

THE DEVELOPMENT OF

THE FORWARDING & CLEARING INDUSTRY

BLACK ECONOMIC EMPOWERMENT STRATEGY

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not defined.

1. SCOPE

- 1.1 The Forwarding & Clearing (F & C) Industry comprises economic activities that relate to all imports and exports conducted in respect of goods entering or leaving South Africa as well as those transiting this country. It excludes importers and exporters whose core activity is not clearing and forwarding.
- 1.2 Thus, the F & C Industry serves as an input into every other industry in the National economy as well as many of those across the South African borders. In addition cognisance is taken of the fact that the F & C Industry is a very complex one, involving various activities including freight management and supply chain logistics.
- 1.3 The F & C Industry is associated with all modes of transport, be they shipping lines, airlines, railways or road transport, that might be involved in the carriage of cargo as well as, service providers such as warehouses and transit sheds and the associated management of data.
- 1.4 The F & C Industry works closely with Governmental and parastatal Institutions including SARS, the Department of Trade & Industry (DTI), the Department of Transport (DoT) and Port Authorities.

2. LONG TERM VISION

2.1 Overarching long-term vision

- 2.1.1 Our long-term vision is, through encouraging education and training and the promotion of life-long learning, to develop the Industry so that all participants are able to compete, nationally and internationally, with the best in the world.
- 2.1.2 The South African F & C Industry is well positioned to make this vision become a reality and make a broader contribution towards regional development in line with the ideals of the New Partnership for Africa's Development (NEPAD).
- 2.1.3 We as stakeholders see ourselves as being in a position to become the gateway to Sub – Saharan African trade.
- 2.1.4 Our vision is to develop South African owned forwarding and clearing multi-national companies wherever possible.

2.2 Developing a World Class Industry

2.2.1 Our vision is to develop a world-class industry based on seamless integration of all transport modes and multiple transport networks, which will grow in size, stimulate South Africa's economic growth and development, plus facilitate trade whilst complying with international safety standards and delivering efficient and quality services to customers. Our industry will achieve a significant increase in black participation throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs.

2.2.2 To make this vision become a reality, it will require a deliberate strategy to increase access to skills, capital and economic opportunities and, therefore raise the economic value added (or productivity) of every employee and enterprise in the industry. This will require all stakeholders to recruit new black people into the industry and increase their skills (and those of existing employees) to best-practice international levels, while creating a supportive culture for their talents to thrive. It will also require all stakeholders to facilitate the creation of new black entrepreneurs (and the development of existing ones) who can participate in economic opportunities throughout the logistics value chain.

2.2.3 We, the signatories to this document, believe that every company in South Africa should embrace Black Economic Empowerment (BEE) voluntarily, recognising that it is a social and economic imperative to secure a prosperous future for all our country's citizens and, therefore, a larger market in which to trade. We commit ourselves to embark on a major communications and marketing campaign that will take this "Broad-Based BEE Charter for the F & C Industry" to every company to ensure maximum participation by all stakeholders.

2.2.4 Accordingly, all stakeholders who commit themselves to this Charter will agree to have their BEE achievements (in terms of the indicators in the balanced scorecard) rated by an independent BEE rating company that is accredited by the relevant government bodies.

2.2.5 We commit ourselves to good corporate governance principles and the elimination of fronting in our industry. Accordingly, we will play an active role in instituting measures for monitoring, identifying and eradicating fronting.

2.3 Undertakings by all Stakeholders (to achieve this vision)

2.3.1 To form collaborative relationships with organisations such as Proudly South Africa (PSA), Department of Trade and Industry (DTI) and other stakeholders and promote the economic benefits of utilising and growing Black Economic Empowerment (BEE) compliant freight forwarding companies.

2.4. National Government undertakings (to achieve the vision)

2.4.1 To continue to create an environment that is conducive for the country to substantially increase its trade (exports and imports) with the rest of the world, since the level of trade is the main driver of growth and, therefore, job creation in our industry. Key elements of an enabling environment for trade include: trade promotion; enhancing feeder and inland transport connections; reducing costs of data transfer; improving the quality of available maritime infrastructure & superstructure and restructuring to ensure reliability and cost effectiveness of railway and port operations.

2.4.2 Resolve legislative and fiscal restrictions, which have a negative impact on the competitiveness of South Africa and to ensure a level playing field for all companies¹.

