

B-BBEE SUB-SECTOR CODE- PUBLIC SECTOR

		Council on skills shortages	
Preferential Procurement			
Action Undertaken	Input measurement	Output measurement	Quality Control
Develop a new B-BBEE procurement policy	Analysis of gaps in current procurement policy	New procurement policy	DOT
Co-ordinate procurement policies and reporting procedures across national and provincial departments and transport sector SOEs and agencies	Report on current co-ordination mechanisms	Report to Steering Committee/Sub-Sector Code Council regarding new and updated co-ordination mechanisms	DOT & Steering Committee/Sub-Sector Code Council
Introduce pre-qualifying criteria B-BBEE for suppliers	Analysis of current pre-qualifying criteria	New procurement pre-qualifying criteria aligned with the requirements of the charter	DOT
Develop best-practice supplier development programmes	Current compliance with targets set out in the charter	Annual Progress Report to Steering Committee/Sub-Sector Code Council on BEE Procurement	DOT & Steering Committee/Sub-Sector Code Council
Constantly evaluate possibility of procurement from black SMMEs	Current level of black SMME procurement	Annual Report on black SMME procurement submitted to Steering Committee/Sub-Sector Code Council	Steering Committee/Sub-Sector Code Council
Develop best-practice technology-based monitoring, evaluation and reporting mechanisms	Evaluation of current procurement management systems	BEE Procurement management system integrated into procurement reporting	DOT
Overcome constraints to overcome restrictions of PPPFA	Evaluation of constraints imposed by PPPFA	Report on measures taken to overcome PPPFA constraints	DOT
Negotiate B-BBEE Requirements into all new and existing long-term contracts	Current level of supplier B-BBEE Compliance	Annual update on B-BBEE compliance of suppliers	DOT
Maximise leverage and policy influence in the transport sector to drive B-BBEE	Current level of B-BBEE compliance within the sector (baseline study)	Annual update of B-BBEE compliance within the sector submitted to Steering Committee Sub-Sector Code Council	Steering Committee/Sub-Sector Code Council

**MARITIME TRANSPORT & SERVICES INDUSTRY SUB-
SECTOR CODE FOR BBBEE**



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

**MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR
BBBEE**

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE

TABLE OF CONTENTS

ABBREVIATIONS	3
1. SCOPE OF APPLICATION	4
1.1 Delineation of the Sector	4
1.2 Exclusions	4
2. LONG TERM VISION	4
2.1 Overarching long-term vision	4
2.2 Developing a World Class Industry	5
2.3 Undertakings by all Stakeholders (to achieve this vision):	5
2.4 National Government Undertakings (to achieve the vision):	6
2.5 Labour Undertakings (to achieve this vision):	7
2.6 TETA undertakings (to achieve this vision):	8
3. INDICATORS OF EMPOWERMENT	8
3.1 Introduction	8
3.2 Ownership	8
3.3 Management Control	11
3.4 Employment Equity	12
3.5 Skills Development	14
3.6 Preferential Procurement	16
3.7 Enterprise Development	17
3.8 Socio-Economic Development	19
4. MARITIME TRANSPORT & SERVICES INDUSTRY B-BBEE SCORECARD ..	20
5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD	25
APPENDIX A: COMMITMENT EVALUATION MATRIX	26

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBBEE

ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
ABET	Adult Basic Education and Training
ABMOSA	Association of Black Maritime Organisation of South Africa
ASGISA	The Accelerated and Shared Growth Initiative of South Africa
BCEA	Basic Conditions of Employment Act
CIPRO	Company Intellectual Property and Registration Organisation
DBSA	Development Bank of South Africa
DOL	Department of Labour
DPE	Department of Public Enterprises
DTI	Department of Trade and Industry
EAP	Economically Active Population
EE	Employment Equity
EEA	Employment Equity Act
EMEs	Exempted Micro Enterprises
GDP	Gross Domestic Product
GDS	Growth and Development Summit
HDSA	Historically Disadvantaged South Africans
IDC	Industrial Development Corporation
JSE	Johannesburg Securities Exchange
JIPSA	The Joint Initiative for Priority Skills
KPI	Key Performance Indicators
MSA	Moving South Africa
MT & SI	Maritime Transport & Services Industry
NDOT	National Department of Transport
NEF	National Empowerment Fund
NEPAD	New Partnership for Africa's Development
NSDS	The National Skills Development Strategy
NSF	National Skills Fund
NPAT	Net Profit After Tax
PIC	Public Investment Commissioners
PIPO	Public Industry Port Operations
PPPFA	Preferential Procurement Policy Framework Act
PSA	Proudly South African
QSEs	Qualifying Small Enterprises
RDP	Reconstruction and Development Programmes
SAMSA	South African Maritime Authority
SATAWU	South African Transport and Allied Workers Union
SETAs	Sector Education and Training Authorities
SMMEs	Small Micro and Medium Enterprises
TEO	The Enterprise Organisation
TETA	Transport Education and Training Authority
TNPA	Transnet National Ports Authority
TPT	Transnet Port Terminals
WSP	Workplace Skills Plan

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

1. SCOPE OF APPLICATION

1.1 Delineation of the Sector

The Maritime Transport & Services Industry (MT & SI) is often associated with shipping lines involved in the carriage of cargo and associated service providers. More specifically, economic activities in South Africa which share a relationship with the sea include the following:

- 1.1.1 Enterprises concerned with the marine transport of cargo and services ancillary to such transport;
- 1.1.2 Enterprises concerned with the manufacture, provision, maintenance and repair of marine equipment, including marine craft;
- 1.1.3 The commercial ports system and authorities responsible for the provision and operation of navigational aids, including lighthouses;
- 1.1.4 Institutions concerned with rescue, salvage and anti-pollution operations;
- 1.1.5 Government departments and agencies concerned with international maritime relations, administration of maritime safety, the protection and conservation of the marine environment and law enforcement within South Africa's offshore jurisdiction; and
- 1.1.6 Institutions concerned with marine and maritime education, training and resources.

1.2 Exclusions

The following activities, which constitute part of the Maritime Transport & Services Industry, broadly defined, **are excluded** for the purposes of developing a Broad-Based Black Economic Empowerment (B-BBEE) Charter, as appropriate policies are formalised for these entities by other Government Departments:

- 1.2.1 Enterprises concerned with the exploitation of renewable and non-renewable marine resources (Departments of Minerals and Energy and Environment and Tourism, for fishing);
- 1.2.2 The Marine Tourism Industry (Department of Environment and Tourism); and;
- 1.2.3 Naval defence (Department of Defence).

2. LONG TERM VISION

2.1 Overarching long-term vision

- 2.1.1 Our overarching long-term vision is to develop South Africa to become one of the world's top 35 maritime nations by the year 2014. South Africa's sea-borne trade during this period amounted to approximately 135 million tonnes. This level of trade closely matches some of the countries featuring in the top 35 merchant fleet owners.
- 2.1.2 Our vision is to substantially increase the number of SA flagged vessels and develop new South African shipping companies that are globally competitive, not only in trade between South Africa and the rest of the world. These companies must eventually be able to compete with other merchant navies operating on other lucrative international trade routes, e.g. the Far East and Europe and America.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

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 modes and multiple networks that will grow in size stimulate economic growth and development, facilitate trade, comply with international safety standards and deliver efficient and quality services to customers. Our industry seeks to achieve a significant increase in black participation in ownership, management and employment in companies throughout the industry value chain. We will pursue a growth strategy that prioritises the retention and creation of quality jobs, most of which are on landside operations.

2.2.2 To make this vision become a reality 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 MT & SI value chain.

2.2.3 The signatories to this document believe that every company in South Africa must embrace Broad-Based Black Economic Empowerment (B-BBEE), recognising that it is a constitutional, legislative 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 B-BBEE Sub-Sector Code for the Maritime Industry to every company within our industry to ensure maximum participation by all stakeholders.

2.2.4 Accordingly, all private sector stakeholders, who commit themselves to this Charter, will agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) verified by an independent B-BBEE verification agency that is accredited by an appropriate verification body.

2.3 Undertakings by all Stakeholders (to achieve this vision):

2.3.1 To promote a collaborative relationship with organisations such as Proudly South Africa (PSA) and stakeholders in the mining and liquid fuels industries through the Ship South African Campaign to persuade local cargo owners to increase the cargo carried on South African ships¹ to 25% of the total within the next five years. South African companies, with particular focus on B-BBEE compliant companies, should broker 25% of all cargo handled by brokers within the next five years, subject to review.

2.3.2 The new mining and liquid fuels industry leadership should place shipping on the agenda as part of their strategic level discussions on export and

¹ As defined and amended in the Ships Registration Act. Please refer to Appendix (A) Definitions

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

import programmes. These industries are well positioned to facilitate the utilisation of black shipping service providers in joint ventures with established companies. What we are calling for is a clear strategy or plan that will result in the bulk of cargo going through South African ports to be carried on South African ships.

