

12.1.2 Tax exemption to support equity transfer in family owned businesses

The current tax regime provides the taxation of assets that are transferred from a "sole proprietor" family business to a company or trust. This means that the standing value of timber involved in such transfers would attract income tax at the level of 40% and this serves as a disincentive to establishing a company or trust to give effect to BBBEE ownership transactions.

Section 45 of the Income Tax Act allows the transfer of assets within group structures and this includes both capital and trading stock. However, the Act refers to intra-group transactions between companies and needs to be amended to allow the favourable tax treatment of "sole proprietors" involved in BBBEE transactions.

12.1.3 Restructuring of State forest assets

Government is reviewing the role of SAFCOL in the economy, and this review will include consideration of any possible role for SAFCOL in forestry development, and any future restructuring of SAFCOL assets. This will be concluding within one year of the effective date of the Charter.

With regard to the remaining (Category B and C) state forest plantations still under the jurisdiction of the Department of Water Affairs and Forestry, the government undertakes to restructure these plantations in accordance with the pro-poor development agenda of the government, and ensure that opportunities are opened to the broad based black group this charter seeks to empower. A plan for the restructuring of these plantations will be operational within one year of the effective date of the Charter.

12.2. Instruments to support Skills Development Targets

STILL TO BE FINALISED BY THE SKILLS DEV TASK TEAM ONCE COMMENTS HAVE BEEN RECEIVED FROM THE STEERING COMMITTEE

Requirement	Instruments	Responsibilities	Target date
Strengthen framework for sector skills development	Identify scarce, critical and core skills	FIETA, Industry SETAs	1 month
	Conduct skills needs analysis for each sub-sector	FIETA, training providers, Industry	6 months
	Development of unit standards	Sub-sector SGBs	Immediate
	Registration of qualifications with SAQA	SAQA, SGBs	Immediate
	Cross alignment of careers in sectors	SGBs, employers, FIETA	6 months
	Strengthen capacity of FIETA through increasing funding	FIETA, DoL	On ratification of Charter
Skills development for youth and new entrants	Plan for the promotion of forestry as career of choice for youth and new entrants	Industry, FIETA, DWAF, dti, tertiary institutions	3 months

entrants	Plan for new and enhanced bridging courses	DoE, DWAF, HET	6 months
	Enhance quality of secondary education in maths and sciences	DoE	Immediate
Expand the artisans and engineering skills base	Identification of critical and scarce skills. Sector initiative in scarce skills training	FIETA, industry	
	Enhance quality of secondary education in maths and sciences (see above)		
Skills development for advancement of employees within established enterprises	Enhance skills development framework (see above)	FIETA, other SD role players	
	Develop business plans for specific projects and submit these to NSF for funding through FIETA .	FIETA Chambers	6 months
	Streamline procedures for accessing training Grants for SMMEs from FIETA	DoL	Asap
	Sector wide ABET initiative		
Strengthen sector capacity for skills development delivery	Secure NSF funding	NSF, FIETA	6 months
	Enhancement of training resources/ infrastructure in Sector	Chambers, FEDA	6 months

Skills development is key to BBBEE in the Forest Sector from a management control, employment equity and enterprise development point of view. Effective delivery on skills development requires a concerted and coordinated effort involving different role players in the forest sector. The sector commits to a skills development strategy and programme for the Forest Sector that include the following elements:

12.2.1 Strengthen the national framework for sector skills development

The framework for skills development comprises several elements that are necessary for the overall system to work. Additional effort is needed to ensure these elements are in place, including:

- (a) **Identify scarce, critical and core skills.** Skills development grants can be claimed for training that meets identified scarce and critical skills. Chambers need to submit lists of scarce and critical skills to DoL for these purposes. Some scarce & critical skills fall outside the direct influence of this sector e.g. 1st line supervision and Leadership/Management development. These are essential to meet the EE targets and to develop the Sector as a whole, especially at the higher levels.
- (b) **Conduct skills needs analysis for each sub-sector.** Training plans for reaching scorecard targets need to be based on an analysis of existing skills and skills gaps for the specified groups.
- (c) **Development of appropriate Outcomes Based Unit Standards.** Sub-sector SGBs to continue with the process of developing and registering unit standards in

accordance with their needs, in order to comply with legislation and to meet SD targets. Unit standards in turn form the basis for the development of credit bearing short courses, skills programmes and Learnerships.

