



BRIEF ANALYSIS OF THE INGONYAMA TRUST BOARD ANNUAL REPORT: 2006/07

12 November 2007

1. Introduction¹

The Ingonyama Trust was established in terms of KwaZulu-Natal (KZN) Trust Act (No. 3 of 1994), which was amended by National Act 9 of 1997. The KZN Ingonyama Trust Amendment Act provided for the establishment of the Ingonyama Trust Board. The main objective of the Board is to administer Ingonyama Trust Land, which is about 2.7 million hectares spread throughout KZN, on behalf of traditional authorities and communities residing thereon.

The Chairperson of the Board is His Majesty the King or his nominee. The members of the Board are appointed by the Minister, subject to consultative procedures laid down in the Act.

2. Vision²

The vision of the Trust is to improve the quality of life of the people living on Ingonyama Trust land by ensuring that the land usage is to their benefit and in accordance with the laws of the land.

3. Objectives³

The objectives of the Trust are to:

- Formulate and implement policy;
- Provide an effective land administration system;
- Create a climate that encourages development; and
- Extend security of tenure in accordance with both customary and statutory law but always subject to the Constitution.

Based on the above, the strategic objectives of the Trust for 2006/07 were the:⁴

- Development of assets register and land tenure information system;
- Transfer of former KwaZulu towns to Local Authorities;
- Transfer of land used for State Domestic purpose to relevant organs of State;
- Registration of land vesting in the Trust and consolidation of titles;
- Privatisation of State forests;
- Implementation of the Communal Land Rights Act, No.11 of 2004 (CLaRA);
- Monitoring of land claims on Trust land;
- Assistance to communities in addressing firebreak, alien vegetation and fencing obligations;
- Allocation and provision of land for housing and infrastructure purposes;
- Land Identification on outskirts of townships;
- Granting of leases;
- Agreeing to the granting of Permissions to Occupy (PTOs) – Commercial & Residential;
- Granting of mining rights and royalties administration; and
- Disbursements of funds to the Traditional Authorities.

¹ Information below is sourced from Ingonyama Trust Board Annual Report, 2006/07

² Ibid

³ Ibid

⁴ Ingonyama Trust Board, 2006. Strategic Plan 2006/07.



4. Performance

The performance with to regards the Trust's strategic objectives and specific targets are set out below as identified in the Trust's strategic plan for 2006/07.

Table 1: Objectives, Targets and Performance

Objectives	Indicators	Target	Actual Performance
Transfer of former KwaZulu towns to local authorities	No. of Townships to be transferred	6	2 ⁵
Transfer of land used for State domestic purposes to relevant organs of State	No. of properties to be transferred for state domestic purposes	500 (min)	0
Registration of land vesting in the Trust and consolidation of titles	No. of properties to be vested in Trust and registered No. of properties to be consolidated	200 500	0
Privatisation of State forests	Granting of long term leases to privatised forest operators	1	No progress
	Finalisation of joint ventures between communities and forest operators to be concluded	1	
Implementation of Communal Land Rights Act (CLaRA)	Award of tenure or redress to claimants. No. of old order rights identified. Established new order rights granted.	To be determined once data is available.	The Act is not implemented yet
Monitoring Land Claims on Trust	Titles transferred	No. of transfers will depend on the no. of claims	Full information on all claims on Trust Land awaited from Land Claims Commission
Assisting communities in addressing fire break, alien vegetation and fencing	Firebreaks cut, alien vegetation cleared, fencing erected and maintained.	Assistance will be granted	Assistance provided for communities to establish projects for maintenance of fencing, eradication and control of alien vegetation.
Allocation and provision of land for housing and infrastructure purposes	Development Rights Agreements, Leases and servitudes agreed, signed and recorded.	50	12 Development rights agreement were signed. Leases concluded with various cellular telephone operators.
Land identification on outskirts of townships	All parcels of land identified. Site inspections completed.	4 townships	Areas in 2 townships have been identified
Granting of leases	Monitoring of existing lease terms and conditions. No. of new leases to be issued.	150 30	41 new commercial leases were agreed.
Agreeing to granting of PTOs	No. of commercial PTOs to be issued based on previous years averages.	75	No report
	No. of residential PTOs to be issued based on previous years averages.	450	
	Income receivable from issuing of commercial PTOs.	R7 583	
	Admin. Fee receivable from issuing of	R159 021	
			R9 264
			R206 484