- 2.4 National Government Undertakings (to achieve the vision):**
- 2.4.1 Over and above the above, Government is committed towards developing South Africa into a leading maritime nation by adopting a more active stance and increasing its advocacy around maritime matters and the proposed Ship South African Campaign.
- 2.4.2 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. Recognising that 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; improving the quality of available maritime infrastructure & superstructure and restructuring to ensure reliability and cost effectiveness of port operations.
- 2.4.3 Resolve legislative and fiscal restrictions, which have a negative impact on the competitiveness of the South African Maritime Industry.
- 2.4.4 Use its leverage in the industry to incentivise all stakeholders to achieve the objectives of this Sub-Sector Code.
- 2.4.5 Set up structures that will ensure inter-governmental co-ordination between departments to align their programmes with the Transport sector wide and MT & SI B-BBEE Sub-Sector Code processes. Examples of cross-cutting issues that require interventions across government departments and agencies include:
- 2.4.5.1 The Department of Trade & Industry's (DTI) Maritime Industry Strategy;
- 2.4.5.2 Discussions with the National Treasury to address fiscal issues e.g. tonnage tax;
- 2.4.5.3 Department of Foreign Affairs – Free Trade Agreements.
- 2.4.5.4 The Department of Labour and the Transport Education and Training Authority to monitor compliance with the Employment Equity and Skills Development Act;
- 2.4.5.5 The countrywide shortage of engineers and artisans across all disciplines; and
- 2.4.5.6 Increasing awareness within the transport sector about available government investment incentives and grants.
- 2.4.5.7 Monitoring of stakeholder achievements in terms of the indicators in the MT & SI Scorecard.
- 2.4.6 Convene a stakeholder forum to investigate the scale of B-BBEE opportunities in the MT & SI. The stakeholder forum will also:
- 2.4.6.1 Engage public and private funding institutions to highlight opportunities in the sector;

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

- 2.4.6.2 Make proposals on financing mechanisms; and
- 2.4.6.3 Investigate, together with stakeholders in other Transport sub-sectors, the feasibility of setting up a Transport Sector Bank.

- 2.4.7 Engage public and private sector funding agencies to develop innovative funding mechanisms for B-BBEE compliant or black-owned enterprises seeking to invest in the sector. This will require a high-level workshop with these agencies and major black-owned and B-BBEE compliant companies to inform them about opportunities that will emerge in the MT & SI following the adoption of this Sub-Sector Code.

- 2.4.8 Increase awareness among B-BBEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the DTI and The Enterprise Organisation (TEO) and investigate the possibility of motivating for new products that take into account the unique nature of the maritime industry.

- 2.4.9 Ensure that the restructuring of Ports to effect new institutional arrangements and to increase the international competitiveness of ports, port operations and services must proceed in a manner that results in an increase in black participation at all levels – in ownership, management, employment and the procurement of services and goods and to increase the international competitiveness of the ports, port operations and services. The restructuring of port operations must not result in a reversal of B-BBEE gains made by the Transnet National Ports Authority (TNPA) and Transnet Port Terminals (TPT). Public sector contributions to B-BBEE will be measured against the Public Sector Sub-Sector Code.

- 2.4.10 Enforce and monitor compliance with existing legislation that may impact on B-BBEE such as the Employment Equity, Skills Development and Competition Acts.

- 2.4.11 Publish an annual report on B-BBEE within the MT & SI that consolidates various reports and information from all stakeholders. Stakeholders will use this report to review progress at an annual Transport Industry B-BBEE Forum.

- 2.5 Labour Undertakings (to achieve this vision):**

- 2.5.1 Encourage employers to first look towards their own employees when considering options for achieving black equity participation.
- 2.5.2 Investigate opportunities to establish collective investment vehicles (including employee share ownership schemes) that will make investments in the sector. These investment vehicles must ensure the empowerment of workers to develop the skills required to own and manage companies in the industry.
- 2.5.3 Ensure that workers are empowered through skills development and create opportunities to deploy them into management positions.
- 2.5.4 Mobilise members to ensure compliance with existing legislation e.g. the Employment Equity, Skills Development, Labour Relations and Basic Conditions of Employment Acts. Non-complying companies must be reported to the Transport Charter Council to take further action by inspecting the causes for non-compliance and reviewing performance targets as necessary.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

- 2.5.5 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.
- 2.5.6 Monitor the impact of procurement/outourcing on job creation and report findings to the Transport Charter Council and MT & SI Steering Committee.
- 2.6 **TETA undertakings (to achieve this vision):**
 - 2.6.1 Play a more interventionist role to influence training priorities in the Maritime Chamber.
 - 2.6.2 Assist stakeholders with the analysis of people in a particular skills set (or job category) broken down by race and gender.
 - 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 MT & SI training that companies are doing.
 - 2.6.5 Commit to this B-BBEE Sub-Sector Code and strive to achieve the targets set (where applicable) as per the indicators (Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development) in the B-BBEE Scorecard both internally and with specific reference to service providers.
 - 2.6.6 Align its mission and vision with the imperatives of B-BBEE and assist with the implementation and monitoring of the B-BBEE Sub-Sector Code.

3. INDICATORS OF EMPOWERMENT

3.1 Introduction

This "Broad-Based BEE Sub-Sector Code for the Maritime Transport & Services Industry seeks to encourage all stakeholders to pursue transformation agenda according to the broad guidelines set out in the BEE National Strategy and B-BBEE Act 53 of 2003. It is also necessary to set different targets and timeframes for the public and private industry because the two are at different stages of the transformation process.

This Sub-Sector Code shall remain in effect until amended, substituted and repealed under Section 9 of the BBBEE Act, or with the parties to this Sub-Sector Code process agreeing to do so. The Transport Charter Council that will be established pursuant to this gazette will review this Sub-Sector Code following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.2 Ownership

3.2.1 Guiding Principle

- 3.2.1.1 Stakeholders commit to increase black participation across the entire spectrum of the domestic MT & SI value chain in ownership, management control and operational involvement and design appropriate funding

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

mechanisms to facilitate the process. The ownership component will be measured against the exercisable voting rights and the economic interest that the black equity participants are entitled to.

- 3.2.1.2 This principle is linked to the long-term strategy of growing the domestic Maritime Transport & Services Industry so as to ensure that B-BBEE does not become a zero-sum game.
- 3.2.1.3 The ownership contribution by enterprises in the MT & SI refers to direct ownership and is specifically aimed at any enterprise that has a MT & SI domestic asset base. There is also a need to measure the level of net economic interest that is possessed by the black equity participants. Net economic interest is the unencumbered equity stake that the black shareholders hold.
- 3.2.2 Foreign Ownership**
 - 3.2.2.1 Foreign companies, which have an asset base in South Africa, will implement B-BBEE strategies in accordance with the guidelines provided by this Charter. They will be encouraged to sell equity in their local operations.
 - 3.2.2.2 The standard ownership target and measurement methods outlined below will apply as long as there is non-existence of the global practice that disallows the sale of equity to local investors. If such a global policy can be evidenced, the company that holds the asset will be encouraged to contribute to ownership by making an application to the DTI for the implementation of an Equity Equivalent Programme.
 - 3.2.2.3 Multinationals should give the necessary attention to the creation and development of black owned and controlled enterprises within the MT&SI. The beneficiary enterprises of such programmes should have black people having more than 50% of economic interest and voting rights and/or black women having more than 30% of the economic interest and voting rights.
 - 3.2.2.4 Other programmes that can be supported through the Equity Equivalent programmes are such that they are supportive of the following programmes:
 - 3.2.2.4.1 The Accelerated and Shared Growth Initiative of South Africa (ASGISA);
 - 3.2.2.4.2 The Joint Initiative for Priority Skills (JIPSA); and
 - 3.2.2.4.3 The National Skills Development Strategy (NSDS).
 - 3.2.2.5 Equity Equivalent Programmes may also take the form of socio-economic development initiatives, particularly with reference to companies that have ownership structures where more than 50% of the economic interest and exercisable voting rights in the hands of black people, and/or more than 30% of the economic interest and exercisable voting rights are in the hands of black black-women. Or black people who are rural-dwellers, youth, unemployed or disabled own more than 50% of the economic interest and exercisable voting rights.
 - 3.2.2.6 Companies that choose to include enterprise development or socio-

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

economic development initiatives as Equity Equivalent Programmes will not be able to earn points for those initiatives under any other element on the B-BBEE Scorecard of the Sub-Sector Code.

- 3.2.2.7 The value of the contributions, measured against the value of the domestic asset or South African operations, using a standard valuation method, will be used to calculate the equivalency percentage and this will be applied to the stated targets for ownership in order to score points for ownership.
- 3.2.2.8 Ownership fulfilment will occur once the black equity participants are free from any third party financial obligations relating to the share acquisition as well as any financial obligations to the principle entity.
- 3.2.3 The Private Industry commits to:**
 - 3.2.3.1 Broaden the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people and 10% is earmarked for black women;
 - 3.2.3.2 25% +1 vote voting rights, or equivalent thereof, are in black hands, with a minimum of 10% earmarked for black women;
 - 3.2.3.3 A minimum of 3% for black people who are rural-dwellers, youth, unemployed or living with disabilities, within the next 5 years. The first option will be extended towards employees when considering options for achieving this ownership target; and
 - 3.2.3.4 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
 - 3.2.3.5 For Qualifying Small Enterprises (QSEs) as defined in this Sub-Sector Code will also commit to:
 - 3.2.3.5.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people
 - 3.2.3.5.2 25% +1 vote voting rights, or equivalent thereof, are in black hands,
 - 3.2.3.5.3 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
- 3.2.4 Funding Mechanisms**
 - 3.2.4.1 Facilitate through creative financing mechanisms the acquisition of equity in their operations by B-BBEE companies so as to ensure the sustainability of the investment by black shareholders and to maximise their net economic interest.
 - 3.2.4.2 Increase awareness about the industry amongst the traditional banking institutions as well as Public Financing Institutions.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

3.2.5 Measuring Principles and the Application of the Charter

- 3.2.5.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.2 The formulae required in the determination of the ownership score is contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Sub-Sector Code will apply.
- 3.2.5.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.2.5.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.

