

ANNEXURE A OF NA-GUES 2132 OF 2015



InkwaZI Office Park
Block A
1249 Embankment Road
Zwartkop X7

Private Sak X180
CENTURION 0048
☎ +27+12 643 3400
☎ +27+12 663 3178
✉ agrisa@agrisa.co.za

20 April 2015

The Director General
Department of Rural Development and Land Reform
DGOffice@ruraldevelopment.gov.za

Deputy Director General Leona Archery
leona.archery@drdlr.gov.za

CD: Policy Research and Legislation Development: Mr Hilton Toolo
Hilton.Toolo@drdlr.gov.za

Dear DG, DDG and Chief Director

AGRI SA STANCE ON LAND CEILINGS

Agri SA appreciates the constructive and ongoing engagement with DRDLR regarding important policies, legislation and implementation strategies aimed at land reform. We realize that it is important to continue to engage, even though we may sometimes differ strongly and in principle on certain strategies and policies put forward by the Ministry and the Department. The land ceiling debate is a case in point.

Agri SA indicated from the outset that we were opposed to land ceilings in principle. Our stance has not changed. We include herewith previous written comments dealing with the issue of land ceilings as well as media statements on the topic by Agri SA.

We deem it necessary to bring our stance and viewpoints on this important issue under your attention, because we do not want our participation in the ITT working group on agricultural landholdings to be seen as agreement that ceilings should be implemented.

At the meeting of the relevant working group held on 9 April 2015, our main representative in that working group, Mr Louw Steytler once again made it very clear that Agri SA was very concerned about the possible negative consequences of the proposed policy. However at the ITT meeting held on 17 April, Mr Hilton Toolo reported that all stakeholders seemed to have moderated in their approach to ceilings and created the impression that stakeholders were agreed on the suggestion that ceilings should now be legislated. This is contrary to Agri SA's position that ceilings is likely to have a major negative impact on food security and export revenue and that

macroeconomic factors, farming systems and individual ability and needs should be allowed to dictate farm size.

No consensus could be reached on land ceilings during the NAREG process and most of the experts consulted by the NAREG working group also cautioned against ceilings.

At the 17 April ITT meeting, Mr Toolo indicated that stakeholders had until Monday 20 April to comment on the draft policy on agricultural landholdings as well as the draft policy on foreign landownership. However the proposed regulation of landholdings policy framework was sent to stakeholders on 14 April for the very first time!

We appeal to you once again, not to rush this process but to carefully consider the implications of the foreseen policy for food security, export revenue and efficiency of land use

Kind regards


Hans van der Merwe
Executive Director



Inkwazi-Gebou
Blok A
Embankmentstraat
Zwartkop X7
Inkwazi Building
Blok A
Embankment Street
Zwartkop X7

1508
Pretoria 0001
☎ +27+12 643 9880
☎ +27+12 663 6318
✉ agrisa@agrisa.co.za

30 September 2014

The Director-General
Department of Rural Development and Land Reform
By Email: dkhan@ruraldevelopment.gov.za

Dear Mdu

Re: Land Tenure Summit

Agri SA's Management Committee has taken cognizance of the resolutions of the Land Tenure Summit held in Boksburg from 4 to 6 September and also of the post Land Tenure summit action plan. The Management Committee instructed me to place the following on record:

1. Agri SA participated in the NAREG consultation process for almost two years. Our representatives in the NAREG process put across our views clearly on all the issues discussed in the working groups and written input was also made on numerous occasions. Many of these policy proposals were also discussed at the Land Tenure Summit. Agri SA's mandated positions on these have not changed. All of these written inputs are available and can be forwarded to you.
2. On the issue of land ceilings, Agri SA took a strong principled stance in the NAREG working group. A number of experts who were consulted by the working group on the three tiered system warned that land ceilings has failed elsewhere, will be difficult to implement and enforce, will require a huge bureaucracy, was open to corruption and was likely to impact negatively on the production of food and fibre. In our view, the discussions at the Land Tenure Summit did not take proper cognizance of the work already done by the NAREG working group in this issue.
3. The so-called AFASA-proposal was not put to Commission 3 and they were not requested to debate it – despite this, Minister Nkwinti accused the members of that working group of not doing their work, chased them out of plenary where there were attempts to try and force the group to come to a consensus position on the relative rights issue and to take a position on the proposal on land ceilings within a very short space of time.
4. The post Land Tenure Summit action plan suggests yet another task team of key stakeholders. What is to become of the NAREG working group that has been dealing with this issue since 2011? Also, it is recommended that guidelines should be developed to implement the policy – whilst commission three did not reach consensus on this issue and raised many objections and reservations about the proposed policy. We need clarity on the proposed way forward here. Is this policy to be implemented despite all the objections and is it to be done on a compulsory basis?
5. One of the objectives of the Summit was the regulation of landholdings. The Concept note suggested the establishment of minimum and maximum thresholds for agricultural landholdings. What has happened to the Regulatory Impact Assessment on the land ceilings proposals?

