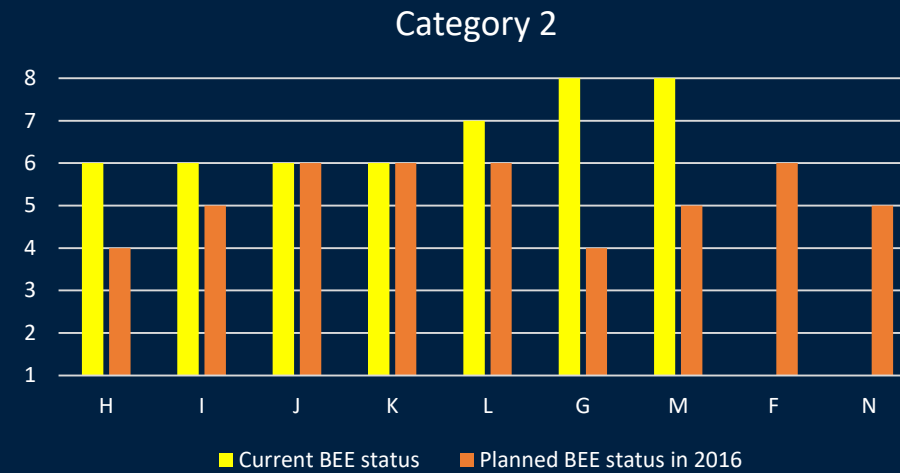
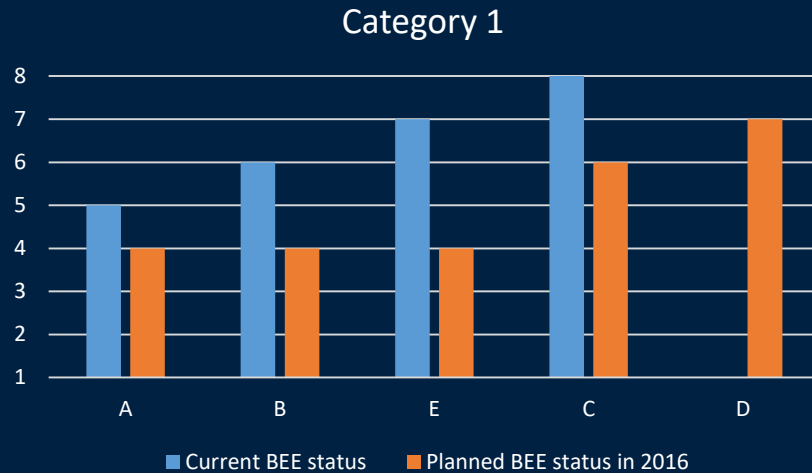
# Current & Planned scores

*Intention to improve*



# Current & Planned scores

## *Intention to improve*



# Conclusion

- AgriBEE has moved from 'Intent to Transform' to 'Regulated Transformation'. Rethink by Government?
- Revised AgriBEE Sector Code will be as close as possible to revised generic CoGP – tough negotiation process.
- Reasons: (i) Level playing field (ii) Predictability (iii) Smooth transition.
- Agribusinesses, including banks, will in effect now have to 'force' clients (farmers) to provide scorecards.
- **All** business with government (procurement, licenses, permits, etc.) will require a scorecard.
- Uncertainty about forced reporting in B-BBEE Amendment Bill and sanction on non-compliance. Bill however provides teeth!

# Land Reform

# Constitution of South Africa

25. Property.-(1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application--

(a) for a public purpose or in the public interest; and

(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including-

(a) the current use of the property;

(b) the history of the acquisition and use of the property;

(e) the market value of the property;

(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and

(e) the purpose of the expropriation.

(4) For the purposes of this section-

(a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and

(b) property is not limited to land.

(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

(7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36 (1).

(9) Parliament must enact the legislation referred to in subsection (6).

# Land Reform premise....

Acknowledgement that Land Reform in South Africa is necessary, even though a complex and emotive subject.