3.3 Management Control

3.3.1 Guiding Principle

- 3.3.1.1 Our guiding principle is to increase the participation of black people on MT & SI company boards and similar governing structures to create decision-making structures that truly represent the racial, ethnic and gender diversity of our country. This involves the promotion of the appointment of black people to board of directors, executive positions, and top management positions. The appointment of black women to these positions is an integral part of this guiding principle. The industry will be transparent, endeavour to eliminate unscrupulous business practices including misrepresentation and fraud, and adopt best-practice corporate governance policies as outlined in the King II report.

3.3.2 The Private Industry commits to:

- 3.3.2.1 Recruit onto their boards and similar governing structures black directors (who do not necessarily own equity) to reach a target of at least 50% within 5 years. 50% of these targets, which is equal to 25% of the total for both number of black women directors with exercisable voting rights.
- 3.3.2.2 Recruit onto their boards black directors to constitute 50% of executive directors. 25% of the number of black executive directors should be earmarked for black women.
- 3.3.2.3 Recruit into senior top management structures in enterprises black people

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

such that a target of 40% of the total number of senior top management positions, such as a Chief Executive Officer, Chief Financial Officer or Chief Investment Officer, will be occupied by black people.

- 3.3.2.4 20% of senior top management positions should be earmarked for black women.
- 3.3.2.5 Recruit into other top management structures in enterprises black people such that a target of 40% of the total number of other senior top management positions, such as a Marketing Director/Manager, Human Resources Director/Manager, IT Director/Manager.
- 3.3.2.6 20% of other top management positions (e.g. Divisional managers) should be earmarked for black women.
- 3.3.2.7 Endeavour to recruit black people living with disability at management levels, where they should constitute 3% of total executive management.
- 3.3.2.8 If the measured entity does not differentiate between senior top management and other top management; senior top management and the other top management can be collapsed into one indicator-top management. The target remains 40%, and the weighting will be the sum of the senior top management and other top management weighting.
- 3.3.2.9 QSEs within the sector commits to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.
- 3.3.2.10 Recruiting black women at Top Management level; where they should constitute 25% of all such positions.

3.3.3 Measurement Principles and the Application of the Charter

- 3.3.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.3.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
- 3.3.3.3 Measurement principles needed for the application of the Sub-Sector Code with regards to the management control element for QSEs are contained in statement 802, Code 800, of the Generic Codes of Good Practice.

3.4 Employment Equity

3.4.1 Guiding Principle

- 3.4.1.1 Our principle is to increase the participation of black people in senior management, middle management and junior management in the Maritime Transport & Services Industry to create a workforce that truly

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

represents the racial, ethnic and gender diversity of our country.

- 3.4.1.2 This will require that all stakeholders create a supportive culture within their organisations to be an 'Employer of Choice', attract new talent, facilitate the development of existing employees, and accelerate their progress into key positions within the industry.

3.4.2 Private Industry commits to:

- 3.4.2.1 Increase the representation of black people in senior management positions so that a minimum of 60% of people at this level are black within 5 years. 50% of the 60% should be black women.
- 3.4.2.2 Increase the representation of black people in middle management positions so that a minimum of 75% of people at this level are black within 5 years. 50% of the 75% should be black women.
- 3.4.2.3 Increase the representation of black people in junior management positions so that a minimum of 80% of people at this level are black within 5 years. 50% of the 80% should be black women.
- 3.4.2.4 Increase the representation of black people living with disabilities in the workforce of the enterprise so that a minimum of 3% of people at this level are black living with disabilities within 5 years. 50% of the of the 3% should be black women.
- 3.4.2.5 If the measured entity does not differentiate between top management and senior management, the top management indicator can be collapsed into the senior management. The senior management target – 60% will apply and the target will be the weighting will be the sum of the top management target and senior management weighting.
- 3.4.2.6 Measured entities falling within the QSE threshold commit 40% of all management staff is black within 5 years. 50% of the 40% should be earmarked for black women.
- 3.4.2.7 QSE within this sector commit to all 60% of all staff should be black within the 5 years. 30% of all positions should be occupied by black women within 5 years.
- 3.4.2.8 Ensure total compliance with the Employment Equity Act (EE Act), presenting accurate figures and statistics on EE to the Department of Labour (DoL). These targets will set in the EE Plans within the set period. Due regard should be paid to the composition of the Economically Active Population (EAP) figures published by Stats SA from time to time. These figures serve as targets for the composition of the workforce of enterprises. Any enterprise which does not evidence compliance with the EE Act will be deemed not to comply with the EE element of the MT & SI B-BBEE Charter

3.4.3 TETA commits to:

- 3.4.3.1 Play a significant role in monitoring and supporting stakeholders to meet their EE targets. The Sub-Sector Code Steering Committee on an annual basis will report on this role.

3.4.4 Labour Standards

3.4.4.1 Guiding Principle

- 3.4.4.1.1 Our guiding principle is to develop an industry that is characterised by fair

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

labour practices.

3.4.5 All Stakeholders commit to:

3.4.5.1 Implement fair labour practices across the board in line with the requirements of the Basic Conditions of Employment Act, the Employment Equity Act and the Skills Development Act. Seafarers employed by South African owners and operators will be afforded the same rights as other workers.

3.4.5.2 Ensure non-discrimination against employees living with HIV/AIDS and allocate funds and resources towards initiatives aimed at HIV/AIDS education, counselling and treatment in maritime communities in conjunction with international best practices.

3.4.6 Measurement Principles and the Application of the Charter

3.4.6.1 Measurement principles on the employment equity element, is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.

3.4.6.2 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.

3.4.6.3 Measurement principles for the determination of the Employment Equity score for QSE are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

3.5 Skills Development

3.5.1 Guiding Principle

3.5.1.1 Our vision is to substantially increase the economic value added (or productivity) of every employee in the Maritime Transport & Services Industry through best practice human resource and skills development policies and to increase the scale of initiatives aimed at developing black professionals and technical experts. This will be facilitated by training black people, including black women and black people living with disabilities.

3.5.2 Private Industry undertakes to:

3.5.2.1 Invest at least 5% of payroll or the leviable amount (whichever is applicable) on skills development initiatives within the next 5 years. The target is inclusive of all associated costs and the current 1% skills development levy. Fifty percent - 50% of the beneficiaries of these initiatives should be black women.

3.5.2.2 Invest at least 0.5% of payroll on skills development initiatives for black people living with disabilities, over and above the 1% skills levy within the next 5 years. 50% of the beneficiaries of these initiatives should be black women living with disabilities. Black employees having participated in

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

Learnerships or Category B, C or D programmes being 5% of the total employees - 50% of the beneficiaries of these initiatives should be black women.

- 3.5.2.3 Identify within and outside their companies a talent pool of black people for accelerated development through:
 - 3.5.2.3.1 International assignments that provide high-quality operational and managerial exposure, where appropriate;
 - 3.5.2.3.2 Mentorship programmes;
 - 3.5.2.3.3 Learnerships;
 - 3.5.2.3.4 Intra-industry exchange and internship programmes; and
 - 3.5.2.3.5 Higher education and training.
- 3.5.2.4 Measured entities qualifying as QSEs to invest 2% of the leviable or payroll whichever is applicable on skills development expenditure on learning programmes for black employees. 50% of this amount to be spend on learning programmes for black women employees.
- 3.5.3 **TETA commits to:**
 - 3.5.3.1 Conduct research to identify scarce management (generic) and professional (maritime-specific) skills that the industry will require over the next decade and map out future demand-supply scenarios in the detailed skills audit.
 - 3.5.3.2 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 Maritime Transport & Services Industry.
 - 3.5.3.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships, in management, technical and professional occupational categories, to help public and private sector organisations to achieve their employment equity targets.
 - 3.5.3.4 Collect and publish detailed and aggregated statistics on the EE profile of the industry according to occupational level and occupational category. 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.
 - 3.5.3.5 Assist in unlocking the funds from the National Skills Fund (NSF) for Management and Learnership Programmes in the identified areas.
 - 3.5.3.6 Together with the South African Maritime and Safety Authority (SAMSA), continuously benchmark training programmes against international best practice.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