6. It was suggested that further comments can be made regarding the land ceiling proposals and the relative rights proposals before April 2015. As stated previously, Agri SA commented comprehensively on these proposals during the NAREG process. Our stance has not changed. As critical stakeholders in these debates, we would however participate in any further debates on these policy proposals.

Yours sincerely
JF VAN DER MERWE
EXECUTIVE DIRECTOR



Vrystaat Landbou
Free State Agriculture

Nobelstr 4 Nobel St
Brandwag
54, Bloemfontein 9300
(051) 444 4609
(F) (051) 444 4619

PRESS RELEASE

Possible consequences of land ceilings

Free State Agriculture took note of the proposals with regard to ceilings on ownership of land which were tabled during the Land Tenure Summit in Boksburg. The summit was hosted by the Department of Rural Development and Land Reform from 4 to 6 September 2014, and it also focused on the issue of the proposal to give 50% of farms to workers.

The focus of the summit was more on the implementation of land ceilings in the end, and according to media reports a proposal that land ceilings of 4 000 ha, 8 000 ha and 12 000 ha should be implemented for small, medium and large farmers respectively, enjoyed a lot of attention. A total of 2000 delegates from many different role players in the sector – including a delegation from Agri SA – attended the summit.

Dan Kriek, president of Free State Agriculture, says proposals about land ceilings was discussed extensively as part of the workgroups of the Green Paper process. He would like to refer to a study that was done by both Andrew Makenete, a well-known agriculture economist, and prof. Herman van Schalkwyk, rector at the North West University's Potchefstroom campus. The study found that land ceilings – based on the implementation thereof in other countries – could hold many negative effects for South Africa and the local agriculture industry.

"As I said during our Congress this year, we support proposals that are based on the economy and constitution," says Kriek. "The study supplies scientific evidence that the implementation of land ceilings will not be beneficial to the sector or the country, and we cannot support such a proposal."

Potential impacts according to the study:

- According to the study each R1 million lost in production, can lead to the loss of 29,3 jobs.
- It will put farmers' income under more pressure and especially small farmers will not be able to compete in the current economic environment, which will have a bigger negative impact on production. Economic development of land for large scale commercial and other

productive uses will be discouraged, while direct foreign investment will decline which will also influence South Africa's comparative international rankings for economic freedom.

- With regards to farm debt, land ceilings will negatively impact economies of scale and farms that are not viable under the ceiling legislation are likely to go bankrupt.
- It could be extremely difficult to establish new farm units for redistribution of land, since the land to be released is neither uniform or in one area which can be equally sub-divided.
- Land ceilings can have a negative effect on food security from in many ways: The implementation of land ceilings may lead to further job losses, and that can in turn cause food insecurity in the markets.
- New social security legislation can undermine productivity which will have an effect on the private sector and private investment. Beneficiaries of land who would need further support from government would in effect be recipient of disproportionate state aid and support.
- Land ceilings can impair security of tenure as well as reduce collateral and a farmer's ability to service his debt, which will also impact on productivity.
- An inefficient land ceiling program in the crop sector may lead to a 4% decline in the trade balance.

Conclusions:

- The outcomes of land ceilings in other parts of the world as well as the possible local impact argues against any optimistic expectations.
- Alternative strategies should be considered like BEE within the agriculture sector, equity sharing models and models to improve the success of delivery.

Kriek says: "A meaningful way to debate land sizes is in the context of economically viable units, coupled with affordable funding while support services is also required."

For more information, contact

Dan Kriek at 082 944 0566

Henk Vermeulen at 051 4444 609

Jack Armour at 051 4444 609



Blok A, Inkwazi-Gebou
Embankmentstraat 1249
Centurion

Block A, Inkwazi Building
1249 Embankment Street
Centurion

✉ Private Bag X180
Centurion, 0046
☎ +27+12 643 3400
📠 +27+12 663 6318
📧 jana@agrisa.co.za

31 July 2013

Mr G Nkwinti
Minister of Rural Development and Land Reform
Private Bag X833
PRETORIA
0001

By email: emgreeve@ruraldevelopment.gov.za
nnotshe@ruraldevelopment.gov.za

CC: SGovendervanWyk@ruraldevelopment.gov.za
LCARCHARY@ruraldevelopment.gov.za

Dear Minister Nkwinti

RE: LAND CEILINGS

The Agri SA General Council, which met on 17 and 18 July, requested that we address this letter to you, expressing our grave concern regarding the lack of transparency and due process followed by the Three Tiered Working Group regarding the issue of land ceilings. Agri SA and other stakeholders expressed opposition against the implementation of land ceilings from the outset and throughout the consultations.