⁵ According to the Board's Strategic Plan for 2006/07, there were eleven Townships still be transferred by 31 March 2006. It is reported in the Annual Report that by 31 March 2007 there were nine townships remain to be transferred. This means that only 2 townships were transferred in the year under review.



	non-commercial/residential PTOs.		
Granting of mining rights and royalties administration	No. of mining leases/permits to be issued. Income derived from royalties and surface leases.	10 R7 320 454	R9.236, 350 was received as royalties
Disbursement of funds to the traditional authorities.	No. of traditional authorities for which projects need to be approved. Amount to be disbursed to Traditional Authorities.	18 R13 053 334	39 Traditional Authorities qualified for funding.

The Trust recorded the following achievements during the period under review:

- To date, the Board has granted some 119 commercial leases generating R1.274.195 per annum. In addition, 41 new commercial leases were entered into. The new leases will generate an additional income of R188 236 per annum. However, by 31 March 2006 there were already 117 leases, which mean that the Board has granted 2 more leases in the year under review.
- The Board exceeded its target of income to be received from issuing PTOs. However, it should be noted that in 2005/06 the Board received R264 343 from the issuing of non-commercial PTOs, which is more than the R206 484 it received in 2006/07.
- The Board exceeded its target of income to be received from royalties. The target was R7 320 454 and received R9 236 350 in 2006/07.

The following targets were not achieved during the period under review:

- Two (2) townships were transferred to local authorities falling short of the set target of six(6).
- Not a single State domestic property was transferred to relevant organs of State. The target was to transfer 500 properties. The cause of the delay is that identification of such properties is difficult because in some cases there are no records prior into coming to existence of the Trust and in other cases, it is not clear whether or not a particular property qualifies for transfer. There are also capacity constraints in the various organs of State.
- Not a single parcel of Land was transferred to the Trust during the year under review. The target for 2006/067 was to register 200 properties vested in the Trust.
- There has been no progress in the privatisation of state forests pending new initiatives by the Department of Water Affairs and Forestry (DWAF) and the finalisation of Land claims.
- The target to have 20 development rights agreements in 2006/07 was not met, instead the Board agreed in principle to 20 housing schemes and signed 12 Development Rights Agreements. The latter provided 14 950 housing units to be upgraded in rural areas throughout the Province. In addition, the Board continued to negotiate with the Department of Transport regarding upgrading and realignment of roads in Trust Land and with Eskom on the construction of power lines.

In terms of disbursement of funds to Traditional Authorities, the Board is concerned about the slow take up of funds by the Traditional Councils and is investing alternative methods for release of funds. The Traditional councils need to create structures such as Community Development Trusts to access funds receivable from the Board in respect of mining royalties, leases and other income. Such Trusts could act as catalyst for development.

5. Report of the Auditor-General (AG)

The AG issued a qualified opinion for the period under review based on the following issues:

- **Land holdings:** The asset register does not have proper records of properties owned by the Trust.
- **Revenue – PTO Income:** There is no proper process for the collection of income from PTO.
- **Revenue- Royalty Income:** The Trust was not able to institute controls over mineral extractions.

Therefore, the completeness of royalty income and income of PTO could not be verified.



The AG further draws attention to the following matters:

- **Contingent liability- arrear rates:** The matter surrounding the disclosure of an accumulated amount in the region of R25 million during 2004/05 financial year, in respect of rates arrears claimed by eThekweni Municipality has not been resolved and may result in financial losses.
- **Monitoring:** There is lack of monitoring controls to ensure that land holdings per register agree with title deeds from deeds office;
- **Value for money:** The Board had a vacancy rate of 50% since 24 March 2006, which is in excess of the general norm of 5%;
- **Material non-compliance with applicable legislation:** The Board failed to comply with some treasury regulations because it did not include the Human Resource Plan and Fraud Prevention Plan in the risk assessment procedures it implemented.
- **Late submission of Information:** The AG was not able to audit performance information because it was not received by its due date on 15 June 2007.

6. Financial Performance

6.1 Funding

The operational activities of the Board are mainly funded through revenues generated from mineral leases and leases of commercial land. The policy of the Board is that 90% of the revenue flow accrues to the Traditional Community in whose area the revenue is generated. The internal administrative costs of the Board are met from the grant-in-aid from the Department of Land Affairs. The operational costs are met from 10% of funds accrued through the Trust.