- (d) **Qualifications to match training needs registered with SAQA.** Urgent registration of qualifications required. Registration of Unit Standards and Qualifications through SAQA has been unacceptably slow- a problem common to most sectors. Without registered qualifications DoL cannot register Learnerships, which in turn influences the ability of the sector reaching the suggested targets in this report. SGBs in the sector have tried through channels within SAQA to move the process. It is suggested the Minister of Education is approached directly and asked to assist in the process. Sector needs a coordinated approach in dealing with DoL & DoE. (e.g. Establishment of Qualification task team (QTT) to facilitate registration of USs, qualifications & Learnerships across Sub-Sector with SAQA & DoL).
- (e) **Cross alignment of careers in sectors.** Cross alignment of careers is needed to allow development of career paths down the value chain, and to develop a qualification framework for the Sector. Career paths should be in place in the SGBs. These need to be combined into one framework and can be handled by above Task Team.
- (f) **Strengthen capacity of FIETA.** Only 10% of Skills Levies may be spent on Administration. More and more demands are being made on SETAs, and small SETA's, including FIETA, are stretched beyond capacity. Measures are needed to strengthen the capacity of FIETA, to enable it to be more effective and to handle broader responsibilities including the Forestry Charter SD requirements.

12.2.2 Skills Development for youth and new entrants

Specific measures are needed to attract the youth into tertiary studies in forestry and to ensure higher pass rates to ensure a flow of skilled new entrants into the sector.

- (a) **Plan for the promotion of forestry as career of choice.** Besides uplifting the sector's profile within SA context, the aim is to procure quality students and employees in the future. With a raised profile the sector can then be viewed as "Employers of Choice".
- (b) **Plan for new and enhanced bridging courses.** Current drop out rate of students from secondary to tertiary education is high due to poor secondary education. Bridging courses to prepare learners for the requirements of tertiary education are needed to reduce the drop out rate. An implementation plan for bridging courses to be drawn up by the QTT (see 11.2.1. above).
- (c) **Enhance quality of secondary education in maths and sciences.** The quality and quantity of Mathematics and Physical Science learners at secondary level needs attention. Without quality learners in these subjects the sector will not be able to train the required numbers into technical and management fields specific to the sector.

12.2.3 Expand the artisans and engineering skills base

The initiative to identify critical and scarce skills (see 11.2.1 above) will lead to a clearer understanding of scarce skills in each of the sub-sectors. This in turn will form the basis for a Sector initiative in scarce skills training.

12.2.4 Skills development for advancement of employees within established enterprises

- (a) **Skills development framework.** Measures are required to further develop and streamline the forest sector's skills development framework (see above).
- (b) **Improved access to NSF funding.** The industry needs additional funds to encourage greater participation in ABET and Learnerships. FIETA Chambers to develop business plans for specific projects and submit these through FIETA to the NSF for funding. This in turn will assist indirectly in sustaining the training providers.
- (c) **Streamline procedures for access to discretionary grants.** Procedures for accessing the discretionary grants available for small enterprises are overly bureaucratic. The DoL needs to put in place streamlined mandatory grant entitlement procedures.
- (d) **Sector wide ABET initiative.** ABET is a national imperative, and there is need for a dedicated and sector wide approach to ensure effectiveness and sustainability. It is suggested that the DoL recommendations (when released) are followed. With increased capacity FIETA will be well positioned to tackle this as a project across all chambers. Sourcing NSF funding to assist with the costs will be easier through FIETA as a sector initiative. Initially it is recommended that Learners and Employers share the learning time for ABET training with Employers been given incentives for every learner they sign up.

12.2.5 Strengthen sector capacity for skills development delivery.

The industry and FIETA have insufficient funds to meet the Learnerships targets set, as well as other Skills Development targets. NSF funding will thus be essential if these targets have any hope of being met. There is also a need to further develop training resources and infrastructure to enable achievement of skills development targets.