Our representatives in the said task team reported to us that it was agreed that alternatives should be considered as land ceilings would not only be unconstitutional but also uneconomical. The latter was based on a presentation by Mr Andrew Makhane, on work done together with Prof Herman van Schalkwyk, indicating that land ceilings would hold serious negative implications for the agricultural sector. The final meeting of the Working Group where this was confirmed took place on the 12th of March 2013. Despite various requests, we could not obtain a copy of the minutes of the said meeting. We have subsequently found out that a grouping involving Prof Mark Oranje, Prof Majibongwe and Prof Pine Pienaar was appointed to again come up with recommendations regarding land ceilings.

Agri SA is perturbed by the fact that no minutes are available of the Working Group meeting. Despite the agreement that land ceilings is not the best option and that alternatives should be considered, individual members of the Working Group are still pursuing land caps (not alternatives) and that this additional work is being undertaken without consulting the other members of the Working Group.

Our representatives in the Working Group have indicated that they are willing to provide sworn affidavits regarding the deliberations in the working group in the absence of proper minutes.

Agri SA has participated over a long period of time in good faith in the Green Paper consultations. We do not want to be placed in a position where we have to question the outcomes of the

process and our participation therein. We would like to add, that some of the Working Groups functioned very well and took on board the concerns and proposals put forward by participants.

We appeal to you to ensure that the agreements reached in the Working Groups are respected and that members of the respective groups are consulted on any further work to be undertaken, before any final outcomes are reached or announced.

Kind regards


J. VAN DER MERWE
EXECUTIVE DIRECTOR

Agri SA

Mediaverklaring / Media Release

Privaatsak / Private Bag X 180 Centurion 0046, Tel +27 (0)12 643 3400, Faks/ Fax +27 (0)12 663 3178

Grondplafonne 'n politieke dagdroom LAND CEILINGS A POLITICAL DAYDREAM

29 Januarie/January 2015

Grondplafonne 'n politieke dagdroom

"Die ANC se standpunt dat die besit van plaasgrond tot twee plase per eienaar asook 'n maksimum van 12 000 hektaar beperk moet word om grondverdeling te bespoedig, is vir die landbousektor totaal onaanvaarbaar en kan die ekonomie en verbruikers tot groot nadeel strek. Dié verklaring gister deur die sekretaris-generaal van die ANC, mnr Gwede Mantashe na afloop van die party se lekgotta, bring ook die geloofwaardigheid van die huidige raadplegingsproses tussen die Minister van Landelike Ontwikkeling en Grondsake, Mnr Nkwinti, en rolspelers in die bedryf oor 'n pakket van praktiese maatreëls om van grondhervorming 'n sukses te maak, in die gedrang," sê Johannes Möller, president van Agri SA.

In sy reaksie op dié aankondiging verwys Möller na verskeie gebeure en ooreengekome werkswyses wat betrekking het op die gronddebat en nie met hierdie beleidsuitspraak versoenbaar is nie:

