

UN Global Compact Learning Platform for Swiss SMEs

Summary of the central aspects of the seminar held on 6th June 2008

South Africa's Black Economic Empowerment Program: Administrative Burden or Investment in Equal Prosperity?

South Africa is currently an important emerging market. With its fast growing economy it is a business hub for more and more European companies. Over 200 Swiss firms have established operations in South Africa – and their number is still growing. 1994, shortly after the first fair and democratic elections were held in South Africa and shortly after the inauguration of the first African National Congress (ANC)-led government, the Black Economic Empowerment (BEE) program was launched. **Konji Sebati**, South African Ambassador in Switzerland, sees the main reason behind this decision in the enormous economic and social inequality that remained after the Apartheid era. She emphasized that, at the end of Apartheid, the South African economy was neither economically nor socially sustainable. This was mainly because the vast majority of the population – black citizens – was not in a position to participate. The central question was how to correct these inequalities without threatening financial prudence and macroeconomic stability. But there was little choice other than transforming the whole economy and integrating the excluded black part of the population.

Although market economy and liberal constitution are two important keystones of the post-Apartheid South Africa, the ANC government was and continues to be convinced that the desired socio-economic transformation would never be fulfilled by market forces alone. Therefore, they wanted to set up an institutional framework providing incentives to change old business structures – the Black Economic Empowerment (BEE) program. **Konji Sebati** mentioned that the

two central aims of this program are broadly speaking the knowledge transfer from the established professionals to the excluded poor and – as a positive effect of these transfers – the genesis of a black middleclass. Especially in the beginning of the BEE activities many investors were scared and skeptic. But the fact that not only the economy but also the black middle class are now actually growing justifies the policy undertaken by the Government during the last one and a half decade.

Nomonde Mesatywa, Chief Director of the BEE-program of the Department of Trade and Industry (DTI), emphasized that although Black Economic Empowerment has been the cornerstone of all government policies since 1994, it was only in 2003 that a coherent strategy on how to implement BEE was developed. The lack of strategic precision prior to this period caused a lot of misconceptions (the often-mentioned disparity in charter definitions and targets between various sectors of the economy is only one example). It also provoked an unnecessary focusing on the issue of black ownership. Especially left wing activists of the ANC or PAC (Pan Africanist Congress) and union members criticized that only a few black persons with good political and economical connections benefitted from BEE while the majority of the black population remained excluded. Furthermore, the BEE program of the early years was missing well-defined criteria on how to assess the participating enterprises. Because scope, application and rating of the program remained uncertain and because the focus on ownership was increasingly criticized, the government decided to revise it and define more precise aims as well as assessment and implementation mechanisms.

In 2000, a commission was established to analyze performance and broadly define the scope of BEE. Its report played a pivotal role in the development of the revised version of the program. "In 2003 a strategy for Broad-Based Black Economic Empowerment (B-BBEE) was released which defines B-BBEE as

- an integrated and coherent socio-economic process that directly contributes to the economic transformation of South

Africa and brings about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities.

- Thus, the BEE process will include elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment and control of enterprises and economic assets.¹

Part of the remodeling process and of the shift from a narrow-based to a broad-based BEE program was the formulation of the generic codes of good practice (the Codes). The above-mentioned elements on which the Codes are based are differently weighted and can be summarized as in the following generic scorecard:

Element	Weighting	Compliance Target
Ownership	20 points	25% + 1 voting shares held by black people and 10% by black women
Management control	10 points	50% of directors and 40% of senior managers to be black people
Employment Equity	15 points	43% to 80% of employees to be black people and 3% disabled
Skills Development	15 points	3% of payroll spent on training, reaching at least 5% of black staff
Preferential Procurement	15 points	70% of company's own supplies come from other BEE compliant firms
Enterprise Development	15 points	3% of net profit after tax or 0.375% of annual turnover spent on developing other black-owned businesses
Socio-Economic Development	5 points	1% of net profit after tax or 0.125% of annual turnover spent on CSI
Total	100 points	

The global practices of multinationals may prevent them from complying with the ownership element of B-BBEE, but they are allowed to earn points for so-called "Equity Equivalent (EE)" – meaning basically to invest more in the remaining 6 scorecard dimensions and thus compensate for the lack of selling of direct shareholding. EE-programmes are expected to contribute to enterprise creation and development, foreign direct investment, or sustainable growth and development. Equally, compliance criteria for small businesses have been adapted: so-called micro-

companies with a turnover of less than R5-million are completely exempted from the codes, whereas small companies with a turnover between R5-million and R25-million are able to choose four of the seven scorecard criteria.

Nomonde Mesatywa emphasized that the South African government is encouraging companies by law to integrate the B-BBEE into their procurement and strategic policy. Individual economic sectors still have the right to devise their own charters with their own key principals as long as these are respecting the minimum standards as defined in the framework of the Codes. Although the B-BBEE is only compulsory for companies who do business with the government (directly or indirectly), many companies in South-Africa are currently adopting B-BBEE on a voluntary base as part of their business strategy.

Daniel Huber, Head HR of Eastern Europe, Middle East, India and Africa of the Schindler Holding Ltd., sees BEE as a process which fosters economic growth and stabilizes society as a whole. Schindler, which sees BEE as an integral part of its business strategy, is convinced that the enterprise reached its impressive growth rates of the last years not despite but also due to BEE. Schindler was not only rated with an "A" by an independent rating agent in 2006 in recognition of its BEE progress but has since 2006 also been able to conclude more government contracts for the construction of elevators or escalators than any other company of the industry. Furthermore most quasi-government departments including the Airports Company South Africa have preferred Schindler as their supplier of choice for lifts and escalators.