The question is: **How do we do it?**

# For today.....

- **In effect three approaches/models by government:**
  - 1. DRDLR Green Paper and National Reference Group Process.**
  - 2. National Development Plan (NDP) Model on Land Reform.**
  - 3. Inter-Departmental Task Team on Outcome 7**
- SONA comments on Land Reform
- Budget Vote on DRDLR
- Status of Agbiz/BASA Proposal to Minister Nkwinti & DRDLR
- Inter-Departmental Task Team on Outcome 7 (IDTT7)
- Way forward

# 1. DRDLR Green Paper and National Reference Group (NAREG) Process.

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## GENERAL NOTICE

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### NOTICE 686 OF 2011

#### DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

#### INVITATION FOR COMMENTS ON THE GREEN PAPER ON LAND REFORM, 2011

The Department of Rural Development and Land Reform hereby invites any interested person or body to provide comments on the Green Paper on Land Reform, 2011 (hereinafter referred to as Green Paper), as published hereunder.

The Green Paper seeks to provide new policy direction on Land Reform and it also proposes the establishment of institutions to support the implementation of the policy proposals contained in the Green Paper.

Copies of the Green Paper can be obtained from the offices listed below and it can also be downloaded from the Department's website.

The closing date for comments is 60 calendar days from the date of publication of this notice in the Gazette. Written comments must be submitted to The Director General, Rural Development and Land Reform at the contact details below:

**E-mail Address:** [landreformgreenpaper@ruraldevelopment.gov.za](mailto:landreformgreenpaper@ruraldevelopment.gov.za)

**Fax Number:** 086 241 3517

**Postal Address:** Private Bag X833, Pretoria, 0001

# GP: Principles underlying Land Reform

- (a) De-racialising the rural economy;
- (b) Democratic and equitable land allocation and use across race, gender and class; and
- (c) Sustained production discipline for food security

**The Goal** is to promote social cohesion and development, based on shared growth and prosperity, relative income equality, full employment and **cultural progress**.

# NAREG Process

- National Reference Group established, and Agbiz part thereof
- 6 NAREG Workstreams established for consultation:
  - Group 1: Land Management Commission (LMC)
  - Group 2: Land Rights Management Board (LRMB)
  - Group 3: Office of the Valuer General (OVG)
  - Group 4: 3-Tier Land Tenure System
  - Group 5: Communal Tenure
  - Group 6: Legislation
- Considerable interaction over past 2-year period
- 14 policy positions developed by DRDLR

# Strategic Correlation amongst the various Policy Instruments and Institutions

| Policy Type             | Actual Policies                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Foundation              | <ol style="list-style-type: none"> <li>1. Spatial Planning and Land Use Management (SPLUM Act finalized)</li> <li>2. Rural Development Policy Framework – CRDP approach</li> <li>3. <b>Agricultural Land Holdings Framework Policy – Private land with limited extent + Regulation of Foreign Ownership of Land</b></li> </ol>                                                                                                                                                                                                                                                                           |
| Redistributive          | <ol style="list-style-type: none"> <li>4. Land Management Commission (Draft Bill to Parliament soon?)</li> <li>5. Property valuations - Just and equitable compensation - Property Valuation Act assented</li> <li>6. Pro-active land acquisition policy (PLAS)</li> <li>7. Re-opening of Restitution - Restitution of Land Rights Amendment Act assented</li> <li>8. <b>Land tenure reform in commercial farming areas (Strengthening the relative rights of those people that work the land)</b></li> <li>9. Communal land tenure policy and redistributive arm to decongest communal areas</li> </ol> |
| Development and Support | <ol style="list-style-type: none"> <li>10. Rural Development Framework (RDA, RIDFF, AVMP, etc.)</li> <li>11. Recapitalisation and Development Policy</li> <li>12. State Land Lease and Disposal Policy</li> <li>13. Communal Property Associations Policy</li> <li>14. MTSF developed between DRDLR and DAFF</li> </ol>                                                                                                                                                                                                                                                                                  |