- Die Nasionale Ontwikkelingsplan maak geen voorsiening vir die beperking op grondbesit deur regspersone ten einde grond beskikbaar te maak vir herverdeling nie. Dié plan het wel 'n voorstel om herverdeling per distrik te bevorder wat die afgelope jaar intensief in landbougelede gedebatteer is en op 'n proefbasis toepassing vind. Verskeie ander modelle word ook reeds toegepas wat aan die vereistes van ekonomiese volhoubaarheid en standhoudende bemagtiging voldoen.
- In die NAREG-konsultasieproses, wat op die Groenskrif oor Grondhervorming gevolg het, het die Departement van Landelike Ontwikkeling en Grondhervorming 'n onafhanklike studie gelas na die lewensvatbaarheid en implikasies van grondplafonne. Dié studie het aangetoon dat so 'n maatreeël indruis teen markkragte en boere die geleentheid sal ontnem om skaalgrootte-voordele te benut wat op sy beurt noodsaaklik is om winsgewend te bly en voedsel so goedkoop moontlik te produseer. 'n Beperking op plaasgroottes en verdere direkte ingrepe op eienaarskap sal waarskynlik lei tot deurlopende hoër vlakke van beskerming en ondersteuning aan die landbou, swakker uitvoerprestasie, groter afhanklikheid van invoere en duurder voedsel.
- Agri SA se voorstel, soos goedgekeur tydens sy 2014-kongres, was dat boere wat reeds skaalvoordele geniet en 'n groot bydrae tot voedselproduksie lewer, hul grondbesit slegs moet kan uitbrei indien dit toereikende deelname van 'n bemagtigingsvennoot insluit. Dié voorstel berus op die toepassing van omsetnorme, eerder as dié van fisiese plaasgroottes en is tans die onderwerp van verdere evaluering en bespreking.
- Dis bykans onmoontlik om die ekonomiese waarde en produksie van 'n plaas slegs aan sy fisiese grootte te koppel. Geografie, klimaat, die intensiwiteit van die boerderystelsel, infrastruktuur, afstande van verskaffers of markte is van die faktore wat hierop inspeel. In praktyk kan daar plase van 50 hektaar wees wat baie groter en meer stabiele besighede

is as 'n ekstensiewe veeplaas van 20 000 hektaar. Beperkings op plaasgroottes sal dus 'n nuwe teruggryp na 'n benadering van sentrale beplanning wees wat 'n komplekse bedryf soos die landbou sal mulband.

- * Mnr Mantashe het in sy verklaring toegegee dat die grondwetlikheid van dié ANC-voorstel nog uitgeklaar moet word. Dit is 'n vraag wat eerder vroeër as later beantwoord moet word omdat 'n afkeuring daarvan onnodige verdere spekulاسie daaromtrent sal uitskakel.
- * Minister Nkwinti het by verskeie geleenthede rolspelers in die bedryf uitgenooi om voor einde Februarie 2015 voorstelle in te dien waarmee volhoubare grondhervorming versnel kan word. Agri SA het reeds laasjaar intensief hieraan aandag gegee en sy kongresbesluite daaromtrent in Oktober 2014 is deur Minister Nkwinti verwelkom. Agri SA konsulteer ook hieromtrent met ander landbou-organisasies binne die Agricultural Sector Unity Forum (ASUF) wat saamwerk om 'n gesamentlike standpunt binne die gestelde tydsraamwerk aan die minister te voorsien. Agri SA dra ook hierdie insette in by die interdepartementele Taakspan wat minister Nkwinti daargestel het om die kabinet oor aspekte rakende die implementering van die Nasionale Ontwikkelingsplan te adviseer.

Die verband tussen hierdie beleidsuitspraak deur Mnr Mantashe namens die ANC en die bovermelde prosesse, verg nou opklaring.

"Klaarblyklik is die 50/50-herverdelingsvoorstel wat verlede jaar kontroversie ontlok het ook weer besig om as beleidsraamwerk te herleef", aldus Möller. Dat versnelde grondhervorming nou op 'n onrealistiese basis voorgestoot word om ander falings soos die energiekwessie en dié van verskeie staatsinstellings te verdoesel is natuurlik 'n sterk moontlikheid", sê Möller. Hierdie denke deur die ANC kan hoogstens polities dienstig wees, maar ekonomies en sosio-ekonomies is dit onsinnig. Uiteraard sal Agri SA, totdat die regering anders oordeel, betrokke bly by bestaande strukture waarheen ons uitgenooi is vir insette en waarin ons tot hertoe in goeder trou na sinvolle oplossings vir grondherverdeling soek.

Uitgereik deur Agri SA, Direkoraat: Korporatiewe Skakeling

Navrae

Mnr Johannes Möller, President Agri SA, 082 647 8481

Mnr Hans van der Merwe, Uitvoerende Direkteur, Agri SA, 012-643 3400 of 082 388 0001

LAND CEILINGS A POLITICAL DAYDREAM

"The ANC's position, namely that ownership of farm land should be limited to two farms per owner and a maximum of 12 000 hectares in order to accelerate land distribution, is totally unacceptable to the agricultural sector and could be detrimental to the economy and the interests of consumers. This statement issued yesterday by the ANC secretary-general, Mr Gwede Mantashe after the party's *lekgotla*, also undermines the credibility of the current consultation process between the Minister of Rural Development and Land Affairs, Mr Nkwinti, and role players in the industry, which aims to put together a package of practical measures aimed at making a success of land reform," says Agri SA president Johannes Möller.