12.3. Instruments to support Preferential Procurement Targets

Requirement	Instruments	Responsibilities	Target date
Promote Good Practice in contractual relationships	Develop Codes of Good Practice on contracting and employment covering: - The forestry contractors industry - Small grower contracting schemes - Sawlog contracts (to be deleted -	Industry	1 year

	covered through scorecard) - The Charcoal industry		
--	---	--	--

12.3.1 Codes of Good Practice on contracting and employment

- (a) **Code of Good Practice for the forestry contractors industry.** This code will regulate the relationship between contracting companies and contractors; between contractors and sub-contractors; and between contractors and workers. The Code will provide for larger and longer-term contracts enabling contractors to improve margins and invest in their businesses and staff. It will also provide for transparent and accessible tendering system, fair pricing and labour practices.
- (b) **Code of Good Practice for small grower contracting schemes.** This code will regulate contracts with small black growers in company-affiliated schemes and ensure transparency in the costing of support services and market related pricing arrangements for timber.
- (c) **Code of Good Practice for the Charcoal industry.** This code will regulate the relationship between small black charcoal producers and the brand name producers and industrial users of charcoal, as well as between small charcoal producers and their contracted workforce. The Code needs to provide for a fair, transparent and stable pricing system, medium to long-term contracts for supply of charcoal, as well as fair labour practices.

12.4. Instruments to support Enterprise Development Targets

Requirement	Instruments	Responsibilities	Target date
Access to funds and financial services for emerging / small black operators	Development and implementation of a diversity of enterprise ownership and financing models	Industry	1 year
	Framework Agreements negotiated with public funding institutions access funding instruments available within these institutions	DWAF	1 year
	Framework Agreements negotiated with banks and other funding institutions. (Framework agreements negotiated under the Financial Services Charter)	Industry with Government assistance	1 year
	<i>Creation of a Forest Enterprise Development Fund</i>	DWAF	??
	Affordable fire insurance schemes for emerging growers	Forestry industry in partnership with DWAF	1 year

Capacity building and business support for independent small operators (growers, contractors, saw millers, pole producers, charcoal producers)	<i>Service delivery agreement for forest enterprise development support with existing enterprises and development agencies operational for key forestry areas in the country</i>	DWAF, in consultation with the forest industry	18 months
	Establish representative structures for each sub-sector, for co-ordinating and streamlining training delivery (Refer to par. 12.6 below)	Sub-sectors, industry,	1 year
Expedite the water use authorisation process for afforestation and the fibre sub-sector	Streamline and expedite afforestation licensing procedures <i>Target: issue afforestation licenses for an additional 100 000ha (20 k per year)</i>	DWAF	6 months 5 years
	<i>Published set of procedures and timeframes for mill license applications.</i>	DWAF	6 months
Secure land rights and land holding structures on communal land for new afforestation and restructuring of state forest assets	Legislative framework, budget and programme for confirming tenure rights and establishing land holding structures	Government	1 year
	Implementation of the programme on a priority basis: secure tenure rights and establish land-holding structures for 50% of all new afforestation projects in the Eastern Cape	Government	5 years
Emerging growers able to benefit of forest certification	<i>Ensure appropriate forestry certification methodologies for emerging growers</i>	Industry and DWAF	2 years
Access to raw material supply for small scale charcoal producers	Policy and information services to facilitate raw material supply to small scale charcoal producers through the WfW programme	DWAF	1 year

12.4.1 Access to funds and financial services for emerging black entrepreneurs

New afforestation and forest enterprise development requires capital investment and access to financial services. To this end:

- (a) Industry undertakes to develop and implement of a diversity of enterprise ownership and financing models.
- (b) DWAF undertakes to initiate a process with timeframes for negotiating with DTI, the Department of Land Affairs, the Land Bank and other public funding institutions to establish framework agreements to access funding facilities available within these institutions.
- (c) Industry, through its representative associations, undertakes to negotiate framework agreements with banks and other private sector funding agencies that meets the particular funding requirements of the sector. Government will assist the industry in this regard.

(d) DWAF undertakes to create a "Forest Enterprise Development Fund" to fund and/or subsidise the interest burden in developing emerging forest sector enterprises. DWAF will enter into framework agreements with established forest sector enterprises and development agencies to facilitate the implementation of the fund.