- 3.5.3.7 Expand the number of learnerships available based on the sector's skills requirements identified in the sector skills plan and the demands of the industry.
- 3.5.3.8 Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants. This would entail streamlining processes and developing user-friendly procedures that encourage companies to participate in learnership programmes.
- 3.5.4 Measurement Principles and the Application of the Charter**
- 3.5.4.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.5.4.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.5.4.3 The measurement principles required in the determination of the skills development score for QSEs are contained in Statement 804 of Code 800 of the Generic Code of Good Practice.
- 3.5.4.4 The Learning Programme Matrix: Annexure 400 (A) of statement Code 400 the Generic Codes of Good Practice will apply.
- 3.6 Preferential Procurement**
- 3.6.1 Guiding Principle**
- 3.6.1.1 Our guiding principle is to accelerate procurement from black-owned and B-BBEE compliant enterprises, thus creating opportunities for the establishment of new enterprises and the development of existing ones that will grow the industry and create jobs.
- 3.6.2 The Private Industry commits to:**
- 3.6.2.1 Commission, together with other stakeholders, a study to establish current levels of procurement from B-BBEE companies and identify areas where they can achieve "quick wins" to accelerate B-BBEE. The research report will be discussed by Transport Charter Council and communicated to relevant stakeholders.
- 3.6.2.2 Procure a minimum 70% of total procurement spend from B-BBEE compliant suppliers, as defined by the B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice, within the next 5 years.
- 3.6.2.3 Procure at least 15% of total procurement spend from B-BBEE Compliant QSEs and EMEs within the next 5 years. The B-BBEE Recognition Levels articulated in the B-BBEE Codes of Good Practice will define the level of recognition of each Rand spent.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

- 3.6.2.4 Procure a minimum of 12% of total procurement spend from 50% black owned suppliers.
- 3.6.2.5 Procure a minimum of 8% of total procurement spend from 30% black women-owned enterprises within the next 5 years.
- 3.6.2.6 QSEs within this sub-sector commit to procuring a minimum of 40% of total procurement from B-BBEE compliant suppliers.
- 3.6.2.7 Adopt the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Charter Council.
- 3.6.3 Measurement Principles and the Application of the Sub-Sector Code**
- 3.6.3.1 Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.2 Pass through third party procurement for a third party or a client that is recorded as an expense in the third party or client's annual financial statements but is not recorded as such in the Measured Entity's annual financial statements will be excluded. In this regard, only the commission portion paid to agents will be recorded as under procurement.
- 3.6.3.3 Maritime related services however will be included within total procurement spend. These include, but are not limited to:
 - 3.6.3.3.1 Chandelling; and
 - 3.6.3.3.2 Tallying.
- 3.6.3.4 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.6.3.5 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 3.7 Enterprise Development**
- 3.7.1 Guiding Principle**
- 3.7.1.1 Our principal objective is to help set up, nurture and grow viable B-BBEE enterprises in the Maritime Transport & Services Industry that are majority-owned by black operators while developing existing companies. We aspire to increase investment in black-owned and empowered enterprises as a proportion of net asset value.
- 3.7.2 Private Industry commits to:**
- 3.7.2.1 Pro-actively seek opportunities to enter into creative joint ventures, provide discounts, give preferential credit terms and other forms of support, with B-BBEE compliant and black-owned enterprises

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

- 3.7.2.2 Facilitate the development of new enterprises by the sharing of knowledge and expertise with beneficiary entities, which will be B-BBEE compliant or black owned enterprises.
- 3.7.2.3 Aspire to contribute to enterprise development which amount to 3% of net profit after tax (NPAT) evaluated annually over the next 5 years.
- 3.7.2.4 QSEs within this subsector aspire to make contributions to enterprise development, which will amount to 2% of NPAT evaluated annually over the next 5 years.
- 3.7.3 TETA commits to:**
- 3.7.3.1 Develop training programmes specifically designed for entrepreneurs in the Maritime Transport & Services Industry. The Transport Charter Council will monitor the progress of this commitment. The number of successful entrepreneurs that have undergone training under the TETA accredited programmes will measure the success, over time.
- 3.7.4 Measurement Principles and the Application of the Charter**
- 3.7.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.7.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.7.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this subsector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice.
- 3.7.5 Sector Specific Targets**
- 3.7.5.1 Job Creation - Guiding Principle**
- 3.7.5.1.1 There has been significant growth in the container and bulk industry over the past decade with huge increases in volumes of imports and exports, but the growth in these areas of trade has not been accompanied by a similar increase in employment. Our vision is to ensure the retention and creation of quality jobs.
- 3.7.5.1.2 The guiding principle for job creation shall be related to growth in the overall South African economy, industrial production and enterprise development. To this end a certain percentage in economic growth should at least create a significant number of jobs in our Industry.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

- 3.7.5.2 All Stakeholders therefore commit to:**
- 3.7.5.2.1 Supporting any ED initiatives that will lead to job creation. Any enterprise development contributions leading to the creation of jobs will be enhanced by a factor of 1.25
- 3.8 Socio-Economic Development**
- 3.8.1 Guiding Principle**
- 3.8.1.1 The maritime industry is well placed to make a contribution towards the development of local communities. Our aim is to increase the impact of companies within the MT& SI value chain on local communities. The beneficiaries of such projects must be 75% black people.
- 3.8.2 All Stakeholders commit to:**
- 3.8.2.1 Participate in social development projects as identified by historically disadvantaged employees, which can include HIV/AIDS treatment and prevention, education, community development and maritime awareness.
- 3.8.2.2 Spending 1% of NPAT for the private sector on the social development projects articulated in the above guiding principle.
- 3.8.2.3 QSEs within this sector contributing a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.
- 3.8.2.4 Social development contributions leading in the following key focus areas will be enhanced by a factor of 1.25. The key focus areas are:
- 3.8.2.4.1 HIV Aids Programmes;
- 3.8.2.4.2 Education;
- 3.8.2.4.3 Community Development; and
- 3.8.2.4.4 Maritime Awareness.
- 3.8.3 Maritime Awareness - Guiding Principle**
- 3.8.3.1 Given the lack of awareness about the impact and contribution of the Maritime Transport & Services Industry in our economy, it becomes an imperative to embark on a comprehensive Maritime awareness campaign.
- 3.8.3.2 All Stakeholders commit to:**
- 3.8.3.2.1 Develop an industry-wide awareness campaign to showcase the MT & SI and its interrelated activities and demonstrate its impact on the economy through facilitating trade, economic growth and development, B-BBEE and job creation.
- 3.8.3.2.2 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 Trade and Industry, Department of Transport and National Treasury), schools, tertiary institutions and financial Institutions.

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBBEE

3.8.3.2.3 SAMSA's mandate is to promote South Africa's maritime interests.

3.8.4 Measurement Principles and the Application of the Sub-Sector Code

3.8.4.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.

3.8.4.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.

3.8.4.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.

3.8.4.4 Measurement principles required in evaluating socio-economic development contributions made by QSEs within this subsector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

4. MARITIME TRANSPORT & SERVICES INDUSTRY B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
Foreign Ownership: Provide evidence of a global practice against selling equity to locals in investee countries	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation; OR	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR	20
	4% of Total Revenue from its South African operations annually over the period of continued measurement Equity Equivalence	4% of Total Revenue from its South African operations annually over the period of continued measurement 20	
Ownership	Exercisable voting rights in the hands of black people	25% + 1 vote	3
	Exercisable voting rights in the hands of black women	10%	2
	Economic Interest in the hands of black people	25%	4
	Economic Interest in the hands of black women	10%	2

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	3%	1
	Net Economic Interest/Net value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	7
	Ownership Fulfillment		1
	Bonus points:		
	Involvement in the ownership of the Enterprises of black new entrants:	10%	2
	Involvement in the ownership of the Enterprises of black Participants: ESOPS, Broad-Based Ownership schemes; Co-operatives	10%	1
Management	% of total exercisable voting rights in the hands of black board members	50%	1.5
	% of total exercisable voting rights in the hands of black-women board members	25%	1.5
	% Black persons who are executive directors	50%	1
	% Black women who are executive directors	25%	1
	% of black people who hold senior top management positions	40%	1.5
	% of black women who hold senior top management positions	20%	1.5
	% of black people who hold other top management positions	40%	1

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	% of black women who hold other top management positions	20%	1
	Bonus Point: Black Independent Non-Executive Board Members	40%	1
	Bonus points: Percentage of black people living with disability as a percentage of total management	3%	1
Employment Equity	% Black People in Senior Management	60%	3
	% Black Women in Senior Management	30%	2
	% Black People in Middle Management	75%	2
	% Black Women in Middle Management	38%	2
	% Black People in Junior Management	80%	2
	% Black Women in Junior Management	40%	2
	Black People living with disabilities as a % of all employees	3%	1
	Black Women living with disabilities as a % of all employees	1.5%	1
	Bonus Points: Meeting or exceeding EAP Targets in each category of employment equity	-	3
Skills Development	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Employees as a percentage of leviable amount	5%	3.5
	Skills Development Expenditure on Learning Programmes specified in the learning programme matrix for Black Women Employees as a percentage of leviable amount	2.5%	3.5

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black employees with disabilities	0.5%	1.5
	Skills Development Expenditure on learning programmes specified in the learning programme matrix for black women employees with disabilities	0.25%	1.5
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	5%	2.5
	Number of black employees participating in learnerships or category B, C and D programmes as a percentage of total employees	2.5%	2.5
Preferential Procurement	Procurement from all B-BBEE Compliant Enterprises as defined by the B-BBEE Recognition Levels as a % of discretionary spend	70%	12
	Procurement from B-BBEE Compliant QSEs and EME as defined by the B-BBEE Recognition Levels as a % of Total Measurable Spend	15%	3
	Procurement from 50% Black-Owned as a % of Total Measured Procurement Spend	12%	3
	Procurement from 30% Black Women-Owned Enterprises as a % of Total Measured Procurement Spend	8%	2
Enterprise Development	Expenditure on supplier development initiatives	3% NPAT	

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 Year Targets	Private Sector Weightings
	as a % of NPAT		15
Socio-Economic Development	Expenditure on social development programmes as a % of NPAT	1% of NPAT	5
Total			100

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBEE

5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of black people	25% + 1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points:		
	Ownership fulfilment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points:		
	Involvement in the ownership of the Enterprise by black women	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black Women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points for meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	2%	12.5
	Skills Development spend on learning programmes for black women employees as a percentage of the leviable/payroll	1%	12.5

MARITIME TRANSPORT & SERVICES INDUSTRY SUB-SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	2% of NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% of NPAT	25
TOTAL			175

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

APPENDIX A: COMMITMENT EVALUATION MATRIX


This is an example of a matrix that will be used by this Sub-Sector Code to measure the commitments by stakeholders to the Sub-Sector Code. This matrix represents commitments to Skills Development made by TETA.