2.4.3 Use its leverage in the industry to incentivise all stakeholders to achieve the objectives of this charter.

2.4.4 Demonstrate its commitment towards developing South Africa into a leading trading nation by adopting a more harmonised approach between its various departments and parastatal institutions.

¹ An example include the issue of small suppliers who are deemed as employees for personal tax purposes

This will require the setting up of structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport sector wide and supply chain processes. Examples of crosscutting issues that require interventions across government departments and agencies include:

- The (DTI) Export incentives.
- Department of Finance, and South African Revenue Services (SARS),
- Department of Foreign Affairs – Free Trade Agreements
- Increasing awareness within the transport sector about available government investment incentives and grants.
- Engage public and private funding institutions to highlight opportunities in the sector
- Make proposals on financing mechanisms; and
- Investigate, together with other stakeholders in other Transport sub-sectors, the feasibility of setting up a Transport Sector Bank.

2.4.5 Engage public and private sector funding agencies to develop innovative funding mechanisms for BEE companies seeking to invest in the sector. This will require a high-level workshop with these agencies and major BEE companies to inform them about opportunities that will emerge in the transport industry, including the F & C industry, following the adoption of this charter.

2.4.6 Increase awareness among BEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the Department of Trade & Industry's The Enterprise Organisation (TEO) and investigate the possibility of motivating for new products that take into account the unique nature of the F & C industry.

2.4.7 Enforce and monitor compliance with existing legislation that may impact on BEE such as the Employment Equity, Skills Development and Competition Acts.

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2.4.8 Ensure that government departments are focused and sensitised on the importance of customer care and relations. This will require enhanced training and education for officials in relevant government departments.

2.4.9 Assist stakeholders with analysis of the number of people in particular skills set (or job category) broken down by race, gender and people living with disability.

2.4.10 Publish an annual report on BEE and job creation within the F & C industry that consolidates various reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry BEE Forum.

2.5. Labour Undertakings (to achieve this vision)

2.5.1 Encourage investment funds, where trade unions have significant influence, and trade union investment companies to make investments in the sector to help achieve the ownership targets.

2.5.2 Investigate opportunities to establish collective investment vehicles that will make investments in the sector. These investment vehicles will ensure empowerment of the workers both directly and in partnerships with other stakeholders in relation to skills for ownership and management of companies

2.5.3 Ensure that workers are empowered through upgrading their skills base, create opportunities to deploy them into management positions as well as participating in creative employee share ownership schemes.

2.5.4 Labour should mobilise members to ensure compliance and understanding of existing legislation eg the employment equity, skills development, labour relations and basic conditions of employment acts. Companies that do not comply must be reported to the Transport Sector BEE Forum to take further action.

2.5.5 Until such time that BEE Bill is legislated, labour will mobilise members to identify companies who fail to implement this agreed F & C industry BEE strategy and report them to Transport Sector BEE Forum to take further action.

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2.5.6 Mobilise members to monitor the performance of their employers in implementing the Growth and Development Summit (GDS) agreement on promoting local content and/or procurement and supporting the Proudly South African campaign.

2.5.7 Monitor the impact of procurement/outsourcing on job creation and report findings to the Transport Sector BEE Forum.

2.6 TETA undertakings (to achieve this vision)

2.6.1 Play a more interventionist role to influence training priorities in the F & C Chamber.

2.6.2 Assist stakeholders with analysis of the number of people in a particular skills set (or job category) broken down by race, gender and people living with disability.

2.6.3 Continuously conduct analysis and update statistics about the future demand of critical skills sets and the supply side of the equation.

2.6.4 Continuously conduct an analysis of the quantity, quality and nature of F & C training that companies are doing.

2.6.5 Commit to this BEE Strategy and strive to achieve the targets set (where applicable) as per the indicators (Management, Employment Equity, Skills Development, Learnerships; Preferential Procurement and Enterprise Development) in the balanced scorecard both internally and with specific reference to service providers.

2.6.6 Align its mission and vision with the imperatives of BEE and assist with the provisioning of relevant BEE data that will be key for the implementation and monitoring of this strategy.

2.6.7 Enable the achievement of the education and training objectives of this charter, without unnecessary bureaucratic impediments.

3. INDICATORS OF EMPOWERMENT

This Broad-Based BEE Charter for the F & C Industry seeks to encourage all stakeholders to pursue an aggressive transformation agenda according to the broad guidelines set out in the National Strategy and BEE Scorecard. It is necessary to set different targets and timeframes for the public and private industry as well, because the two are at different stages of the transformation process.