# New Land Reform Legislation

- Spatial Planning and Land Use Management Act (SPLUMA), assented 5 August 2013, and came into effect 1 July 2015 . Still major concern around this Act, and hardly implemented.
- Property Valuation Act assented 1 July 2014, and operationalized 1 August 2015.
- Restitution of Land Rights Amendment Act assented 30 June 2014, claims re-opened 1 July 2014. Declared invalid by Constitutional Court on 28 July 2016 – back to Parliament.
- Expropriation Bill (Currently back to Parliament from Presidency after petitioning on grounds of insufficient consultation – extensive work in Parliament and also at NEDLAC).
- Extension of Security of Tenure Amendment Bill (Signed off at NEDLAC, approved by Cabinet and to Parliament in 2015, and still there – Agbiz submissions).
- Preservation and Development of Agricultural Land Framework Bill (PDALFA) – in Nedlac. Controversial and questions on Constitutionality.
- Regulation of Agricultural Landholdings Bill – signed off by Cabinet in March 2017. First version deemed unconstitutional and economically unsound by SEIA Team. New version not shared with stakeholders - Requested but not yet received.

# Agbiz alternatives in NAREG Process

- Conditional support for most policies/legislation
- Right of First Refusal (RoFR)
  - Namibia model
  - Variation thereof with term conditions, etc.
- Farm Equity Schemes (FES)
  - Implemented, then suspended by DRDLR
  - Being reviewed
  - Considerable potential and in line with AgriBEE Sector Code

## 2. National Development Plan (NDP) model on Land Reform.

# NDP Model on Land Reform

## Chapter 6: An Integrated and Inclusive Rural Economy

NPC's proposed model for workable and pragmatic land reform based on following principles:

- Enable a more rapid transfer of agricultural land to black beneficiaries without distorting land markets or business confidence in the agribusiness sector.
- Ensure sustainable production on transferred land by making sure that human capabilities precede land transfer through incubators, learnerships, mentoring, apprenticeships and accelerated training in agricultural sciences.
- Establish monitoring institutions to protect land markets from opportunism, corruption and speculation.

# NDP Model on Land Reform

## Chapter 6: An Integrated and Inclusive Rural Economy

NPC's proposed model for workable and pragmatic land reform based on following principles:

- Bring land-transfer targets in line with fiscal and economic realities to ensure that land is successfully transferred.
- Offer white commercial farmers and organised industry bodies the opportunity to significantly contribute to the success of black farmers through mentorships, chain integration, preferential procurement and meaningful skills transfer.

# NDP Model on Land Reform

## Chapter 6: An Integrated and Inclusive Rural Economy

NPC's proposed model :

- Each district municipality with commercial farming land in South Africa should convene a committee (the district lands committee) with all agricultural landowners in the district, including key stakeholders such as the private sector (the commercial banks, agribusiness), government (Departments of Rural Development and Land Reform, the provincial departments of agriculture, water affairs and so on), and government agencies (Land Bank, the Agricultural Research Council and so on).
- This committee will be responsible for identifying 20 percent of the commercial agricultural land in the district, and giving the commercial farmers the option of assisting in its transfer to black farmers.

# NDP Model on Land Reform

## Chapter 6: An Integrated and Inclusive Rural Economy

- District land committees – stakeholders important!
- With farmers, identify suitable commercial agricultural land for transfer in commercially viable ventures
- Funding model critical (Task Team by Agbiz and BASA)