(e) Fire insurance. There is inadequate provision of affordable fire insurance for small growers, which exposes them to high risks and prevents them from accessing funds to develop their business. To address this matter industry undertakes to procure the development of affordable fire insurance schemes. Government undertakes to provide seed capital for the development of such schemes where the ownership of these schemes vest with the participants.

These measures will be operational within one year of the effective date of the Charter.

12.4.2 Capacity building and business support for black emerging operators

Access to community facilitation services, extension support and training services needs to be improved to enable emerging enterprises and new entrants to decide on, plan and implement afforestation and enterprise development projects. Industry cooperatives and companies play a key role in providing these services linked to the supply of raw material and as part of their commitment to enterprise development. Forest enterprises will continue to provide consulting and mentoring functions to assist with capacity building in enterprise development.

At the same time options for service delivery need to be broadened and Government has an important role to play in securing services to emerging enterprises that are unable to access support from the private sector or who wish to establish themselves independently. Such services can best be provided through existing enterprise development agencies.

To this end government undertakes to drive a process in consultation with the industry to negotiate service delivery agreement for forest enterprise development support with existing enterprise development agencies that operate within key forestry areas in the country. An implementation plan with service delivery agreements, and funding mechanisms will be in place for three key forestry areas in the country within 18 months of the effective date of the Charter.

12.4.3 Expedite the authorisation process for afforestation and the establishment of paper and sawmilling facilities

The successful implementation of the Forest Sector Charter requires an afforestation authorisation process that is accessible to and affordable by new black entrants to the afforestation market. BBBEE in the fibre-processing sub-sector also depends on the expeditious processing of applications for water use licences. To this end, DWAF undertakes to implement a co-operative governance initiative between authorising government departments and levels of government that aims to:

(a) **Streamline the current licensing procedures** for afforestation (fibre processing sub-sector dealt with separately under (c) below):

- *Creating an enabling environment that minimises the costs of making application and supports the applicant in the application process, including advice as to what is necessary to comply with the application requirements.*
- *Ensuring that legislative and regulatory requirements treat forestry and the planting of trees for commercial and subsistence use equally with other land uses, and that Forestry's water use is accorded the same priority as other water users. This includes the declaration of other dry land cropping activities as SFRA's.*
- *Ensuring that all applications for afforestation (and fibre-processing mills – delete) are processed quickly and decisions made within a reasonable time after complete information has been provided by the industry.*
- *Strict enforcement of the Stream Flow Reduction Activity (SFRA) application procedures with absolute adherence by all participating parties to the laid down procedures in terms of time frames prescribed for relevant interventions, receiving and attending to comments and the processing of application timeframes for inspecting sites, receiving and attending to comments, and processing applications*
- *Making allowance for water use by subsistence and homestead woodlots and providing for the introduction of a General Authorisation for such small-scale woodlots;*
- *Facilitating the transfer or trade of a water use allocation or existing lawful use of water, and facilitating the automatic issuing of a licence in the event of conversion of a land use from irrigated cropping, including sugarcane, to timber plantations;*
- *Allowing that legal water use by dryland sugarcane may be allocated to timber plantations, based on an equitable water use exchange ratio for these crops, provided that such dryland sugarcane has been an existing land use practice for at least five years and that dryland sugarcane is declared as an SFRA;*
- *Implementing a General Authorisation that enables the conversion from one species or genus of tree to another, subject to the requirements of a sawlog growing strategy and programme as provided for in par. 12.5.1. The conditions attached to the original water-use licence will remain to force and the conversion will have to be for the same area (hectares) of plantation within the same sub-catchment.*
- *Allowing that the water use attributed to wattle, pine and eucalyptus jungles that are rehabilitated or converted and correctly managed as commercial timber plantations, be allocated through an SFRA water use licence to such timber plantations, provided this does not compromise Government's legal responsibility to meet the needs of the Reserve or allocations to other licensed or existing lawful users (delete). General Authorisations will be considered in catchments where there is sufficient available water to allow such conversion;*
- *Where timber is an existing lawful use within riparian zones and such timber is excised from these zones, the water allocation for such timber will be made*

available to alternative plantations within the same quaternary catchments or elsewhere within the wider catchment, provided this does not further compromise *either the Reserve or other users (delete)*; and