Action Undertaken	Input measurement	Output measurement	Quality Control
Conduct research to identify scarce skills	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Conduct research on the supply side of the skills development equation	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Introduce new categories of learnerships	Money spent on research as a % of total discretionary funds	Report to Steering Committee/Council on the number of new learnership categories introduced and accredited as a % of the number of new categories identified	TETA & Transport Charter Council
Collect and publish detailed and aggregated statistics on the EE profile of the industry	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	Transport Charter Council
Assist in unlocking the funds from the National Skills Fund	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding unlocked as a % of total funds required to	Transport Charter Council

MARITIME TRANSPORT & SERVICES INDUSTRY SUB- SECTOR CODE FOR BBBEE

		address learnership needs in the Maritime Sector	
Continuously benchmark training programmes against international best practice	Money spent on research as a % of total discretionary funds	Progress Report on research to Steering Committee/Council	SAMSA & Transport Charter Council
Expand the number of learnerships available based on the sector's skills requirements	Number of new learnership categories introduced and accredited as a % of the number of new categories identified	Number of learners in initiated learnerships as a % of total skills required in each category	TETA & Transport Charter Council
Facilitate easy access to finance learnerships and eliminate bottlenecks and bureaucratic procedures in accessing grants	Money spent on assistance as a % of total discretionary funds	Report to Steering Committee/Council on value of funding available as a % of total funds required to address learnership needs in the Maritime Sector	TETA & Transport Charter Council

CONTINUES ON PAGE 162—PART 2



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 530

Pretoria, 21 August 2009
Augustus

No. 32511

PART 2 OF 2

*N.B. The Government Printing Works will
not be held responsible for the quality of
"Hard Copies" or "Electronic Files"
submitted for publication purposes*



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

**FORWARDING AND CLEARING SUB-SECTOR CODE
FOR BBBEE**



**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

**FORWARDING AND CLEARING SUB-SECTOR CODE
FOR BBBEE**

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

TABLE OF CONTENTS

ABBREVIATIONS	3
1. SCOPE OF APPLICATION	3
2. LONG TERM VISION	3
2.1. Overarching long-term vision	3
2.2. Developing a World Class Industry	4
2.3. Undertakings by all Stakeholders (to achieve this vision)	4
2.4. National Government undertakings (to achieve the vision)	4
2.5. Labour Undertakings (to achieve this vision)	6
2.6. TETA undertakings (to achieve this vision)	6
3. INDICATORS OF EMPOWERMENT	7
3.1 Ownership	7
3.2 Management Control	9
3.3 Employment Equity	10
3.4 Skills Development	11
3.5 Preferential Procurement	13
3.6 Enterprise Development	15
3.7 SocioEconomic Development	16
4. FORWARDING & CLEARING B-BBEE SCORECARD	17
5. FORWARDING AND CLEARING QUALIFYING SMALL ENTERPRISES SCORECARD	21
6. APPENDIX B: COMMITMENT EVALUATION MATRICES	22

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

ABBREVIATIONS

B-BBEE	Broad-Based Black Economic Empowerment
ABET	Adult Basic Education and Training
DOL	Department of Labour
DOT	Department of Transport
DTI	Department of Trade and Industry
EE	Employment Equity
EMEs	Exempted Micro Enterprises
FET	Further Education and Training
F&C	Forwarding and Clearing
FIATA	Federation Internationale des Associations de Transitaires et Assimiles
GDS	Growth and Development Summit
NEPAD	New Partnership for Africa's Development
NSF	National Skills Fund
PSA	Proudly South African
QSEs	Qualifying Small Enterprises
SARS	South African Revenue Services
TEO	The Enterprise Organisation
TETA	Transport Education and Training Authority
TNPA	Transnet National Ports Authority
TPT	Transnet Port Terminals

1. SCOPE OF APPLICATION

- 1.1 The Forwarding & Clearing (F&C) Industry comprises of 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 to every other industry in the National economy as well as many of those across South African borders. In addition cognisance is taken of the fact that the F&C Industry is a complex one, which involves various activities including freight management and supply chain logistics.
- 1.3 The F&C Industry is associated with all modes of 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 such as 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 The long-term vision is, through encouraging education and training and the promotion of life-long learning, develop the Industry so that all participants are able to compete, nationally and internationally, with the best in the world.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 2.1.2 Part of the vision is to develop South African owned forwarding and clearing multi-national companies wherever possible.
- 2.1.3 The South African F&C Industry is well positioned to make this vision a reality and craft a broader contribution towards regional development in line with the ideals of the New Partnership for Africa's Development (NEPAD).
- 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, and facilitate trade whilst complying with international safety standards and delivering efficient, 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 a reality, 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 Broad-Based Black Economic Empowerment (B-BBEE) 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 Sub-Sector Code for the F&C Industry" to every company to ensure maximum participation by all stakeholders.
- 2.2.4 Accordingly, all stakeholders commit themselves to this Sub-Sector Code agree to have their B-BBEE achievements (in terms of the indicators in the balanced scorecard) rated by an independent B-BBEE rating/verification company that is accredited by the relevant recognised body.
- 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 Broad-Based Black Economic Empowerment 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 trade 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;

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

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 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. 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:
 - 2.4.4.1 The DTI's Export incentives;
 - 2.4.4.2 National Treasury, and South African Revenue Services (SARS);
 - 2.4.4.3 Department of Foreign Affairs – Free Trade Agreements;
 - 2.4.4.4 Increasing awareness within the transport sector about available government investment incentives and grants;
 - 2.4.4.5 Engage public and private funding institutions to highlight opportunities in the sector;
 - 2.4.4.6 Make proposals on financing mechanisms; and
 - 2.4.4.7 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 B-BBEE companies seeking to invest in the sector. This will require a high-level workshop with these agencies and major B-BBEE 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 B-BBEE companies in the transport sector about investment and matching grants, tax allowances and other incentives that are provided by the DTI'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 B-BBEE such as the Employment Equity, Skills Development and Competition Acts.
- 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.

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

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 2.4.10 Publish an annual report on B-BBEE 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 B-BBEE Forum.
- 2.5. Labour Undertakings (to achieve this vision)**
- 2.5.1 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.
- 2.5.2 Ensure that workers are empowered by upgrading their skills base and creating opportunities to deploy them into management positions as well as participating in creative employee share ownership schemes.
- 2.5.3 Labour should mobilise members to ensure compliance and understanding of existing legislation e.g. 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 B-BBEE Council to take further action.
- 2.5.4 Labour will mobilise members to identify companies who fail to implement this agreed F&C industry B-BBEE Sub-Sector Code and report them to Transport Sector B-BBEE Council to take further action.
- 2.5.5 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.
- 2.6 TETA undertakings (to achieve this vision)**
- 2.6.1 Play a more interventionist role to influence training priorities in the F&C Chamber. 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.
- 2.6.2 Continuously conduct analysis and update statistics about the future demand and supply of critical skills sets.
- 2.6.3 Continuously analyse the quantity, quality and nature of F&C training that companies are doing.
- 2.6.4 Commit to this B-BBEE Sub-Sector Code and strive to achieve the targets set (where applicable) as per the indicators in the balanced scorecard both internally and with specific reference to service providers.
- 2.6.5 Align its mission and vision with the imperatives of B-BBEE and assist with the provisioning of relevant B-BBEE data that will be key for the implementation and monitoring of this strategy.
- 2.6.6 Enable the achievement of the education and training objectives of this charter, without unnecessary bureaucratic impediments.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 2.6.7 The signatories of this Sub-Sector Code are of the view that the sector should endeavour to facilitate the realisation of these commitments by monitoring contributions to B-BBEE. The evaluation of these contributions should be conducted through an Evaluation Matrix provided in Appendix B.

3. INDICATORS OF EMPOWERMENT

This Broad-Based B-BBEE Sub-Sector Code for the F&C Industry seeks to encourage all stakeholders to pursue a transformation agenda according to the broad guidelines set out in the BEE National Strategy and B-BBEE Act 53 of 2003. 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.

This Sub-Sector Code shall remain in effect until amended, substituted and repealed under Section 9 of the BBEE Act, or with the parties to this Sub-Sector Code process agreeing to do so.

The Transport Charter Council will that will be established pursuant to this gazette will review this Sub-Sector Code following the end of the 5th year after its gazetting and despite the aforementioned, it shall be reviewed on an annual basis for monitoring purpose.