3.1 Equity Ownership

Vision

Our vision is to achieve significant black ownership, management control and operational involvement throughout the F & C industry. We recognise the high degree of knowledge of both local and international legislation and conditions that will be required in order to achieve this and commit ourselves to identifying opportunities for promoting the necessary skills development.

3.1.1 Guiding Principle

3.1.1.1 This principle is linked to the long-term strategy of growing the domestic F & C Industry so as to ensure that BEE does not become a zero-sum game. Ownership is broken down into foreign ownership and South African ownership.

3.1.1.2 The ownership target set is specifically aimed at the South African F & C Industry. This target may not apply to foreign-owned companies.

3.1.2 Foreign Ownership Market

3.1.2.1 With regard to foreign ownership, foreign companies, with local representation, will implement BEE strategies, according to the guidelines provided by the F & C Charter. They will be encouraged to sell equity in their local operations. However, foreign companies that are unable to sell equity in their local operations should consider using the enterprise development indicator and set off increased achievements in this regard against the ownership requirement.

3.1.3 Stakeholder Undertakings

3.1.3.1 Foreign Ownership Market Commits to:

Seek opportunities to sell equity to Black shareholders or otherwise facilitate increased enterprise development.

3.1.3.2 The Local Based Market Commits to:

Seek opportunities to broaden the ownership base of their companies and ensure that within the next five years at least 25.1% of equity is owned by black shareholders with at least 10% earmarked for black women and 3% for people living with disabilities..

3.1.3.3 Government Commits to:

Establishing means of funding the various BEE initiatives that will enable Blacks, women and disabled persons to purchase the ownership stakes^[H1] proposed in this Charter.

3.1.3.4 Funding Mechanisms

3.1.3.5 All stakeholders commit to:

3.1.3.5.1 Facilitate through creative financing mechanisms the acquisition of equity in their operations by Black shareholders.

3.1.3.5.2 Creating awareness about F & C Industry amongst the traditional banking institutions as well as Public Financing Institutions.

3.2 Management

3.2.1 Guiding Principle:

3.2.1.1 Our guiding principle is to increase the participation of black people on F & C Industry company boards and similar governing structures to create decision-making structures that truly represent the racial and gender diversity of our country. The industry will be transparent, eliminate unscrupulous business practices including fronting, and adopt best-practice corporate governance policies as outlined in the King II report.

3.2.2 Stakeholder undertakings

3.2.2.1 Private Industry Commits to;

3.2.2.1.1 Under normal circumstances, black ownership will be accompanied with an equal level of management control. However, private industry will recruit onto their company boards and similar governing structures black directors (who do not necessarily own equity) to reach a target of at least 40% representation by black people within 5 years. 40% of that target, which is equal to 16% of the total, should be earmarked for black women and 3% for all people living with disabilities on company boards and similar governing structures.

3.3 Employment Equity (EE)

3.3.1 Guiding Principle

3.3.1.1 Our principle is to increase the participation of black people in management and professional and technical occupations in the F & C Industry to create a workforce that truly represents the racial and gender diversity of our country.

3.3.1.2 This will require that all stakeholders create a supportive culture within their organizations to be an 'Employer of Choice', attract new talent, facilitate the development of existing employees,

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and accelerate their progress into key positions within the industry.

- 3.3.1.3** Compliance with the Employment Equity Act, presenting accurate figures and statistics on EE to the Department of Labour (DoL) within the spirit of this Charter.

Private Industry commits to:

- 3.3.1.4** Private industry undertakes to achieve within five years a 40% representation of black persons collectively across EEA2 levels 1, 2 and 3 and including 10% of level 4. Of that 40%, 40% (i.e. 16% of the total) shall be black women. In addition private industry commits to 3% of the workforce to be people living with disabilities within the 5-year period.

3.3.2 Government commit to:

- 3.3.2.1** Ensuring that the Department of Labour (DoL) plays a significant role in monitoring and supporting stakeholders in meeting their EE targets.
- 3.3.2.2** In addition the DoL will in compliance with the EE Act, collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category by race. Also, to monitor the industry's progress in meeting its targets and publish an annual report on the EE Profile of the industry according to occupational level and category.

3.4 Skills Development

3.4.1 Guiding Principle

- 3.4.1.1** Our vision is to substantially increase the economic value added (or productivity) of every employee in the F & C Industry through best practice Human Resource and Skills Development policies and increase the scale of initiatives aimed at developing black professionals and technical experts.