6.2 Income and Expenditure

Table 2: Income Statement for 2006/07

	2007 R	2006 R	Variance R	% of variance
Rental Income	1,489,943	1,376,280	113,663	7.6%
PTO (General)	206,484	264,543	-58,059	-28.1%
PTO (Commercial)	9,264	9,168	96	1.0%
Leases	1,274,195	1,102,569	171,626	13.5%
Royalty Income	9,236,350	7,009,681	2,226,669	24.1%
Other income	9,762,649	7,437,882	2,324,767	23.8%
Investment Income	7,354,225	5,523,324	1,830,901	24.9%
Grant-in-aid receipts	2,251,403	1,846,780	404,623	18.0%
Servitude	157,021	67,778	89,243	56.8%
Total Income	20,488,942	15,823,843	4,665,099	22.8%
Expenses	18,978,414	14,885,856	4,092,558	21.6%
Administration & disbursements	16,705,339	13,398,144	3,307,195	19.8%
Expenses- grant-in-aid expenditure	2,273,075	1,487,712	785,363	34.6%
Net Income	1,510,528	937,987	572,541	37.9%



The table above indicates that the rental income increased by 7.6% and Royalty income increased by 24.1% which contributed to the increase of 22.8% of the total income during the review period. As a result, the net income increased by 37.9%. On the other hand, the expenses increased by 21.6%. It is of concern that the income from PTOs has dropped by 28.1% (non-commercial) or increase by mere 1% (commercial) in 2006/07.

7. Conclusion

The performance of the Board for the period under review was poor, as it did not achieve most of its targets. However, it should be noted that achievement of some of the targets also depends on the role of relevant Government Departments, municipalities and other organisations. It is of concern that the Board has again received a qualified opinion on issues that have been raised since 2003.

7. Issues of Concern

- It is reported that the Board is planning to rectify the uncertainty regarding the transfer of the State Domestic properties to relevant organs of State during 2007/08. How is it planning to do that and what progress has been made?
- The report does not indicate the number of mining leases or permits issued during the year under review. It also fails to report on the number of BEE or Joint Ventures established through granting of mining rights. The Board should provide clarity on this.
- What percentage of the R16 704 339 catered for disbursement to Traditional Authorities has actually been disbursed and how many Traditional Authorities benefited?
- There is still no progress in privatisation of State forests. What is the obstacle?
- It is about eight (8) years since the closing date for restitution claims but the Board is still waiting for full details on all claims on Trust land. Is this an indication of poor working relationship between the Board and the Land Claims Commission?
- Why is there a delay for registration of land vesting in the Trust and in consolidation of titles?
- Many of the matters raised in the report of the AG have been raised several times before especially the issue on arrear rates, lack of accurate records for land holdings, and poor recording of royalty income and income of PTO. Some of these concerns go as far back as 2002/03.⁶ What measures have been taken or are going to be taken to resolve these issues? The Board should provide progress and possible time frames for resolving these issues.
- The Board had a vacancy rate of 50% since its establishment on 24 March 2006. When is the Board planning to fill these posts?
- There is R10 587 owed to the Trust by staff.⁷ The Board should provide details of the loans. What is the policy of the Board on staff loans?
- There is a huge increase in the provision for 2006/07 compared to 2005/06. It rose from R12 216 in 2005/06 to R40 930 in 2006/07.⁸ What accounts for such a huge increase?
- There has been a huge increase in basic salary of Acting Chairperson and senior managers during the year under review, which ranges from 32 to 50%.⁹ The reason given for this increase is that basic amounts include back pay. These are very huge increases, the Board need to explain in detail what these increases encompass.

⁶First Report of the Standing Committee on Public Accounts (SCOPA): Ingonyama Trust Board, dated 18 March 2006.

⁷Ingonyama Trust, 2007. Annual Report 2006/07. p.30.

⁸Ingonyama Trust, 2007. Annual Report 2006/07. p.30.

⁹Ingonyama Trust, 2007. Annual Report 2006/07. p.33.



Sources

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Ingonyama Trust Board Annual Report, 2005/06

Ingonyama Trust Board. Strategic Plan 2006/07

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