# Agbiz/BASA Commercial Financing Proposal

## Rationale:

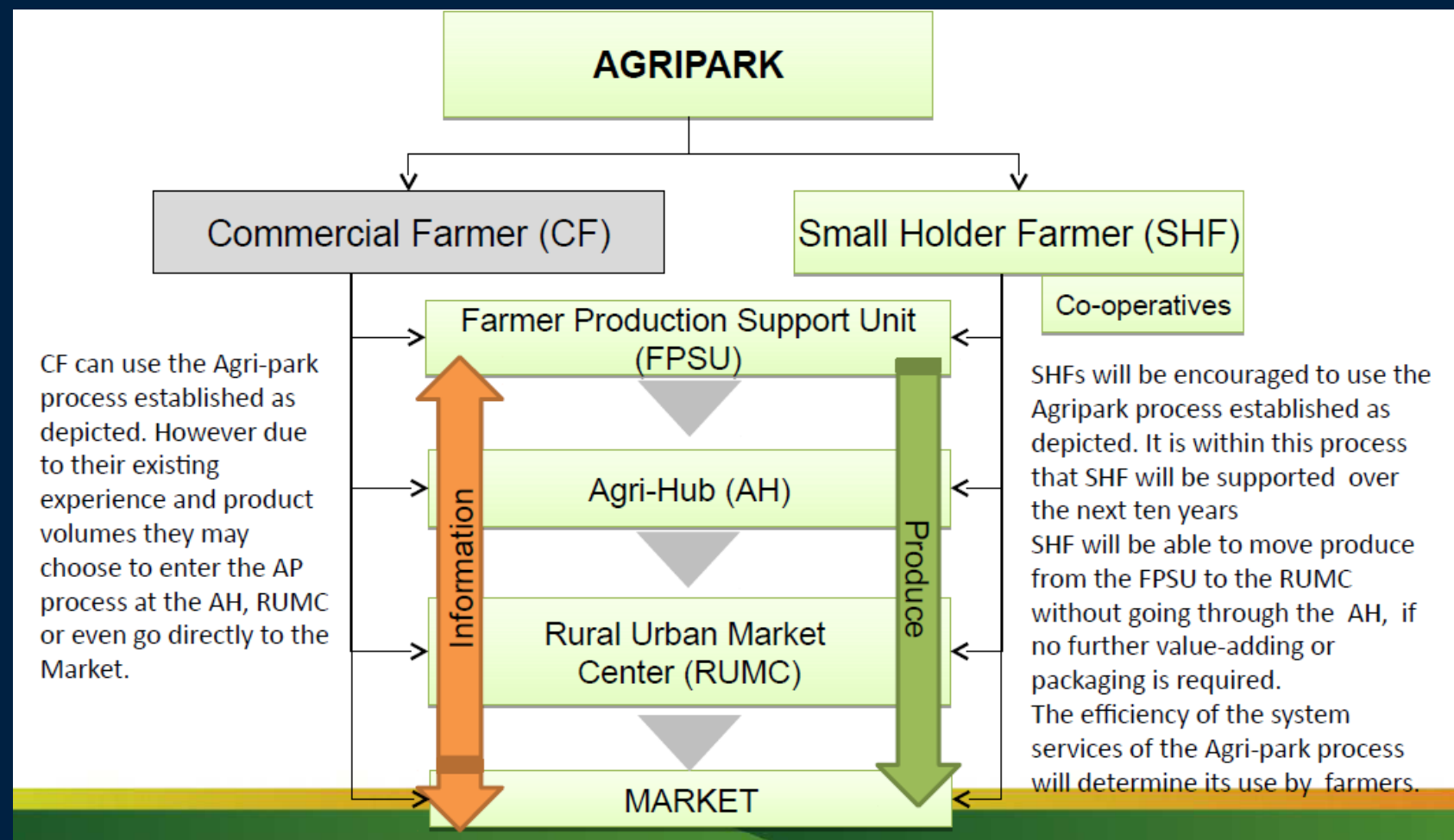
- Need to play an active and collaborative role in helping to address land reform
- Agbiz/BASA Task Team response to Minister's challenge and NPC request
- Commercial lenders have very strong credit and business case approval processes in order to protect their depositors' funds from lending losses
- Provide Government with a high level of comfort, especially on viability of transactions and market value of land
- Agbiz and BASA do not view these proposals as the answer to all land reform objectives