3.4.2 Stakeholder undertakings

3.4.3 Government Commits to:

3.4.3.1 Design and fund a co-ordinated framework and programme for career awareness and training that leverages off and adds value to existing initiatives. The awareness programme will publicise and co-ordinate information regarding scholarships, training resources and careers in the industry. Other stakeholders will be encouraged to contribute towards the cost of this initiative.

3.4.4 All stakeholders commit to:

3.4.4.1 Invest at least 5% of payroll on skills development initiatives inclusive of the current 1% skills development levy and associated costs.

3.4.5 Private Industry Commits to:

3.4.5.1 Identify within and outside their companies a talent pool of black people for accelerated development through the following options:[H2]

- International, regional or local assignments that provide high-quality operational and managerial exposure.
- Job rotation and multi-skilling programmes
- Coaching and mentorship programmes 
- Learnership and internship programmes
- Further Education and Training (FET)
- Skills programmes
- Temporary placement of unemployed learners
- Provision of ABET and other lifeskill training

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- Intra-industry exchange programmes, where feasible.

The costs associated with the implementation of the above Skills Development interventions include both direct and associated indirect costs.

3.4.6 TETA Commits to:

- 3.4.6.1 Conduct research to Identify scarce management (generic) and professional (F & C specific) skills that the industry will require over the next decade and map out future demand/supply scenarios in the detailed skills audit.
- 3.4.6.2 Conduct research on the supply side of the skills development equation – i.e. the institutions that will provide the required management, professional and technical skills. The research will determine whether the identified institutions have the capacity to meet the expected demand and whether their curricula meet the needs of industry. It will make proposals on how to increase the capacity and relevance of existing institutions and establish whether there is a need to establish a dedicated institution that will focus on developing skills for the Forwarding and Clearing Industry.
- 3.4.6.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships - in management, technical and professional occupational categories - to help stakeholders to achieve their employment equity targets.
- 3.4.6.4 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in identified areas.
- 3.4.6.5 Together with the Federation Internationale des Associations de Transitaires et Assimiles (FIATA) continuously benchmark training programmes against international best practice.

3.5 Preferential Procurement

3.5.1 Guiding Principle

Our principle is to accelerate procurement from black-owned and/or, empowered enterprises and/or good contributors to BEE with the main objective of growing existing or emerging entrepreneurs to produce value-added goods and services for the industry and increase employment as well as allowing for the creation of new businesses².

[H3]

Stakeholder undertakings

3.5.2.1 Government Commits to:

Government departments, state-owned enterprise, and other public agencies will align their own procurement practices to this Charter when procuring goods and services from the F&C sub-sector. In particular, government will apply BEE criteria, as set out in this Charter whenever it:



- 3.5.2.1.1. Grants a licence to engage in a specific regulated economic activity, for example xxxxxxxxxxxx
- 3.5.2.1.2. Grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state,
- 3.5.2.1.3. Sells an asset or state-owned enterprise.
- 3.5.2.1.4. Enters into a public-private partnership.
- 3.5.2.1.5. Engages in any economic activity.

3.5.2.2. Private Industry Commits to:

- 3.5.2.2.1 Procure at least 30% of discretionary spend from BEE suppliers/operators and/or good contributors to BEE within the next 5 years.

² The creation of new enterprises must guard against fronting activities and therefore the “dominant impression” test based upon a checklist will be applied to determine whether an enterprise is a front or not. See Appendix D for the Dominant Impression checklist.

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3.5.2.2.2 Procure at least 10% of the above-mentioned 30% of total procurement from Black SMME"s within the next 5 years and 5% of the above-mentioned 30% from black women enterprises while encouraging procurement from people living with disability.

3.5.2.2.3 Adopt and customise the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector BEE Forum, as specifically agreed by the F&C sub sector stakeholders and signatories to this Charter.

3.6 Enterprise Development

3.6.1 Guiding Principle

3.6.1.1 Our principle objective is to help set up, and/or nurture and grow viable enterprises that are black-owned or black empowered, to service the F & C Industry. We aspire to increase investment in black-owned and empowered enterprises as a proportion of net assets.

3.6.1.2 In achievement of the principle objective above, the signatories to this Charter declare that they are opposed to the concept of fronting, as defined in this Charter.