In his reaction to this announcement, Möller referred to various events and the agreed-upon *modus operandi* that relate to the land debate and which are not reconcilable with this policy statement:

- * The National Development Plan makes no provision for a limitation on land ownership by legal entities in order to make land available for redistribution. However, this plan does have a proposal for promoting redistribution per district, which has been debated intensively over the past year within agriculture and is finding application on a trial basis.

Various other models which meet the criteria for economic sustainability and lasting empowerment are also being implemented at present.

- In the NAREG consultation process, which followed on the Green Paper on Land Reform, the Department of Rural Development and Land Reform ordered an independent study into the viability and implications of land ceilings. This study showed that such a measure was contrary to market forces and would deprive farmers of the opportunity to utilise economy of scale, which in turn is essential to remain profitable and to produce food as cheaply as possible. A limitation on farm size and further direct interferences with ownership will probably increasingly lead to higher levels of protection and support for agriculture, weaker export performance, greater dependence on imports and more expensive food.
- Agri SA's proposal, as approved at its 2014 congress, was that farmers who already enjoy scale benefits and who make a considerable contribution to food production should be able to expand their land ownership on condition that it includes adequate participation by an empowerment partner. This proposal hinges on the application of turnover norms rather than on physical farm size, and is currently the topic of further evaluation and discussion.
- It is virtually impossible to link the economic value and production of a farm predominantly to its physical size. Factors such as geography, climate, intensiveness of farming systems, infrastructure and distances from suppliers or markets should also be considered. In practice there could be farms of 50 hectares that are much bigger and more stable businesses than an extensive livestock farm of 20 000 hectares. The placing of limitations on farm sizes will, therefore, be a naïve return to a central planning approach that will constrain a complex industry such as agriculture.
- In his statement, Mr Mantashe conceded that the constitutionality of the ANC's proposal still has to be tested. This is a question that should be answered sooner rather than later because a rejection thereof will eliminate unnecessary further speculation.
- Minister Nkwinti has on various occasions invited role players in the industry to submit by the end of February 2015 proposals for accelerating sustainable land reform. Last year Agri SA gave intense attention to this matter and its congress resolutions in this regard in October 2014 were welcomed by Minister Nkwinti. Agri SA also consults in this regard with other agricultural organisations within the Agricultural Sector Unity Forum (ASUF) with the view to compile a wider representative input for consideration by the minister, within the set time frame. Agri SA also provides these inputs to the Interdepartmental Task Team which Minister Nkwinti had appointed to advise the cabinet on aspects regarding the implementation of the National Development Plan.

The implications of this policy statement issued by Mr Mantashe, on behalf of the ANC, on the abovementioned processes now requires clarification.

"Apparently the 50/50 redistribution proposal, which elicited controversy last year, is being revisited as a policy framework," according to Möller. It is possible that the unrealistic proposals regarding accelerated land reform are used to divert attention from other failures such as the energy crisis and that of various state institutions," says Möller. This thinking of the ANC can at best be politically expedient, but economically and socio-economically it is nonsensical. Naturally Agri SA will, unless government decides differently, continue to be involved in existing structures where we are invited to make inputs and where we have to date in good faith sought meaningful solutions to land redistribution.

Issued by Agri SA, Directorate: Corporate Liaison

Enquiries

Mr Johannes Möller, President Agri SA, 082 647 8481

Mr Hans van der Merwe, Executive Director, Agri SA, 012-643 3400 or 082 388 0001

Agri SA written input to sub-committee dealing with land ceilings

- ▲ Agri SA has clearly stated its position on the principle of land ceilings during the discussions which took place in the working group on the three tiered land tenure system as well as in its written comments on the Green Paper.
- ▲ Agri SA is opposed, in principle to any restrictions on the ownership of agricultural land. The sizes of farming enterprises are dictated by a number of external climatic and economic factors. Land ceilings have proven to be very difficult to administer in other countries and may also result in all sorts of unintended negative consequences. Macroeconomic factors, farming systems and individual ability and needs should be allowed to dictate farm size. The artificial regulation thereof will, from an economic perspective, be sub-optimal and therefore counterproductive. There is a very real danger that land ceilings may negatively impact on food security, particularly if macro-farms are targeted.
- ▲ Research into this matter needs to be comprehensive and care should be taken not to cherry-pick results that suit a particular viewpoint. South Africa's unique climatic conditions should also be taken into account in assessing the desirability of such an approach.
- ▲ Because Agri SA is opposed in principle to land ceilings, we do not see our way open to engage on legal and institutional frameworks for land ceilings. We will however engage on the international experience and the possible negative impact of land ceilings.
- ▲ According to our own research, land ceilings has had negative long-term consequences in countries where it has been implemented. Many countries that have tried this approach have moved away from it. We will make our research on the experience in India particularly, where land ceilings have been most widely implemented available to the sub-group tasked with making further recommendations on land ceilings.
- ▲ It needs to be noted that South Africa has limited high potential agricultural land and that large parts of our country is quite arid.
- ▲ The brief of this sub-group is very ambitious – it will require substantial time and a substantial budget, particularly if the proposed study tour is to be undertaken.
- ▲ If the research is to be undertaken, it is critically important that the service provider should be an objective person or body with a proven track record who is acceptable to all stakeholders. Agri SA would like to be closely involved in the appointment of any such service provider.