# Inter-Departmental Task Team on Outcome 7 (IDTT7)

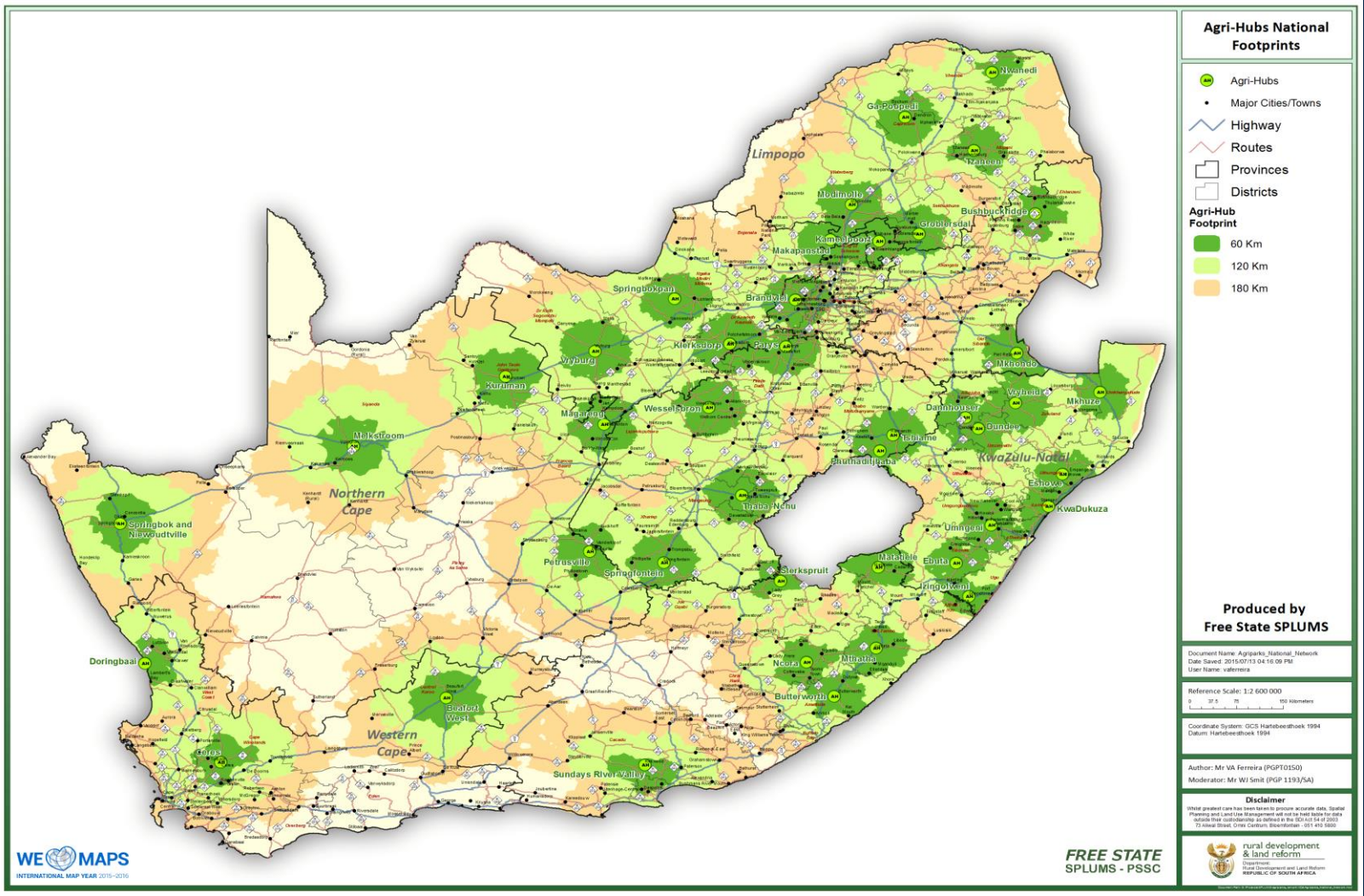
- MTSF Outcome 7: **Vibrant, equitable, sustainable rural communities contributing towards food security for all**
- Agbiz/BASA Proposal submitted and generally well received
- Five Working Groups established:
  - Land ceilings
  - 50/50 Model – relative rights of those that work the land.
  - Foreign landownership
  - District Land Committees – ToR's NB
  - AgriParks: R2,0bn per annum on 44 priority districts (?)  
Agbiz involved in NAAC

# Agri-park network



# NATIONAL AGRI-PARK NETWORK

(2 Western Cape District Agri-parks to be identified as at 13 July 2015)