3.6.2 Stakeholder undertakings

3.6.2.1 Private Industry Commits to:

3.6.2.1.1 Pro-actively seek opportunities to enter into joint ventures (and other forms of alliances) and make direct investments in black owned or black empowered enterprises as defined in Enterprise Development below. To be valid, such initiatives and ventures must pass the "dominant impression" test indicated in Appendix D.

3.6.2.1.2 Progress will be measured by calculating the value of such investments as a percentage of the net asset value of the investing enterprise. The target

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is to achieve at least 10% for local based companies and 25.1% for foreign-based companies within the next five years.

3.6.2.1.3 TETA commits to:

Develop training programmes specifically designed for entrepreneurs in the F&C Industry.

3.7 Sector Specific Targets

3.7.1 Job Creation

3.7.1.1 Guiding Principle

3.7.1.1.1 There has been significant growth in the Industry over the past decade with increases in volumes of imports and exports, but the growth of trade has not been accompanied by a similar increase in job creation. Our vision is to ensure the retention and creation of quality jobs.

3.7.1.2 All Stakeholders (who are designated employers) commit to:

3.7.1.2.1 Increase the number of learnerships to at least 2% of their workforce within 5 years.

3.7.1.3 TETA Commits to:

3.7.1.3.1 Meet the number of learnerships and skills programmes that are truly required based on the sector's skills requirements identified in the sector skills plan.

3.7.1.3.2 Facilitate access to finance and streamline procedures in accessing grants. This would entail simplifying processes and procedures that are customer friendly and encourages industry to participate more meaningfully in the learnerships and skills programmes.

3.7.2 Social Development

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3.7.2.1 Guiding Principle

- 3.7.2.1.1 Individual companies will implement social development programmes in line with their corporate values.

3.7.2.2 All Stakeholders commit to :

- 3.7.2.2.1 Invest at least 0.15% of turnover, as defined, in social development projects as identified by companies, which can include HIV/AIDS bursaries, poverty alleviation, etc. and F&C industry awareness.

3.7.3 Awareness Campaign

3.7.3.1 Guiding Principle

- 3.7.3.1.1 Given the lack of awareness about the impact and contribution of the Forwarding and Clearing Industry in our economy, it becomes an imperative to embark on an awareness campaign.

3.7.3.2 Stakeholder undertakings

- 3.7.3.2.1 Develop an industry specific awareness campaign to showcase the F & C Industry and its interrelated activities and demonstrate its impact on the economy through facilitating trade, economic growth and development, BEE and job creation.
- 3.7.3.2.2 The awareness campaign should target all South Africans, the African region as well as the international community. Targeted campaigns to be spearheaded at Government Departments – Department of Finance, Department of Trade and Industry, Department of Transport, National Treasury - schools, tertiary Institutions and financial Institutions.

3.7.4 . Labour Standards

3.7.4.1 Guiding Principle

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3.7.4.1.1 Our guiding principle is to develop an industry that is characterised by stability and fair labour practices.

3.7.4.2 All Stakeholders Commit to:

3.7.4.2.1 Implement fair labour practices across the board in line with the requirements of labour legislation.

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4. FORWARDING AND CLEARING BEE SCORECARD

Core Components	Indicators of Empowerment	Private Sector Targets	Private Sector Weights	Labour Targets	Public Sector/SOE Targets	Public Sector/ SOE Weights	Time Frames
<u>Foreign Ownership</u> (At least 50% plus 1 owned offshore)	% share of economic benefits	0% (off-set against Enterprise Development). Alternatively, foreign owned companies may elect to be judged on the same criteria as a locally based company.	N/A	N/A	N/A	N/A	N/A
<u>Local Based Operations</u>	% share of economic benefits	25.1%	16%	25.1%	25.1%	20%	5 years
	Women Representivity	10% black women ³	3%	10%	10%		
	People living with Disabilities	3% people living with disabilities ⁴	1%	3%	3%		
Management	% Black persons	40% black persons on the board of directors	5%	40%	40%	10%	5 years
	% Women Representivity	16% black women on the board of directors ⁵	4%	16%	16%		
	% People living with disabilities	3% people living with disabilities on the board of directors	1%	3%	3%		
Employment_Equity	Across levels as stipulated in the EEA2 Report: Occupational levels 1, 2 and 3 plus 10% of level 4	40% black persons across levels 1, 2 and 3 plus 10% of level 4	5%	40%	40%	10%	5 years
	Women Representivity	16% black women ⁶	4%	16%	16%		
	People living with Disabilities	3% people living with disabilities	1%	3%	3%		
Skills Development	Skills development expenditure as a proportion of total payroll.	5% of payroll including SD levy and indirect ETD costs, per annum.	20%	5%	5%	20%	5 years

³ Sub-target forms part of the 25.1% target and is expressed as a percentage of the 25.1% target. I.e. 40% of 25.1% or 10% of the total.