- Providing incentives for removal of invasive aliens through the facilitation of water use licences for afforestation on the basis of water returned to the system through clearing, provided this water is not required to meet either the Reserve or *needs of other existing lawful uses (delete)*.
- *Ensuring that emerging timber growers who have lawfully licensed timber plantations are included in DWAF's definition of "resource poor farmers" and subject to the same benefits as others so classified*
- Developing sector-specific guidelines for the compilation of information in support of water use license applications by paper and pulp mills, specifically for BBBEE developments in this sub-sector. *(delete and cover under par. (c) below)*

- (b) **Co-operative governance initiative to authorise new afforestation.** Suitable areas for afforestation have been identified and a framework to authorise afforestation licensing in demarcated areas is in place in the Eastern Cape and KwaZulu Natal. A pro-active approach to forestry development in these areas that have substantial opportunities for afforestation is required. To this end, Government undertakes to implement a co-operative government initiative between authorising government departments and levels of government to authorise afforestation effectively and efficiently.

Where areas suitable for afforestation have been demarcated, such as in the case of the Kwazulu Natal Small Grower Maps and the Eastern Cape Strategic Environmental assessment, applicants for afforestation are accorded an automatic licence to afforest through a General Authorisation without having to subject the application to the normal SFRA application procedures. The only restriction in this regard will be the afforestation area threshold as assessed in terms of the demarcated areas, and specific planting conditions as described on the licence

This measure will be operational within six months of the effective date of the Charter.

- (c) **Streamline licensing procedures for the fibre-processing sub-sector.** DWAF undertakes to publish procedures for mill licensing applications and authorisations that will indicate what information is required to make a decision on issuing a licence and the time frames in which they will make those decisions. This will enable enterprises to make investment decisions within the normal market cycles. DWAF undertakes that if an application is not processed within the specified timeframe, the licence will be deemed to have been granted.

- (d) **Allocations to unlicensed existing black small growers.** *(the Industry does not consider this to be an issue to be included in the Charter)* Government recognises that there has been significant unlawful development of timber plantations by both the established forestry sector and by small growers, and is

required to act against such development. The allocation of water to small black growers will be dealt with as part of the water reform and reallocation process and through amendment of the National Water Act if necessary.

The approach to unlawful afforestation will be detailed in a guideline on identification, quantification and regulatory intervention on unlawful afforestation, which will be finalised by December 2006. Implementation will begin in April 2007. Due consideration will be given to the impacts of regulatory interventions on unlawful afforestation by small black growers, and identification of measures to mitigate adverse impacts and optimise beneficial implications will form part of the implementation strategies.

12.4.4 Securing land rights and land holding structures for new afforestation and the restructuring of state forest assets

The implementation of BBBEE through (1) new afforestation on communal land, (2) the transfer of ownership and lease rentals on State Forest land requires the confirmation of tenure rights on communal and state forest land and the institutional structures to undertake and manage projects. This must be implemented within the framework of the Interim Protection of Informal Land Rights Act (Act 31 Of 1996) and Communal Land Rights Act (Act 11 of 2004)². To secure land rights and land holding structures for new afforestation and the restructuring of state forest assets, Government undertakes to implement a cooperative governance initiative involving the Department's of Land Affairs and Water Affairs & Forestry as well as Provincial and Municipal Governments to:

- (a) Ensure that the necessary legislative framework, budget and programme is established to enable communities to confirm their tenure rights and establish land holding structures for the transfer of existing state forestland. This measure will be operational within one year of the effective date of the Charter.
- (b) The programme will secure tenure rights and establish land-holding structures for 50% of all new afforestation projects in the Eastern Cape and 90% of all state forestland transfers within 5 years of the effective date of the Charter.

12.4.5 Small grower certification

The forestry industry and Government are committed to developing and implementing *appropriate forestry certification methodologies for emerging growers*, in order to improve emerging growers access to markets.

12.4.6 Access to raw material supply for small scale charcoal producers

Access to raw material for charcoal production is a challenge and the Working for Water Programme has an important role to play in supporting access to raw material through the removal of invasive alien plants and better utilisation of plantation waste material to support sustainable black enterprise development in the charcoal sub-sector. To this end Government undertakes to following:

² Some of the land claims on state forestland are to be dealt with in terms of the Restitution of Land Rights Act. Instruments to deal with these restitution claims are discussed in par. 11.5.4 below.