Since February 2007, when the new Codes were put into force, it has become more difficult for Schindler to fulfill the BEE targets and to maintain the "A"-rating. This is for example due to new gender equality requirements. According to the new Codes, 50% of Asian, Black, Coloured (ABC) - quota has to be female. For a company like Schindler, which operates in a male dominated sector, it is a big challenge to achieve such a target. According to **Daniel Huber**, the business world of South Africa sees the BEE rather positive and the supportive climate makes it easier for companies to accept BEE as a business strategy.

¹ The Department of Trade and Industry: Codes of Good Practice for Broad-Based Black Economic Empowerment B-BBEE, p. 1.

He is convinced that it hurts businesses more to operate without the code than to take on the burden and implement it. But the BEE success story also has its dark sides:

- Lack of skilled people due to legacy of apartheid
- Suboptimal hires
- Inconsistency in the application of the Codes by different government bodies
- Lack of funding available to prospective BEE partners
- Quality of potential equity partners
- Uncertainty about future tightening of the Codes

Ken Duncan, CEO of the Swiss-South African Co-operation Initiative (SSACI), is convinced of the importance of BEE for the future of South Africa and warns that the program's failure could possibly destabilize the country as a whole. He described BEE as an important means for the construction of a society that is more equal in political, social, and economical terms. Mr. Duncan's agency wants to help companies fulfill their BEE requirements by offering them corporate social initiatives, such as vocational training or job-creation projects for youth. Companies can count their investment in these projects towards their BEE score and thus improve their BEE performance while at the same time securing tax-breaks, potential access to skilled labor, and PR value.

<http://www.ssaci.org.za/>

For further information on the B-BBEE program see the following links:

www.thedti.gov.za

<http://www.beenews.co.za/>

<http://www.southafrica.info/business/trends/employment/>

<http://www.empowerdex.co.za/content/Default.aspx?ID=340> (Guide to the Codes of Good Practice)

Annex 1

Middle East & Africa: Black Economic Empowerment – Sasol's smart move

Nick Jones 24 May 08

South Africa's Black Economic Empowerment policy has been tarnished by scandal, but a major deal by petrochemicals firm Sasol may signal better times ahead

On 25 March the South African petrochemicals giant Sasol announced it would sell 10 per cent of its shares to a set of black investors, a decision hailed by government ministers and local press as a landmark.

The long-running process of Black Economic Empowerment – or giving black people a bigger stake in South African industries that systematically barred them under the apartheid regime – has not lacked critics.

Finance minister Trevor Manuel, of the ruling ANC government, said last year that BEE had helped few except a well-connected minority of blacks, and he complained about companies recruiting black managers as a token gesture. Two weeks before Sasol's announcement, opposition leader Bantu Holomisa demanded that the government take "wholesale" action against politicians who had enriched themselves by manipulating BEE transactions.

Many financial vehicles set up to transfer assets into black hands have collapsed after borrowing too heavily. Deals have been criticised for concentrating assets in the hands of wealthy, politically connected people such as Cyril Ramaphosa and Tokyo Sexwale

Spreading the wealth

Sasol has faced government pressure for its slow progress in the past on empowering blacks. But if the chorus of media approval is to be believed, the clever structuring of its BEE transaction will be enough to silence the critics.

Whereas more controversial BEE deals have involved financial vehicles buying large chunks of corporate equity – sometimes on opaque terms – the Sasol transaction is designed to spread ownership among a broad base of the black population.

Three per cent of the \$3.2 billion shares are on offer to black members of the public. The remainder is designated for three groups: Sasol employees; a selected set of "BEE groups", including suppliers and petrol pump attendants; and a new charitable foundation focused on education.

One aspect of the public share issue breaks new ground: the facility for individuals to buy shares with only a 10 per cent deposit, leaving the rest of the value to accrue through appreciation and dividends. To help build a pipeline of future black leaders, senior black executives are also entitled to five times the share issue of other staff.

Sasol chief financial officer Christine Ramone has described the deal as "affordable and accessible" for the company and its black employees and investors. For the sake of Nelson Mandela's "transformation" agenda, observers hope she is right.

Source:
www.ethicalcorp.com/content.asp?ContentID=5912&newsletter=24

Annex 2

Holcim closes the sale of its majority stake in Holcim South Africa

5 June 2007

Holcim has completed the sale of 85 percent of its 54 percent stake in Holcim South Africa to AfriSam Consortium (Pty) Ltd based on an enterprise value of ZAR 16.4 billion. The transaction makes Holcim South Africa the leading black-controlled company in the building materials sector and creates an excellent platform for the further development of this company.

Holcim maintains a 15 percent stake in Holcim South Africa. Holcim retains a range of pre-emption and investment rights, which cannot be exercised in a way that would compromise the company's BEE credentials, and will continue to provide technical assistance. As a consequence, the South African company will be deconsolidated and henceforth equity accounted. The proceeds of the sale of ZAR 7.5 billion will be used for the further growth of the Holcim Group.

Holcim South Africa has a consolidated annual capacity of 4.1 million tonnes of cement. For 2006, the company reported sales of CHF 918 million and an operating profit of CHF 253 million, with a workforce of some 2,000. The company has a 62.5 percent interest in Tanzania-based and listed Tanga Cement Company. Holcim South Africa is also involved in the aggregates and ready-mix concrete businesses.

Holcim is one of the world's leading suppliers of cement and aggregates (crushed stone, gravel and sand) as well as further activities such as ready-mix concrete and asphalt including services. The Group holds majority and minority interests in more than 70 countries on all continents.

Source:
<http://www.holcim.com/CORP/EN/id/1610646694/mod/gnm40/page/news.html?language=12&filterpass=1>