# Planned Policy Priorities to 2019

## PLANNED POLICY PRIORITIES TO 2019

The following are the planned policies for the upcoming MTEF period i.e. 2016-2019

- Communal Land Tenure
- Communal Property Association
- Regulations of Land Holdings Policy
- Electronic Deeds Registration Policy
- Policy Framework for the Strengthening of Relative Rights for persons working the land
- Policy of exceptions to pre-1913 Claims and on Access to Heritage Sites and Historic Land Marks

# Other Legislation

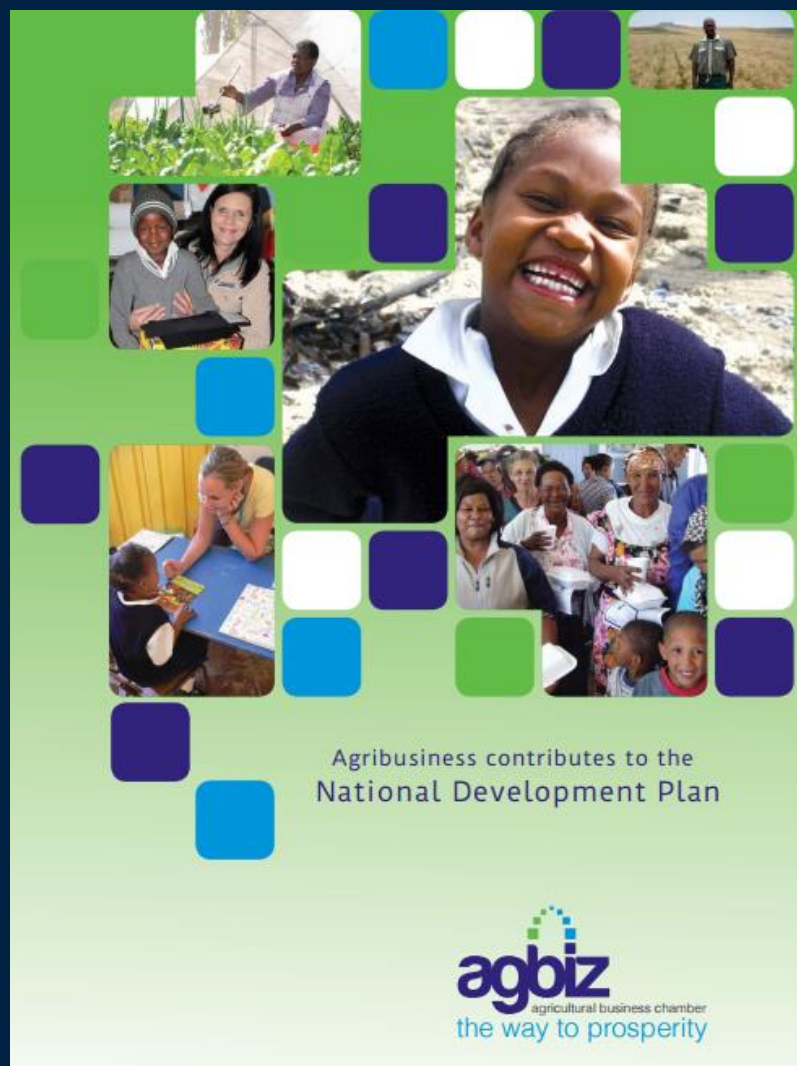
1. Preservation and Development of Agricultural Land Framework Bill (PDALFA)
2. Expropriation Act:
  - Definitions of “public interest”, “Property” and “Expropriation” problematic
  - How Act will impact with other legislation, and specifically:
    - Private Security Industry Regulation Amendment Bill (Assenting delayed).
    - Protection of Investment Act, 2015 (Assented December 2015)
    - Regulation of Agricultural Landholdings Bill (Pending publication for public comment)
3. Spatial Planning and Land Use Management Act (SPLUMA)