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**AGRI SA ADDITIONAL COMMENTS ON THEMES DEALT WITH BY SUB-GROUPS OF WORKING GROUP
ON THREE TIERED SYSTEM OF LAND TENURE**

1. Background

Agri SA submitted a written submission on the Green Paper, a copy of which is included herewith. Representatives of Agri SA have been participating in the working group on the three tiered system from its initiation. Sub-working groups have now been formed to deal with some of the issues in more detail. As Agri SA cannot be represented in all these sub-groups, we would like to clearly state the organisation's viewpoints on these issues.

As a general point of departure, Agri SA is not in favour of the nationalisation of neither land, nor the large scale acquisition and ownership of land by the state. The state can act as an interim owner and landlord of agricultural land whilst beneficiaries are selected, trained and mentored to farm the land, but should not become the long-term owner of large tracts of agricultural land. For successful agricultural production, sustained investment is needed. Experience in other countries has shown that private sector involvement and investment is required for sustainable food production.

2. Themes of subgroups:

2.1 Audit on state and private land

Agri SA is of the view that the speedy completion of the state land audit as well as an audit on private land is an absolute prerequisite for policy formulation and implementation and that these audits have to be undertaken as a matter of urgency and with the involvement of all stakeholders, including organised agriculture.

2.2 Land ceilings

Agri SA is opposed, in principle to any restrictions on the ownership of agricultural land. The sizes of farming enterprises are dictated by a number of external climatic and economic factors. Land ceilings have proven to be very difficult to administer in other countries and may also result in all sorts of unintended negative consequences. Macroeconomic factors, farming systems and individual ability and needs should be allowed to dictate farm size. The artificial regulation thereof will, from an economic perspective, be sub-optimal and therefore counterproductive.

Research into this matter needs to be comprehensive and care should be taken not to cherry-pick results that suit a particular viewpoint. South

Africa's unique climatic conditions should also be taken into account in assessing the desirability of such an approach.

There is a very real danger that land ceilings may negatively impact on food security, particularly if macro-farms are targeted.

2.3 Fair compensation models

Agri SA strongly holds the view that market value should be the point of departure in calculating compensation. The organisation also strongly believes that the cost of land reform should be borne by the fiscus and not disproportionately by individual citizens. Farmers whose land is taken for land reform purpose should be put into the same financial position that they would have been in, had no such taking taken place. A summary of a comprehensive document on compulsory acquisition, compiled by the Food and Agricultural Organisation (FAO), is included herewith. A document setting out Agri SA's views on the "willing-buyer-seller" debate is also included.

2.4 Right of first refusal

Agri SA is opposed to granting such a right to government, as this would be in conflict with free market principles. It could also hold unacceptable implications, e.g. the right of succession. Indications are that land values can be negatively affected as a result of the implementation of a right of first refusal. The administration of such a system is likely to prove very challenging and burdensome.

2.5 Partnership in the value chain between government and the private sector

Agri SA is very much in favor of mature, functional partnerships between government and the private sector at all levels. Quite a few of these partnership models already exist in practice and a lot can be learned from their experiences. Agri SA is in fact keen on the resuscitation of the "Special Purpose Vehicle" concept, which was based on the partnership model.

2.6 Equity schemes

Agri SA fully supports the equity scheme concept, which has been very successful in the Western Cape. It is important not to view equity schemes from the land reform perspective only, but from a broader economic empowerment perspective.

Skills transfer should be part and parcel of any equity scheme and the aim should be to assist the farm workers to become farmers in own right over time. Agri SA has made some proposals to the Ministry with regards to skills transfer. It is also important to recognize that empowerment does not happen overnight. Realistic targets should be set and expectations managed from the outset of any scheme. The structures of organized agriculture should be utilized to assist in the screening of projects as well as in the monitoring of projects and supporting the successful roll-out and skills transfer of equity projects.