3.1 Ownership

3.1.1 Vision

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

3.1.2 Guiding Principles

- 3.1.2.1 This principle is linked to the long-term strategy of growing the domestic F&C Industry so as to ensure that B-BBEE does not become a zero-sum game. Ownership is broken down into foreign ownership and South African ownership.
- 3.1.2.2 The ownership target set is specifically aimed at the South African F&C Industry.
- 3.1.2.3 With regard to foreign ownership, foreign companies, with local representation, will implement B-BBEE strategies, according to the guidelines provided by the F&C Sub-Sector Code. 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 Equity Equivalent guidelines provided in the Code 100 of the B-BBEE Codes of Good Practice and set off increased achievements in this regard against the ownership requirement.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 3.1.3 Stakeholder Undertakings**
- 3.1.3.1 Foreign Ownership Market Commits to:
- 3.1.3.1.1 Seek opportunities to sell equity to Black shareholders or participate in Equity Equivalence programmes approved by the Minister.
- 3.1.3.2 The Local Based Market Commits to:
- 3.1.3.2.1 Seek opportunities to broaden the ownership base of their companies and ensure that within the next 5 years at least black shareholders hold 25+1% of voting rights, with 10% of the voting rights held by black women.
- 3.1.3.2.2 25% of the economic interest accrues to black shareholders in the form of both voting rights and economic interest, with a minimum of 10% earmarked for black women.
- 3.1.3.2.3 3% is for black designated groups, which includes black people living with disabilities.
- 3.1.3.2.4 Ensure that the net economic interest of the black equity participants is 100% of their acquired share of the business within 5 years.
- 3.1.3.2.5 Qualifying Small Enterprises (QSEs) as defined in this Sub-Sector Code also commit to:
- 3.1.3.2.5.1 Increase the ownership base of their companies and ensure that a minimum of 25% of economic interest is in the hands of black people;
- 3.1.3.2.5.2 25% +1 vote voting rights, or equivalent thereof, are in black hands; and
- 3.1.3.2.5.3 Ensure that the net economic interest of the black equity participants is 60% of their acquired share of the business within 5 years. If this is achieved, it will be deemed that Ownership Fulfilment has been achieved.
- 3.1.4 Government Commits to:**
- 3.1.4.1 Facilitate means of funding the various B-BBEE initiatives that will enable Blacks, Black women and Black disabled persons to purchase the ownership stake proposed in this Charter.
- 3.1.5 Funding Mechanisms**
- 3.1.5.1 All stakeholders commit to:
- 3.1.5.1.1 Facilitate through creative financing mechanisms, the acquisition of equity in their operations by Black shareholders.
- 3.1.5.1.2 Creating awareness about F & C Industry amongst the traditional banking institutions as well as Public Financing Institutions.
- 3.1.6 Measurement Principles and the Application of the Charter**
- 3.1.6.1 Measurement principles associated with the ownership element is contained in Statement 100 of Code 100 of the Generic Code of Good Practice.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

- 3.1.6.2 The formulae required in the determination of the ownership score are contained in Annexure 100 (c) of Statement 100 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.3 The recognition of the sale of assets under the ownership element has the same meaning as that contained in Statement 102 of Code 100 of the Generic Code of Good Practice. The targets as contained in the ownership element of this Sub-Sector Code will apply.
- 3.1.6.4 The recognition of the equity equivalent programmes for multinational has the same meaning and interpretation as that contained in Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.5 The formulae required in the determination of the ownership score based on equity equivalent contributions are contained in Annexure 103 (A) of Statement 103 of Code 100 of the Generic Code of Good Practice.
- 3.1.6.6 Measurement principles relating to the ownership element for QSEs are contained in Statement 801 of Code 800 of the Generic Codes of Good Practice.
- 3.2 Management Control**
- 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. Private industry, however, commits to a total black representation of 50% at the board level and a black women representation of 25% at the board level.
- 3.2.2.1.2 Black people will occupy 50% of executive directors, while black women will occupy 25% of executive directors.
- 3.2.2.1.3 Black people will also occupy 40% of senior top management, while black women will occupy 20% of senior top management.
- 3.2.2.1.4 Private industry further commits to a black representation of 40% at other top management and black women representation of 20% at other top management.
- 3.2.2.1.5 QSEs within the sector commit to recruiting black people at Top Management positions, where they should constitute 50.1% of total Top Management.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

- 3.2.2.1.6 QSEs within this sector commit to recruiting black women at Top Management level; where they should constitute 25% of total Top Management, which is a bonus point sub-element.
- 3.2.3 Measurement Principles and the application of the Charter**
- 3.2.3.1 Measurement principles associated with the management control element are contained in Statement 200 of Code 200 of the Generic Code of Good Practice.
- 3.2.3.2 The formulae required in the determination of the management control score are contained in Annexure 200 (A)-B of Statement 200 of Code 200 of the Generic Code of Good Practice. The Adjustment Recognition for Gender will not apply Annexure 200 (A)-A.
- 3.2.3.3 Measurement principles needed for the application of the Sub-Sector Codewith regards to the management control element for QSEs are contained in statement 802, of Code 800, of the Generic Codes of Good Practice.
- 3.3 Employment Equity**
- 3.3.1. Guiding Principle**
- 3.3.1.1 Our principle is to increase the participation of black people in management, 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 Compliance with the Employment Equity (EE) Act, and presentation of accurate figures and statistics on EE to the Department of Labour (DoL) within the spirit of this Charter.
- 3.3.2. Private Industry commits to:**
- 3.3.2.1 Private industry undertakes to achieve within FIVE years:**
- 3.3.2.1.1 45% representation of black people in senior management and a 23% representation of black women in senior management.
- 3.3.2.1.2 63% representation of black people in middle management and a 32% representation of black women in middle management.
- 3.3.2.1.3 68% representation of black people in junior management and a 34% representation of black women in junior management.
- 3.3.2.1.4 2% representation of black disabled people throughout the measured entity and 50% of this will be black women.
- 3.3.2.1.5 Measured entities falling within the QSEs threshold commit that 40% of all management staff is black within 5 years. 50% of these positions should be earmarked for black women.
- 3.3.2.5.1 QSEs within this sector commit that 60% of all staff should be black within the 5 years. Black women should occupy 30% of all positions within 5 years.
- 3.3.2.2 Private industry undertakes to achieve within TEN years:**
- 3.3.2.2.1 60% representation of black people in senior management and a 30% representation of black women in senior management.
- 3.3.2.2.2 75% representation of black people in middle management and a 38% representation of black women in middle management.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

- 3.3.2.2.3 80% representation of black people in junior management and a 40% representation of black women in junior management.
- 3.3.2.2.4 3% representation of black disabled people throughout the measured entity.
- 3.3.2.2.5 Points will only be awarded for employment equity once a minimum of 40% of the specific target has been achieved.
- 3.3.2.2.6 Measured entities commit to 60% of all management staff is black within 5 years; 50% of these positions should be earmarked for black women.
- 3.3.2.2.6.1 QSEs within this sector commit to all 70% of all staff should be black within the 5 years. 35% of all positions should be occupied by black women within 5 years.
- 3.3.2.2.7 An understanding that the 10 year targets stated above may be subject to change as a result of a revision of the Sub-Sector Code in 5 years from its inception.

3.3.3 Measurement Principles and the Application of the CODES

- 3.3.3.2 Measurement principles on the employment equity element is contained in Statement 300 of Code 300 of the Generic Code of Good Practice.
- 3.3.3.3 The formulae required in the determination of the employment equity score are contained in Annexure 300 (A)-B of Statement 300 of Code 300 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 300 (A)-A will not apply.
- 3.3.3.4 Measurement principles for the determination of the Employment Equity score for QSEs are contained in Statement 803 of Code 800 of the Generic Codes of Good Practice.

3.3.4 Government commits to:

- 3.3.4.1 Ensuring that the Department of Labour plays a significant role in monitoring and supporting stakeholders in meeting their EE targets.
- 3.3.4.2 Ensure that through 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. The department will also 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

3.4.2.1 Government Commits to:

- 3.4.2.1.1 Design and fund a co-ordinated framework and programme for career awareness and training that leverages off and adds value to existing

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

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.

3.4.2.2 Private Industry Commits to:

3.4.2.2.1 Invest at least 3% of the leviable amount on skills development initiatives, which are directed at black employees. The Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The B-BBEE Codes of Good Practice should guide these initiatives.

3.4.2.2.2 Invest at least 1.5% of the leviable amount on skills development initiatives (Over and above the current 1% skills development levy and associated costs) directed at black women employees. The Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The B-BBEE Codes of Good Practice should guide these initiatives.

3.4.2.2.3 Ensure that black employees participating in learnerships or category B, C and D programmes as a percentage of total employees: who have been enrolled in Accredited Training Programmes as identified in the Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of the Codes of Good Practice, comprise 5% of the total work force.

3.4.2.2.4 Ensure that black women participating in learnerships or category B, C and D programmes as a percentage of total employees: who have been enrolled in Accredited Training Programmes as identified in the Learning Programme Matrix contained in statement 400 code 400 Annexure 400 (A) of The Codes of Good Practice, comprise 2.5% of the total number of employees.

3.4.2.2.5 Ensure that 0.3% of skills development expenditure is on learning programmes specified in the learning programme matrix for black people with disabilities. 0.15% of skills development should be directed to black women with disabilities.

3.4.2.2.6 QSEs within this sub-sector commit to invest a minimum of 3% of the leviable amount or payroll (whichever is applicable) on skills development spend on learning programmes for black people.