⁴ Sub target forms part of the 25.1% target.

⁵ Sub-target forms part of the 40% target.

⁶ Sub-target forms part of the 40% target.

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Core Components	Indicators of Empowerment	Private Sector Targets	Private Sector Weights	Labour Targets	Public Sector /SOE Targets	Public Sector /SOE Weights	Time Frames
Preferential Procurement	Procurement from Black-owned and empowered enterprises and/or good contributors to BEE as a proportion of discretionary procurement as evidenced by the company's P&L statement (excluding staff costs).	30%	17%	30%	30%	20%	5 years
		of which 30% SMME procurement shall be 10% ⁷ (SMME as defined in the National Small Business Act)	2%	10%	10%		
		of which 30% procurement from black women owned enterprises shall be 5%. ⁸ (Black women owned enterprises as defined in the BEE Act)	1%	5%	5%		
Enterprise Development	Investment in black-owned and empowered enterprises as a proportion of net assets	10% NAV (local enterprises)	10%	10%	N/A	10%	5 years
		25.1% of domestic NAV (foreign owned)	25%	25.1%	N/A	30%	5 years
		6.2% ⁹ shall be black women owned enterprises. (applicable to foreign owned enterprises only).	5%	6.2%	N/A		
F & C Specific	Job creation	5% of current permanent jobs within a 5 year period	3%	5%	5%	10%	5 years
	Social Development (HIV/AIDS, bursaries, poverty alleviation, etc) and F&C industry awareness.	0.15% of Turnover (as defined)	2%	0.15%	0.15%		
	Learnerships for the unemployed as a % of total workforce	2% of workforce per year	5%	2%	2%		

⁷ SMMEs as defined in the National Small Business Act

⁸ Black women owned enterprises as defined in the BEE Act

⁹ Target expressed as 25% of 25% or 6.25% of total Preferential Procurement spend.

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Appendix A

DEFINITIONS

For purpose of clarification the following terms apply to this Charter and shall bear the following meanings:

‘Black People’ – is a generic term, which means African, Coloured and Indians (born in the Republic of SA or who immigrated to SA and who gained permanent residence status prior to 1994 or who obtained citizenship). (For DTI to decide).

‘Broad Based Black Empowerment’ As per the Broad Based Black Economic Empowerment Act, 2003. Accordingly, government defines BEE 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, ownership and control of enterprises and economic assets.

‘Black Enterprise’ - is one that is 50,1% owned by black persons and where there is substantial management control. Ownership refers to economic interest. In this instance **‘Management’** – refers to the membership of any board or similar governing body of the enterprise

‘Black Empowered Enterprise’ – is one that is at least 25,1% owned by black persons and where there is substantial management control. Ownership refers to economic interests. In this instance **‘Management’** refers to executive and non-executive directors. This is whether the black enterprise has control or not.

‘Black Women Owned Enterprise’ is one with at least 25,1% representation of black women within the black equity and management portion.

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‘Community or broad based enterprise’ - has an empowerment shareholder who represents a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, the youth and workers.

‘Control’ – of a business entity can be achieved in a number of ways a) a majority shareholding position i.e. 50% + 1 share, b) an effective controlling shareholding; c) a majority of a board of directors; and/or d) a shareholders agreement

‘Co-operative or collective enterprise’ is an autonomous association of persons who voluntarily join together to meet their economic, social and cultural needs and aspirations through the formation of a jointly – owned enterprise and democratically controlled enterprise.

‘Direct Empowerment’ The process of BEE must result in an increase in the ownership and control of the economy by black persons. This means that a significant portion of black persons ownership of assets and enterprises must be a direct interest, reflecting genuine participation in decision making at board level and the^[H4] assumption of real risk. In this F&C scorecard, direct empowerment focuses on ownership in enterprises and assets through shares and other instruments that provide the holder thereof with voting rights and economic benefits such as dividends or interest payments.