The moratorium has done a lot of damage and a number of projects that were being planned could not be carried out. It needs to be lifted and funding made available in terms of this scheme as soon as possible.

2.5 Taxation proposals

Agri SA is strongly opposed to any further tax on agriculture. Farmers are already heavily taxed and their profitability is under pressure. South African farmers must compete with their heavily subsidised counterparts overseas, and such additional costs will further jeopardise their competitiveness, to the detriment of domestic production, food provision, export earnings and job opportunities. In principle, tax should only be levied on profit, never on inputs.

2.6 Tenure options and suitability for land reform

Agri SA is strongly in favour of freehold tenure. According to the International Property Rights Index, there is a strong positive correlation between secure tenure rights and the per capita income of people in any given country.

The World Bank has done a lot of work on tenure security. Many countries in Africa, which had implemented land reform, struggle with tenure security issues today. South Africa has a sophisticated system of registration of property, great care should be taken to keep this system in place and not erode tenure security in South Africa further.

Tenure security is of particular importance to new black farmers. The Umhlaba consulting group presented a paper entitled : "Proposed Land Tenure and Land Administration Interventions to Increase Productivity on Smallholder Irrigation

Schemes in South Africa" at a PLAAS conference in September 2010. They quoted various authorities on land tenure. The paper (which is attached) stated, amongst other things: "In agriculture, tenure security presents several advantages. It increases credit use through greater incentives for investment, improved creditworthiness of projects, and enhanced collateral value of land; increases land transactions and facilitates land transfers from less efficient to more efficient users by increasing the certainty of contracts and lowering enforcement costs; reduces the incidence of land disputes through clearer definition and protection of rights and raises productivity through increased agricultural investment." "A wide range of tenure systems apply on South African smallholder irrigation schemes. These include at least various forms of Trust tenure, traditional tenure, lease hold, quitrent and freehold...." Agri SA strongly favours a system of freehold title.

AGRI SA PROPOSALS ON LAND REFORM AND RURAL DEVELOPMENT

1. Background

Agri SA has been participating in all the fora created by Government for interaction on the emotive and important issue of land for many years. Ever since 2011, when the Green Paper on Land Reform was published, this interaction has intensified. Throughout the NAREG process that lasted almost three years, Agri SA actively engaged Government on all policy proposals and assisted in developing a number of draft policies and bills. Agri SA also clearly stated where it differed from Government on certain proposals and why. The proposals regarding land ceilings and the strengthening of relative rights were controversial from the outset. However Agri SA supported a number of other policy proposals.

During 2014 Agri SA put a lot of energy into developing its own framework for land reform and rural development, focussing on its own role in bringing about land reform, development, stable rural areas and improving the livelihoods of farm workers. This framework was endorsed by the Agri SA Congress in October 2014 and was also welcomed by the Minister of Rural Development and Land Reform. Copies of the congress presentation and the holistic framework are attached. The Minister also invited Agri SA to participate in the Interdepartmental Task Team that was mandated to advise on the implementation of chapter 6 of the National Development Plan. Agri SA has been participating in the work of this Task Team and will continue doing so.

Minister Nkwinti called on various occasions on Agri SA and other stakeholders to propose alternative plans to those policy proposals of government it disagreed with. In Agri SA's case these are the land ceilings and strengthening of rights proposals. In both cases we have formulated alternative approaches. We presented these to the Minister at the Land Indaba held at the Birchwood conference centre on 20 March 2015. We will clearly set these out once again in this document. It needs to be pointed out though that the Agri SA Framework is a holistic framework, the different components of which are interrelated. Thus, whilst we may be highlighting certain aspects at this point in time, and may progress more quickly with some aspects, all proposals should be evaluated in the context of the complete framework.

It should be noted that Agri SA consulted with other national representative organisations (AFASA, NAFU SA, TAU SA) within the Agricultural Sector Unity Forum (ASUF) on its proposals where a large degree of consensus was reached.

2. Agri SA Framework

For the sake of convenience, we attach the Agri SA congress presentation as well as the written version of our proposals to this document. In a nutshell, the framework encapsulates the following points of departure:

- Agri SA is committed to developing and implementing proposals whereby the agricultural community can play a leading role in sustainable land reform, the development of entrepreneurship and the social upliftment and development of farm workers and farm worker communities.
- Such proposals must:
 - comply with the guidelines of the Constitution of South Africa;
 - give full recognition to economic and market realities;
 - not necessarily be dependent on state support; while
 - utilising the potential of private-public partnerships as far as possible.
- Such approaches must build forth on chapter 6 of the National Development Plan (NDP) which deals with "An integrated and inclusive rural economy", as well as Agri SA's mandates around land reform.
- Land reform proposals must recognise the diversity of agriculture (regions, commodity branches and size/scope of farming units, etc.). This requires suppleness within a variety of options whereby land reform can be achieved.
- Participation must not be compulsory, but it should be sufficiently incentivised in order for all landowners to consider participation. This includes commercial farmers, irrespective of scale-size or race, as well as emerging farmers.