3.4.3 In addition, the Private Industry Commits to:

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

3.4.3.2 International, regional or local assignments that provide high-quality operational and managerial exposure;

3.4.3.3 Job rotation and multi-skilling programmes;

3.4.3.4 Coaching and mentorship programmes;

3.4.3.5 Learnership and internship programmes;

3.4.3.6 Further Education and Training (FET);

3.4.3.7 Skills programmes;

3.4.3.8 Temporary placement of unemployed learners;

3.4.3.9 Provision of Adult Basic Education and Training and other lifeskill training; and

3.4.3.10 Intra-industry exchange programmes, where feasible.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 3.4.3.11 The costs associated with the implementation of the above Skills Development interventions include both direct and associated indirect costs.
- 3.4.4 TETA Commits to:**
- 3.4.4.1 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 and supply scenarios in the detailed skills audit.
- 3.4.4.2 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.
- 3.4.4.3 Introduce, after consulting stakeholders and completing the skills audit, new categories of learnerships - in management, technical and professional occupational categories - to help stakeholders achieve their employment equity targets.
- 3.4.4.4 Assist in unlocking funds from the National Skills Fund (NSF) for Management and Learnership Programmes in identified areas.
- 3.4.4.5 Together with the Federation Internationale des Associations de Transitaires et Assimiles (FIATA), continuously benchmark training programmes against international best practice.
- 3.4.5 Measurement Principles and the Application of the Charter**
- 3.4.5.1 Measurement principles associated with the skills development element is contained in Statement 400 of Code 400 of the Generic Code of Good Practice.
- 3.4.5.2 The formulae required in the determination of the skills development score are contained in Annexure 400 (A)-B of Statement 400 of Code 400 of the Generic Code of Good Practice. The formula for the determination of the Adjusted Recognition for Gender – Annexure 400 (A)-A will not apply.
- 3.4.5.3 The measurement principles required in the determination of the skills development scores for QSEs are contained in Statement 805 of Code 800 of the Generic Code of Good 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 B-BBEE 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 businesses

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 3.5.2 Stakeholder undertakings**
- 3.5.2.1 Government Commits to:**
- 3.5.2.1.1** Government departments, state-owned enterprises, and other public agencies will align their own procurement practices to this Sub-Sector Code when procuring goods and services from the F&C sub-sector. In particular, government will apply B-BBEE criteria, as set out in this Sub-Sector Code whenever it:
- 3.5.2.1.1.1 Grants a licence to engage in a specific regulated economic activity;
 - 3.5.2.1.1.2 Grants a concession to a private enterprise to operate an asset or enterprise on behalf of the state;
 - 3.5.2.1.1.3 Enters into a public-private partnership; and
 - 3.5.2.1.1.4 Engages in any economic activity.
- 3.5.2.2 Private Industry Commits to:**
- 3.5.2.2.1 Procure at least 50% of total measurable procurement spend from B-BBEE suppliers based on their recognition levels within the next 5 years and 70% of total measurable procurement from B-BBEE suppliers based on their recognition levels within the next 10 years.
 - 3.5.2.2.2 Procure at least 10% of total measurable procurement from QSEs and EMEs in the next 5 years and 15% over 10 years.
 - 3.5.2.2.3 Procure at least 9% of total measurable procurement from 50% black-owned and 6% of the total measurable procurement should be from the 30% black women-owned enterprises over the next 5 years. Procure at least 20% of total measurable procurement from 50% black-owned and 30% black women-owned enterprises over the next 10 years.
 - 3.5.2.2.4 QSEs within this sub-sector commit to procuring a minimum of 40% of total procurement from B-BBEE compliant suppliers over the next 5 years and 50% over the next 10 years.
 - 3.5.2.2.5 Adopt and customise the guidelines on Accounting for Affirmative Procurement that will be set by the Transport Sector B-BBEE Council, as specifically agreed by the F&C sub-sector stakeholders and signatories to this Charter.
 - 3.5.2.2.6 An understanding that the 10 year targets stated above may be subject to change as a result of a revision of the Sub-Sector Code 5 years from its inception.
 - 3.5.2.2.7 Recognising that a consolidation of invoices may be recognised as a single "invoice" in terms of the measurement principles of Statement 500 of the B-BBEE Codes of Good Practice.
- 3.5.3 Measurement Principles and the Application of the Sub-Sector Code**
- 3.5.3.1** Measurement principles associated with the preferential procurement element is contained in Statement 500 of Code 500 of the Generic Code of Good Practice.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

- 3.5.3.2 The formulae required in the determination of the preferential procurement score for measured entities are contained in Annexure 500 (A) of Statement 500 of Code 500 of the Generic Code of Good Practice.
- 3.5.3.3 Measurement principles required in evaluating the preferential procurement contributions made by QSEs within this sector are contained in Statement 805 of Code 800 of the Generic Codes of Good Practice.
- 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 profit after tax (NPAT).
- 3.6.1.2 In achievement of the principle objective above, the signatories to this Sub-Sector Code 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 C.
- 3.6.2.1.2 Progress will be measured by calculating the value of such investments as a percentage of the NPAT of the investing enterprise. The target is to achieve at least 3% for black owned companies and at least 1.5% for black women-owned companies.
- 3.6.2.1.3 QSEs within this subsector aspire to make contributions to enterprise development which will amount to 3% of NPAT evaluated annually over the next 5 years.
- 3.6.3 TETA Commits to:**
- 3.6.3.1 Develop training programmes specifically designed for entrepreneurs in the F&C Industry.
- 3.6.4 Measurement Principles and the Application of the Sub-Sector Code**
- 3.6.4.1 Measurement principles associated with the enterprise development element are contained in Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.6.4.2 Qualifying contributions for the enterprise development element are contained in Annexure 600 (A) – Benefit Factor Matrix of the Statement 600 of Code 600 of the Generic Codes of Good Practice.
- 3.6.4.3 The formulae required in the determination of the enterprise development score are contained in Annexure 600 (A) of Statement 600 of Code 600 of the Generic Code of Good Practice.
- 3.6.4.4 Measurement principles required in evaluating the enterprise development contributions made by QSEs within this sector are contained in Statement 806 of Code 800 of the Generic Codes of Good Practice

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

- 3.7 SocioEconomic Development**
- 3.7.1 Guiding Principle**
- 3.7.1.1 Individual companies will implement socio-economic development programmes in line with their corporate values.
- 3.7.2 All Stakeholders commit to:**
- 3.7.2.1 Invest at least 1% of NPAT in social development programmes. Expenditure on programmes that address the following socio-economic interventions that will be sector designed which will be enhanced by a factor of 1.25:
- 3.7.2.1.1 HIV/AIDS,
- 3.7.2.1.2 Bursaries,
- 3.7.2.1.3 Poverty alleviation; and
- 3.7.2.1.4 F&C industry awareness.
- 3.7.2.2 QSEs within this sub-sector will contribute a minimum of 1% of NPAT evaluated annually to socio-economic development initiatives over the next 5 years.
- 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 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, B-BBEE 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 are to be spearheaded at Government Departments – Department of Finance, Department of Trade and Industry, Department of Transport, National Treasury and at schools, tertiary Institutions and financial Institutions.
- 3.7.4 Labour Standards**
- 3.7.4.1 Guiding Principle**
- 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:**
- Implement fair labour practices across the board in line with the requirements of labour legislation.

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

- 3.7.5 Measurement Principles and the Application of the Sub-Sector Code**
- 3.7.5.1 Measurement principles associated with the socio-economic development element are contained in Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.7.5.2 Qualifying contributions for the socio-economic development element are contained in Annexure 700 (A) – Benefit Factor Matrix of the Statement 700 of Code 700 of the Generic Codes of Good Practice.
- 3.7.5.3 The formulae required in the determination of the socio-economic development are contained in Annexure 700 (A) of Statement 700 of Code 700 of the Generic Code of Good Practice.
- 3.7.5.4 Measurement principles required in evaluating socio economic development contributions made by QSEs within this sector are contained in Statement 807 of Code 800 of the Generic Codes of Good Practice

4. FORWARDING & CLEARING B-BBEE SCORECARD

B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
Foreign Ownership Provide evidence of a global practice against selling equity to locals in investee countries	Equity equivalent programmes approved by the line minister of the transport sector. N.B: Contributions toward these programmes are measured as actual contributions made using the general principles outlined in statement 600 and statement 700 of the Codes of Good Practice.	25% of the value of the South African operations of the Multinational, determined using a Standard Valuation OR 4% of Total Revenue from its South African operations annually over the period of continued measurement	20
Local Based Operations	Economic interest in the hands of Black people	25%	4
	Economic interest in the hands of Black Women	10%	2
	Exercisable voting rights in the hands of Black people	25%+1 vote	3
	Exercisable voting rights in the hands of Black Women	10%	2
	Economic Interest of following black natural people in the Enterprise: -black designated groups, -black participants in Employee Ownership Schemes, -black beneficiaries of Broad based Ownership Schemes ;or -black participants in Co-operatives	3%	1