‘Direct Ownership’ Where a flow of economic benefits and voting rights can be traced back – via intermediate holding structures if necessary – to black persons, and/or  black enterprises and/or community/broad based enterprises and/or black trade union investments.

‘Discretionary Spend’ refers to the portion of total procurement where a company has the right of choice of supplier from a number of qualifying suppliers. This figure is arrived at after deducting non-discretionary procurement e.g. imports and other items provided by monopoly suppliers e.g., water, electricity, telephone, and after deducting all spend with international carriers and internationally based forwarders.

‘Enterprise Development’

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Includes Joint Ventures, sub-contracting, and supplier development initiatives, transfer of management skills, guidance, advice and consultancy services. It also includes the facilitation provided by an established company to its BEE partners e.g. discounts, access to cash flow, guarantees or put options deferred payments, and other vendor financing models. Also refer to Appendix B '*Enterprise Development Definition*' for a comprehensive description. (Subject to the "Dominant Impression test")

'Foreign-owned Enterprise' A commercial undertaking or business where the majority (greater than 50%) of shareholding is held beyond the borders of the Republic of South Africa.

'Fronting' Fronting occurs when a black owned or black empowered enterprise deliberately overstates its operational or functional capabilities/capacity - with the view to securing economic advantage over other enterprises, while in truth the fronting enterprise is heavily reliant on the subcontracted services of non-disclosed non-BEE enterprises, which are usually associated to the fronting enterprise by shareholding. (Build in "Dominant impression" test and possibly checklist.) (Not confirmed- BEEs to put forward their views in email).

'Indirect Empowerment' A core component of this BEE Strategy is the creation and nurturing of new enterprises by black people, Preferential procurement by both the State, Parastatals and the private sector is an effective and efficient instrument to drive BEE. A second element of indirect empowerment is enterprise development. This can take two forms:

- Investment in black owned and black empowered enterprises.
- Joint Ventures with black owned and black empowered enterprises that result in substantive skills transfers.

'Learnership' As per the Skills Development Act.

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‘Locally-owned Enterprise’ A commercial undertaking or business where 50% or more of shareholding is held within the borders of the Republic of South Africa.

‘Net Asset Value’ within the context of this Charter this term refers to Total Assets less liability excluding inter-company loans and shareholder funding.

‘Non Discretionary Spend’ Refers to all commodities and services where organisations have no option but to procure from a specific supplier or alternatively, in instances where the BEE suppliers collectively do not comprise the targeted percentage of the market. Such non-discretionary spend will include statutory payments, Customs Duties and VAT, Port charges, international carriers and international forwarding costs. All non-discretionary expenses will not form part of sales towards the customer's preferential procurement.

‘Payroll’ The total amount of remuneration paid or payable, or deemed to be paid or payable by an employer to its employees during any month. This is determined in accordance with the provisions of the Fourth Schedule of the Income Tax Act.

‘Ownership’

Refers to equity participation and the ability to exercise rights and obligations that accrue under such ownership. It also refers to economic interest, in other words paid up capital. The parties to this Charter agree that the measurement of the extent of the achievement of this target is the aggregate value of the equity and will be based on the audited accounts of the entities concerned.

‘Skills Development’

As per the Skills Development Act.

‘TETA’ – Refers to the F & C Chamber of the Transport SETA

‘Turnover’ In the context of this Charter, turnover means total billings less all VAT, customs payments and other disbursements.

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DOMINANT IMPRESSION TEST FOR A FORWARDING AND CLEARING OPERATOR

1. Step 1: Establish the claimed functionality and approximate claimed volumes of the enterprise, which claims to be an F&C operator.
2. Step 2: Determine whether the claimed functionality is sufficient to qualify the enterprise as an F&C operator rather than being a sales or marketing agent for another operator. If the answer is no, the enterprise is a front.
3. Step 3: Determine whether the staffing structure, numbers and skills profile is roughly in accordance via industry norms with the claimed functionality and volumes. If the answer is no, the enterprise is a front.
4. Step 4. If steps 2 and 3 are successfully passed the enterprise is not a front.
5. Step 5. As an exception to the above; if the enterprise is the result of an enterprise development initiative undertaken by an F&C operator and if additionally, that enterprise is within the first 24 months of its existence and is working in terms of an explicit, auditable programme of skills transfer which will render it fully functional and operationally independent of its F&C shareholder within the 24 months mentioned above, then partial reliance on skills from its F&C shareholder within the said 24 months period shall not constitute fronting as defined, provided that within the said 24 months the enterprise shall not sub-contract to its F&C shareholder.