The Framework then puts forward specific proposals on the following aspects:

- Restitution;
- Financing;
- Redistribution – including an idea bank, SPV and right of first refusal
- Social contributions and a social accord (including assistance to farmers in communal areas)

A lot of research has been done, papers produced and detailed work done on all of these aspects. For example, regarding restitution, there is a pilot project in KwaZulu-Natal and specific proposals have been developed on how to speed up and streamline the restitution process, which we hope to engage the Commission on the Restitution of Land Rights on. We have developed a terms of reference for a SPV and have engaged an expert on this. Further engagements with experts in this field and other relevant stakeholders are envisaged. We have studied existing voluntary ethical guidelines and have made a summary of all those, with the view of pursuing some kind of national initiative. We have started putting together an idea bank of existing projects that have a track record of success.

3. Land ceilings

As stated above, Agri SA participated fully in the NAREG process and assisted in developing a number of policies and laws. However Agri SA cautioned against land ceilings from the outset and put forward clear arguments why it was not in the interest of South Africa to implement land ceilings. Expert opinions sought during the NAREG process by the relevant workstream confirmed Agri SA's arguments in this regard. International experience has shown that land ceilings tend to cause a number of undesirable outcomes, including:

- The fragmentation of agricultural land;
- An adverse impact on productivity;
- They Contribute towards agriculture being a low-profit venture in several parts of the world;
- They have neutral or negative effects on poverty;
- To a large extent; they have failed to change agrarian structures and large inequalities continue to exist;
- There is a negative impact on functional land rental markets;
- They are costly and difficult to administer;
- They are characterised by circumvention, contestation, corruption and litigation;
- There is continuing tenure insecurity; and
- They discourage land-related investment.

What Agri SA proposes instead, is the following: For large farming operations, compliance with AgriBEE requirements could be a more acceptable approach to empowerment and could include the implementation of participatory models as a prerequisite for expansion of land ownership. For this purpose, anyone who has an annual turn-over of more than R50 million in a particular year, and who is interested in expanding his/her landownership, will have to do so in a BEE partnership.

4. Strengthening of relative rights

The relative rights proposal was introduced late in the NAREG process. Agri SA had reservations regarding these proposals from the outset. ASUF took a joint position on the proposals, a copy of which is included hereto. Briefly, the objections to the

proposal as formulated by the Department of Rural Development and Land Reform (DRDLR) can be summed up as follows:

- * The proposals are based on wrong assumptions about the sector and the profitability of farming;
- * The proposals are likely to have serious detrimental consequences with respect to investment, food production and relationships on farms;
- * The proposals are seen as unimplementable and constitutionally questionable;
- * There is no provision for compensation to the landowner – the proposal of an investment and development trust and a contribution of DRDLR into this trust is problematic and does not constitute compensation to the landowner; and
- * Most farms are bonded to financial institutions – a share in the land will also mean a share in the debt.

It is important to note that these comments were made, based on the understanding that the DRDLR proposals would be enforced on all farms through legislative measures. If it were to be a voluntary approach, which is incentivised and which allows for flexibility, it would be a completely different situation.

Agri SA proposes that a voluntary approach be used, based on projects from its idea bank that have been shown to bring about, not only an improvement in the income streams of farmworkers involved, but in many cases, social benefits to all farmworkers living on the farms and all of this whilst production is maintained or even enhanced. The projects all involve a three-way partnership between commercial farmers, farm workers and a financing institution (which can be a government agency, private sector or both). Flexibility in terms of exactly how these partnerships are structured and what the initial shareholding should be should be allowed.

Through piloting, criteria can then be developed as to which projects would qualify for some kind of future indemnification for land claims and further land reform.

We attach the presentation made on the 50/50 proposal at the Land Indaba held on 20 March 2015.

5. Way forward

Agri SA will continue to develop the Framework endorsed by its congress and remains committed to sustainable land reform. What is urgently needed though, is policy certainty without which very little investment will be made into the sector. A key component for success is financing and we would very much like Government to show its hand in this respect.