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
	Net Economic Interest/Net value	25% graduated over 10 years as per the Codes (year 5 at 60%)	7
	Ownership fulfilment		1
	Bonus points: Economic interest in the hands of black disabled people	2%	2
	Bonus points: Involvement in the ownership of the Enterprise of Black new entrants.	10%	1
	Bonus points: Involvement in the ownership of the Enterprise of Black participants in:	10%	1
	Employee Ownership Schemes		
	Broad-Based Ownership Schemes		
	Co-operatives		
Management	Exercisable voting rights of Black board members.	50%	1.5
	Exercisable voting rights of Black Women board members.	25%	1.5
	Black persons who are executive directors	50%	1
	Black women who are executive directors	25%	1
	Black senior top management	40%	1.5
	Black Women senior top management	20%	1.5
	Black other top management	40%	1
	Black Women other top management	20%	1
	Bonus point: Black Independent non-Executive Board Members	40%	1
Employment Equity	Black employees in senior management	45%	2
	Black Women employees in senior management	23%	1
	Black employees in middle management	63%	2

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
	Black Women employees in middle management	32%	1
	Black employees junior management	68%	2
	Black Women employees in junior management	34%	1
	Black people living with disabilities	2%	0.5
	Black Women living with disabilities	1%	0.5
	Bonus Points: Meeting or exceeding the EAP Targets in each category of employment equity	-	3
Skills Development	Black skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount.	3%	5
	Black Women skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount.	1.5%	5
	Number of Black employees participating in Learnerships or category B, C, D programmes as percentage of total employees.	5%	4
	Number of Black Women employees participating in Learnerships or category B, C, D programmes as percentage of total employees.	2.5%	2
	Black People with Disability skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount	0.3%	2
	Black Women with Disability skills development expenditure on learning programmes specified in Learning Matrix as percentage of Leviable amount	0.15%	2

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Targets - 5 years	Weightings
Preferential Procurement	Procurement spend from all suppliers based on recognition levels as percentage of total measured procurement spend.	50%	12
	Procurement spend from QSE's and EME's based on recognition levels as percentage of total measured procurement spend.	10%	3
	Procurement from 50% Black-Owned as a % of Total Procurement spend	9%	3
	Procurement from 30% Black Women-Owned Enterprises as a percentage of Total Procurement spend	6%	2
Enterprise Development	Investment in the Black-owned enterprises	3% of NPAT	10
	Investment in the Black Women-owned enterprises	1.5% of NPAT (i.e half of the target for contributions to black-owned enterprises)	5
Socio-economic Development	Expenditure on social development programmes as a % of NPAT. N.B: Enhanced recognition shall be awarded for contributions towards the following causes: <ul style="list-style-type: none"> ○ HIV/AIDS ○ Bursaries ○ Poverty alleviation ○ F&C industry awareness 	1% NPAT	5

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

5. FORWARDING AND CLEARING QUALIFYING SMALL ENTERPRISES SCORECARD

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Ownership	Exercisable voting rights in hands of of black people	25%+1 Vote	6
	Economic Interest of black people in the Enterprise	25%	9
	Realisation Points		
	Ownership fulfillment		1
	Net Value	25% graduated over 10 years as per the Codes (Year 5 at 60%)	9
	Bonus Points		
	Involvement in the ownership of the Enterprise by black women	10%	2
	Involvement in the ownership of the Enterprise by black participants in Employee Share Schemes, Co-operatives or Broad Based Ownership Schemes	10%	1
Management Control	Black Representation at Top Management level	50.1%	25
	Bonus Points: Black women representation at Top-Management	25%	2
Employment Equity	Black Employees of the Measured Entity who are Management	40%	7.5
	Black Women Employees of the Measured Entity who are management	20%	7.5
	Black employees of the Measured Entity as a percentage of total employees	60%	5
	Black women employees of the Measured Entity as a percentage of total employees	30%	5
	Bonus points: meeting or exceeding the EAP targets in each category		2
Skills Development	Skills Development spend on learning programmes for black employees as a percentage of the leviable/payroll	3%	12.5
	Skills Development spend on learning programmes for black women employees as a percentage of the leviable/payroll	1.5%	12.5

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBEE

B-BBEE Element	Indicators of Empowerment	Private Sector 5 year target	Private Sector Weightings
Preferential Procurement	BEE Procurement Spend from all suppliers based on the B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	40%	25
Enterprise Development Spend	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	3% NPAT	25
Socio-Economic Development	Average annual value of Qualifying Contributions made by the Measured Entity as a percentage of the target	1% NPAT	25
TOTAL			75

A QSE must select any four of the above seven elements for the purposes of measurement. If a QSE does not make a selection, its four best element scores will be used for the purposes of measurement.

6. APPENDIX B: COMMITMENT EVALUATION MATRICES

Ownership

Action Undertaken	Input measurement	Output measurement	Quality Control
Establish funding mechanisms for the purchasing of shares by black people.	Money spent on research as a % of total discretionary funds	Research report submitted to Steering Committee/ Transport Charter Council on details and feasibility of funding mechanisms.	Steering Committee/ Transport Charter Council
Creating awareness of the F&C industry amongst the traditional banking institutions as well as Public Financing Institutions.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee/ Transport Charter Council on attendance at awareness campaigns.	Steering Committee/ Transport Charter Council

Employment Equity

Action Undertaken	Input measurement	Output measurement	Quality Control
Department of Labor to ensure that employment equity targets are met.	Money spent on research survey as a % of total discretionary funds	Assessment Report on employment equity targets for black people within the industry.	TETA & Steering Committee/ Transport Charter Council

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

Skills Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Increasing awareness regarding scholarships, training resources and careers in the industry.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee/ Transport Charter Council on attendance at awareness campaigns.	TETA & Steering Committee/ Transport Charter Council
Facilitate high quality training of black people through learnership, internship and mentorship programmes.	Money spent on skills development as a % of total discretionary funds	Assessment Report on skills of black people within the industry.	TETA & Steering Committee/ Transport Charter Council
Implement skills audit to identify management, professional and technical skills that will be required over the next decade.	Money spent on research as a % of total discretionary funds	Analysis and forecasts to be presented to Steering Committee/ Transport Charter Council and TETA.	TETA & Steering Committee/Transport Charter Council
Continuously benchmark training programmes against international best practice.	Money spent on gap analysis as a % of total discretionary funds	Research report submitted to Steering Committee/Sub-Sector Code Council on details of gap analysis and suggestions on how the problem can be alleviated.	TETA & Steering Committee/ Transport Charter Council

Preferential Procurement

Action Undertaken	Input measurement	Output measurement	Quality Control
Ensure that uniform accounting practices regarding preferential procurement are adopted by public sector agencies.	Money spent on research as a % of total discretionary funds	Assessment Report on accounting practices regarding preferential procurement submitted to Steering Committee/ Transport Charter Council.	Steering Committee/ Transport Charter Council

FORWARDING AND CLEARING SUB-SECTOR CODE FOR BBBEE

Enterprise Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Create joint ventures with and invest directly in black owned enterprises.	Annex 600A (Benefit Factor Matrix) of the Codes shall apply	Report to Steering Committee on improvement (percentage change) in new entities created.	Steering Committee/ Transport Charter Council

Socio-economic Development

Action Undertaken	Input measurement	Output measurement	Quality Control
Facilitate access to finance and grants to improve participation in skills programmes.	Money spent on developing appropriate financial mechanisms as a % of total discretionary funds	Report to Steering Committee/ Transport Charter Council on the percentage and type of financial mechanisms used to finance skills programmes.	TETA & Steering Committee/ Transport Charter Council
Develop awareness campaign to demonstrate the economic growth and development, B-BBEE and job creation aspects within the industry.	Money spent on awareness campaign as a % of total discretionary funds	Report to Steering Committee on attendance at awareness campaigns.	TETA & Steering Committee/ Transport Charter Council
Implement labour practices in line with labour legislation.	Money spent on awareness campaigns and legal and administrative fees as a % of total discretionary funds	Report to Steering Committee/ Transport Charter Council on adherence to labour legislation.	Steering Committee/ Transport Charter Council

RAIL SUB-SECTOR CODE FOR BBBEE



**REBULIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA**

DEPARTMENT OF TRANSPORT

RAIL SUB-SECTOR CODE FOR BBBEE

RAIL SUB-SECTOR CODE FOR BBBEE

TABLE OF CONTENTS

1. SCOPE OF APPLICATION	3
2. VISION	3
2.1 OVERARCHING VISION	3
2.2 NATIONAL GOVERNMENT UNDERTAKINGS (TO ACHIEVE THIS VISION)	4
2.3 LABOUR UNDERTAKINGS (TO ACHIEVE THIS VISION).....	5
2.4 TETA UNDERTAKINGS (TO ACHIEVE THIS VISION)	5
3 INDICATORS OF EMPOWERMENT	6
3.1 RAIL SUB-SECTOR CODE AND THE SCORECARD	6
3.2 OWNERSHIP	6
3.3 MANAGEMENT CONTROL	7
3.4 EMPLOYMENT EQUITY	8
3.5 SKILLS DEVELOPMENT	9
3.6 PREFERENTIAL PROCUREMENT	11
3.7 ENTERPRISE DEVELOPMENT	12
3.8 SOCIAL-ECONOMIC DEVELOPMENT	13
4. RAIL SUB-SECTOR B-BBEE SCORECARD	15
5. QUALIFYING SMALL ENTERPRISES B-BBEE SCORECARD	18
6. APPENDIX A: COMMITMENT EVALUATION MATRICES.....	20