

WHY YOU SHOULDN'T RUSH BEE

BY

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As early as 1955 the African National Congress stated in the Freedom Charter "our country will never be prosperous and free until all our people live in brotherhood, enjoying equal rights and opportunities". When the party eventually came to power in 1994, this ideal took shape in the Reconstruction and Development Programme (RDP), the main aim of which was to take race out of the ownership and control of businesses by focusing on a policy of black economic empowerment (BEE).

But the RDP initiative was very vague and, after there was dissatisfaction that changes were not visible enough, the Broad-based Black Economic Empowerment Act was promulgated on 6 January 2004. This act establishes a legally enforceable framework for BEE by means of codes of conduct and charters to create a more noticeable increase in the number of black people controlling, managing and owning the nation's economy. This was to happen in conjunction with a drive to decrease income disparities in the country.

Although it is not easy to enforce the mere presence of historically disadvantaged individuals in a business, government can enforce BEE when it contracts for goods and services; issues licenses or permits; awards concessions for the use of state assets; sells state assets or businesses; or concludes public-private partnerships.

Historically disadvantaged individuals

There are various definitions for the beneficiaries of BEE, with the most popular one being "historically disadvantaged individuals". The 2003 BEE Act defines such beneficiaries as Africans, Coloureds and Indians.

The first draft of the act also included South African citizenship as part of the description of a beneficiary, but this has now fallen away.

It is not clear what the position of white women and the physically disabled is, as people in these categories are also seen as "previously disadvantaged" in other contexts.

Score cards

Initially a large number of so-called BEE businesses with black co-owners emerged in order to comply with government's requirements. But, ironically, many of these black co-owners did

not even know they were part of a BEE business. To overcome this problem, the 2003 BEE Act was divided into three separate but interlinked categories. The first is direct empowerment, the aim of which is to further the ownership and control by black people. The second is the development of human resources and the final category deals with indirect empowerment. The three main categories are further broken down into the following categories:

- Ownership - the extent of ownership by black people in a business.
- Management - the number of black people in top management positions.
- Employment equity - the number of black workers among the business's entire staff complement.
- Capacity development - the role of the business in developing the capacity of its back employees.
- Procurement - the business's policy in terms of where it buys its raw materials and production inputs.
- Enterprise development - the initiatives within the specific sector to develop new BEE enterprises.
- Sector-specific factors - an open category, which will include factors that are specific to a certain sector.

Agriculture

Agriculture minister Thoko Didiza presented a draft BEE charter for the agricultural sector on 26 July 2004. The document was not at all well received by role-players and, as a result, a steering committee was established, which is now developing a code of conduct and a charter for the sector. Therefore there is no AgriBEE scorecard available at the moment and the farmers who are busy trying to attain compliance with a general scorecard may be rushing it. They should rather prepare themselves for a possible scorecard and avoid making hasty decisions, which could later fail to comply with the final document's requirements.

Agriculture has two problems with the idea of a proposed scorecard. The first is that agriculture is the only sector, which will also be held responsible for land reform in addition to BEE. Secondly, the minister's draft document lumps both farmers and agribusinesses together, whereas the two should have separate scorecards.

How does the scorecard work?

The scorecard works on the basis of weighted averages. It identifies seven criteria and each one is allocated a weight. The compliance criteria for the categories still need to be established by the charter and code of conduct. A scorecard rating for a typical farming enterprise appears in Table 1. The targets and weights used in the table are from the minister's draft document and are therefore not final.

According to the scorecard, the farming enterprise in Table 1 has a BEE rating of 70,7%. It falls short of the ownership target because its actual contribution to ownership is only 10%. It

is on target in terms of human resource development and almost on target in terms of indirect empowerment. The interpretation of this is shown in Table 2.

Although this farming enterprise only scores 10% in terms of ownership, other criteria contribute to this farm qualifying as a "good contributor" to empowerment (between 65% and 79,9%). This, therefore, shows that farmers, shouldn't be over-hasty in implementing BEE, but should rather wait until the code of conduct and charter has been finalised. Where farmers are being forced by buyers to present a BEE plan, and hence have no option but to draw up a BEE structure, they should do so within the framework of the general scorecard, and should remember that the weights and targets for farming could differ from the general scorecard.

BEE in practice

Land reform aside, it should be easy for a farming enterprise to turn an operation division or even a separate enterprise into a BEE enterprise. This can be done by, for example, putting that section of the operation, together with its accompanying tractors and implements, into a close corporation in which black farmworkers own 25% and hold 50% of management positions. Employment equity, together with capacity development, can also be performed within the close corporation, which will comply with procurement criteria.

The land still belongs to the farmer and the close corporation leases the land from him or her. In the event of the final charter compelling farmers to hand over a portion of their land to black people as well, the final structure will obviously look different.

TABLE 1: SCORECARD FOR A TYPICAL FARM

	Weighting	Target	Actual	Score	Conversion
Direct Empowerment	30.0	85.0	60.0	15.7	
- Ownership	20.0	35.0	10.0	5.7	100%+25.1% x 12% x 20
- Management	10.0	50.0	50.0	10.0	100%+40% x 20% x 10
Human Resource Development	30.0	80.0	80.0	30.0	
- Employment Equity	10.0	70.0	70.0	10.0	100%+40% x 20% x 10
- Skills Development	20.0	10.0	10.0	20.0	100%+30% x 20% x 20
Indirect Empowerment	30.0	60.0	55.0	25.0	
- Preferential Procurement	20.0	50.0	50.0	20.0	100%+30% x 20% x 20
- Enterprise Development	10.0	10.0	5.0	5.0	100%+10% x 10% x 10
Sector Specific	10.0	0.0	0.0	0.0	
- Variable Criteria	10.0	0.0	0.0	0.0	100%+50% x 40% x 10
Overall Weighting Average				70.7	

TABLE 2: INTERPRETATION OF THE SCORCARD

	Lower	Higher
Limited contributor	0.0	40.0
Satisfactory contributor	40.1	64.9
Good Contributor	65.0	79.9
Excellent Contributor	80.0	100.0