# Way forward.....

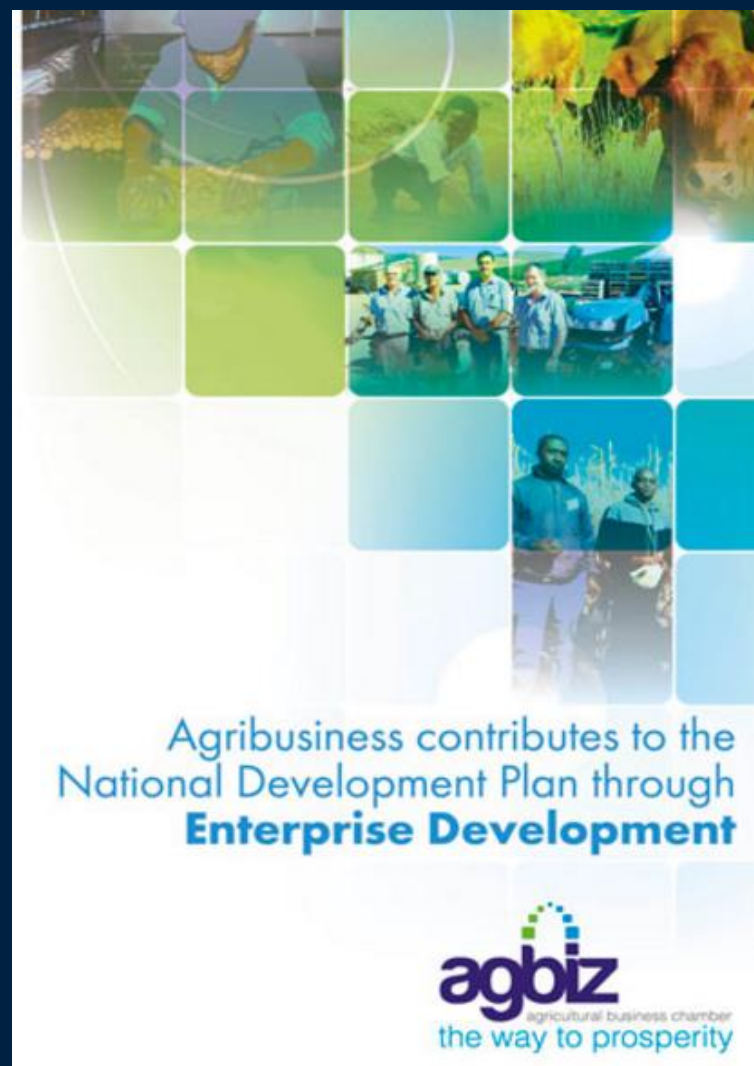
- Level of flexibility in certain policy positions being accommodated – more certainty and some progress.
- However, Pres Zuma comments on opening Restitution before 1913 not helpful at all, as well as subsequent and irresponsible 'expropriation without compensation' statements by both President Zuma and Minister Nkwinti. Rebuked by ANC Parliamentary Caucus and Minister Hanekom?
- Concern of increased land grab incidents – Malema instigation & EFF factor
- Government's Land Reform failure, major concern on policy uncertainty, and continuing erosion of individual property rights – potentially a major investment impact and subsequent food security impact.

# Transformation efforts by Industry

- Significant impact by especially industry associations to drive transformation and especially skills and enterprise development, e.g. SASA, RPO/NERPO, NWGA, GFADA, Grain SA, VinPro, SAPA, HortGro, etc., and specifically also CGA through Citrus Grower Development Company.
- Primarily underpinned through Marketing of Agricultural Products Act (MAPA) statutory measures and levies, and administered by National Agricultural Marketing Council (NAMC).
- However, funds generated through this process totally insufficient to significantly transform industries. Government needs to apply its far more appreciable resources far more efficiently to establish black commercial farmers and to support smallholder farmers.



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# Conclusion

- Entering a critical phase in the development of South Africa's Constitutional Democracy.
- Despite irresponsible statements by populist politicians, commercial farmers and agribusiness will need to embrace transformation (AgriBEE and Land Reform) far more robustly.
- However, we live in uncertain times – many risks and variables, some controllable, others not or less so. We take our agro-food system far too much for granted in South Africa. It is a national asset we should all nurture and cherish.

“It is not the strongest of the species that survives, nor the most intelligent one that survives. It is the one most adaptable to change”.

# Thank you



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