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DRAFT BEE STRATEGY – F & C INDUSTRY

SIGNATORIES TO THIS F & C INDUSTRY BEE STRATEGY


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Department of Transport
Organisation


Signatory

Department of Transport
Organisation


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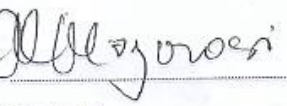
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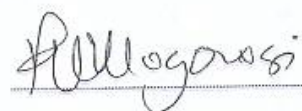
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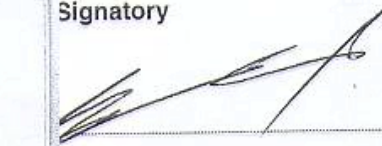
BEE representative
Organisation


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Sebeza Forwarding + shipping
Organisation


Signatory

SATAWU
Organisation


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Robing Grindrod (Pty) Ltd.
Organisation

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SIGNATORIES TO THIS F & C INDUSTRY BEE STRATEGY

Namgyu

Signatory

SEBORA F&C.

Organisation

Mtshali Sehloto

Signatory

Ukhozi Logistics

Organisation

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SCHENKER SA.

Organisation

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SAAFF

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Leithen Witec + Wondol

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Transglobal Cargo (Pty)

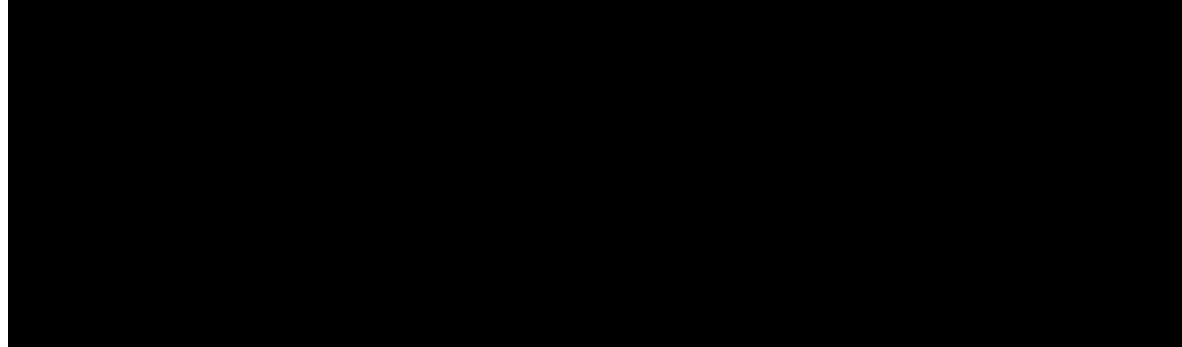
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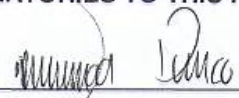
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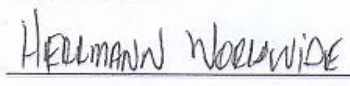
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DRAFT BEE STRATEGY – F & C INDUSTRY

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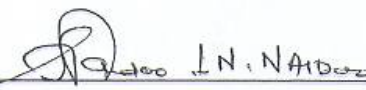
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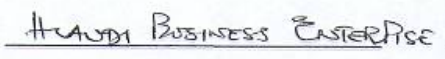
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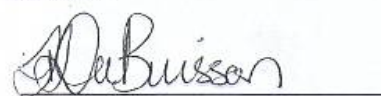
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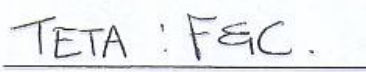
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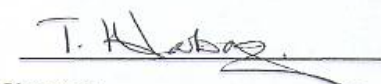
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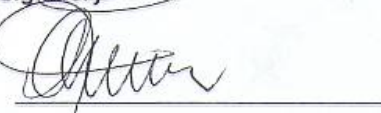
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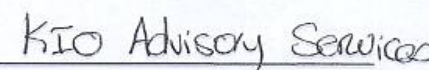
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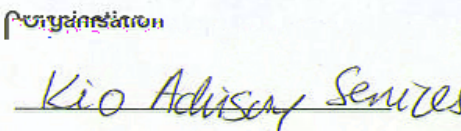
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SIGNATORIES TO THIS F & C INDUSTRY BEE STRATEGY

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Signatory

Organisation

CIO AND UTI

Organisation

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